



Havering
LONDON BOROUGH

This Report is part exempt and Appendix B is not available for public inspection as it relates to exempt information within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972. It is exempt because it refers to commercially sensitive information, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

CABINET

Subject Heading:

Site Disposals under the Asset Disposal Programme 2022-2028

Cabinet Member:

Councillor Graham Williamson– Cabinet Member for Development and Regeneration

SLT Lead:

Neil Stubbings – Strategic Director of Place

Report Author and contact details:

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Policy context:

Capital Strategy and Asset Management Plan

Financial summary:

The proposals within this paper seek to support the Council's broader Capital Strategy by delivering a pipeline of capital receipts in the broad sum of £10m p.a. to deliver capital investment priorities whilst reducing the need for capital borrowing.

Is this a Key Decision?

Yes

Expenditure or saving (including anticipated income) of £500,000 or more

Cabinet, 9th August 2023

When should this matter be reviewed? February 2024

Reviewing OSC: Places Overview & Scrutiny Sub
Committee

The subject matter of this report deals with the following Council Objectives

| | |
|--|---|
| People - Things that matter for residents | X |
| Place - A great place to live, work and enjoy | X |
| Resources - A well run Council that delivers for People and Place. | X |

SUMMARY

This report follows on from the Cabinet decision of 8th February 2023, which adopted a medium-term asset disposal programme to provide a sustainable asset pipeline to deliver capital receipts as an integral part of the Council's wider Capital Strategy.

The February decision noted that the disposal of the car park sites reported was provisional and subject to public consultation relating to modification of Traffic Management Orders relating to the sites. The Cabinet agreed to make a final decision on the disposal of the car park sites after considering the outcome of the consultation. In addition, the report noted that further reports would follow seeking approval for disposal of specific assets within the disposal programme.

This report seeks to report the outcome of the consultation to inform the Cabinet decision to authorise disposal of the car park sites. It also seeks to declare additional assets surplus to operational requirement and obtain authority for their disposal.

RECOMMENDATIONS

Cabinet is recommended to:

- Confirm authority to the Assistant Director Housing, Property and Assets to dispose the following assets having considered the outcome of a statutory consultation relating to the removal of the car parks from the Council's off street parking, modification of Traffic Management Orders and pursuant to the Cabinet decision of 8 February 2023:
 - Como Street Car Park, RM7 7DN
 - Keswick Avenue Car Park, RM11 1XR
 - Dorrington Gardens Car Park, RM12 4HX
 - Angel Way Multi-storey Car Park, RM1 1HR

- Note that the potential disposal of Slaney Road car park will be the subject of further appraisal to consider the potential retention of part of the existing site

- Note that in the exercise of delegated authority, any disposal to Mercury Land Holdings would be subject to the terms for any interim lease-back of operational assets and/or subsequent buy-back of assets not subsequently progressed by Mercury Land Holdings, as set out in the previous report to Cabinet on 8th February 2023.

- Declare the following assets as surplus to the Council's operational requirements:

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- Mercury House, 11 Western Rd, Romford, RM1 3RL
- Gays Field, Jubilee Close, Romford, RM7 9LU
- Land at Bedale Road/Tiverton Road, Harold Hill, RM3 9TU
- Delegate authority to the Assistant Director Housing, Property and Assets in consultation with the Deputy Director of Legal and Democratic Services to appropriate the Group Homes at 79/ 81 Maybank Avenue, Hornchurch, RM12 5SH from the General Fund to the Housing Revenue Act. Such appropriation to be exercised in the event that there is a requirement for the properties by the Council's housing acquisition program. Otherwise, the properties are to be declared surplus to the Council's operational requirements.
- Agree to the disposal of the assets identified within Appendix A at values representing the best consideration reasonably obtainable to the Council, subject to any required consultation relating to public open space
- Delegate authority to the Assistant Director Housing, Property and Assets to decide upon the most appropriate disposal method for each asset and should that be considered to be auction, such authority to be exercised in consultation with the Lead Member for Development & Regeneration to agree appropriate reserve values for the properties.
- Delegate authority to the Assistant Director Housing, Property and Assets in consultation with the Deputy Director of Legal and Democratic Services to conduct all appropriate steps to progress and conclude the asset disposals in a manner that satisfies all legal/regulatory requirements.
- Agree, in principle, that the following sites should be appropriated (where necessary) for planning purposes with a view to their subsequent disposal:
 - Land at Bedale Road/Tiverton Road, Harold Hill, RM3 9TU
 - Gays Field, Jubilee Close, Romford, RM7 9LU
 - Como Street Car Park, RM7 7DN
 - Keswick Avenue Car Park, RM11 1XR
 - Dorrington Gardens Car Park, RM12 4HX
 - Angel Way Multi-storey Car Park, RM1 1HR
- Delegate authority to the Assistant Director Housing, Property and Assets in consultation with the Deputy Director of Legal and Democratic Services, for the purposes set out above and in accordance with section 122(2A) Local Government Act 1972 and section 233(4) Town and Country Planning Act 1990 that notices are placed in a local newspaper circulating in the area for two consecutive weeks expressing:
 - (i) an intention to appropriate (where necessary) the above sites to planning purposes; and

- (ii) an intention to dispose of the above sites (where necessary) following its appropriation.
- Delegate authority to the Assistant Director Housing, Property and Assets in consultation with the Deputy Director of Legal and Democratic Services consider any objections to the intended appropriation and/or disposal before a decision to appropriate or dispose is made.

REPORT DETAIL

The Council's Asset Disposal Programme 2022-2028 seeks to generate a target of £10m per annum in capital receipts over the period of the program. To contribute to this target, the Cabinet approved the disposal of an initial portfolio of properties in the decision made on 8th February 2023. The report also noted that further Cabinet approval for disposal of additional assets would be required as more assets became surplus to requirement as a result of asset rationalisation or asset reviews.

1. Additional surplus assets for disposal

This report seeks to obtain Cabinet approval for the disposal of four assets, three of which have become surplus to the Council's operational requirements. Disposal will present an opportunity to optimise the contribution of the assets to the Council's Capital strategy. The outline details for each of these sites are set out in Appendix A accompanied by site plans indicating the extent of each site and brief background to the asset becoming surplus, where appropriate. Indicative values are set out in the exempt **Appendix B**.

1.1 Mercury House, 11 Western Road, Romford RM1 3RL

A 12-storey office block, the Council holds a long-leasehold interest and has occupied Mercury House as its principal office since the 1970s. In January 2021, Cabinet considered a report on proposed rationalisation of its own administrative accommodation and agreed to consolidate its operational estate within Romford town centre to the Town Hall campus, releasing Mercury House and space within River Chambers.

Mercury House has since been decommissioned and Council functions relocated to the Town Hall campus, with the exception of the CCTV control centre which is due to relocate in early 2024.

Disposal options for the unexpired term of the Council's head-lease are varied and yet to be confirmed, subject to the necessary consents.

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1.279 and 81 Maybank Avenue, Hornchurch, RM12 5SH

These premises are group homes previously occupied by NELFT. A decision to close the service in occupation was made by Cabinet in February 2023 due to budgetary considerations.

These properties are currently being vacated. Should the properties be considered viable and suitable for the Council's housing acquisition program, they will be appropriated from the General Fund to the Housing Revenue Account at market value.

Proposed open market disposal by informal tender or auction is recommended should there be no requirement by the housing acquisition program.

1.3 Gays Field, Jubilee Close, Romford RM7 9LU

Gays Field is a 2-hectare site, located within the green belt, bounded by agricultural land held by the Crown Estate and statutory allotments, with restricted vehicular access via Jubilee Close. The site was previously leased to NALGO/Unison for sporting purposes but has not been used for the last 10 years, since the pavilion housing the changing and toilet facilities was destroyed by arson.

The site has been considered for potential education use in the recent past, including a SEND Special school but other sites have since been prioritised in preference to Gays Field. The Assistant Director for Education Services has confirmed that no likely future demand for education purposes is anticipated for the site. Gays Field is otherwise considered to have little development potential due to its green belt status and restricted access.

Tentative discussions have been held with the Scout Association (Romford District) who are seeking alternative premises to their current accommodation to the rear of Park Drive. It is accordingly proposed that a disposal to the Scout Association is considered in the first instance, rather than open market sale.

A disposal to the Scouts would include suitable restrictive covenants limiting use of the site and an independent valuation would be sought to verify that best consideration has been achieved, based on the terms of sale.

1.4 Land at Bedale Road, Tiverton Road, Harold Hill, RM3 9TU

A 0.2-hectare site within a residential area of Harold Hill, the site is considered to hold potential (subject to planning) for the development of four houses fronting Tiverton Road and Bedale Road respectively, with the remainder of the site retained as a green space. The intention is to submit a planning application and subject to determination of the application, advertise the Council's intention to dispose and appropriate the site for planning purposes. The scope of the proposals may include the identification of additional parking provision in the vicinity if feasible.

2. Consultation on the withdrawal of public car parks

At its meeting on 8th February 2023, Cabinet gave provisional agreement for the future disposal of 5 public car parks, subject to statutory consultation on the cessation of their existing use

The Council undertook a public statutory consultation in March 2023 for a 3-week period to amend the off street parking order and remove the listed car parks from the traffic management orders for the car park sites. In accordance with statutory requirements, a public notice was published in the Romford Recorder and notices were displayed on sites for a minimum of 21 days up to 31 March 2023.

One response was received, the detail of which is set out below:

Objection

To Schemes,

Re. LBH off-street parking places, Order 202, PTO 1200 (Public Notice appearing in Romford Recorder 10/3/223)

I object to the removal of all the parking areas mentioned in this order as it undermines the viability of the Romford and Hornchurch shopping centres.

Officer Comment

The level of response was very low. The Council needs to balance the one objection against wider priorities and benefits that will be realised by progressing with the disposal. Having considered the one objection, it is recommended that Cabinet overrules the objection.

The disposal and redevelopment of the car parks is being promoted to improve the economic, social or environmental wellbeing of the borough. As can be seen below, with the exception of Slaney Road car park, which is subject to business permit parking, the remaining cars parks listed operate well below capacity and alternative provision is available in the areas surrounding the car parks.

Car Park Utilisation (Occupancy) Surveys

A survey of all listed car parks was completed for a one-week period in February (avoiding school half term) and the number of parked cars was counted in both mornings and afternoons. A summary of the occupancy (and likely displacement) is shown below. The survey was repeated again in April and showed a similar pattern of usage.

It is anticipated that the additional displacement of car parking that may result from the disposal of the above sites will be absorbed by the current parking offer in locations nearby, which is currently a mix of on and off street spaces. The Council is

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also developing an Active Travel Strategy with the long-term aim of improving walking and cycling infrastructure to support sustainable travel of residents away from private vehicle use to walking and cycling. This strategy should lead to reduced demand for car parking spaces in the future.

| Car Park | Capacity | Average Occupancy Weekday | Average Occupancy Weekend | % Occupancy (weekend and weekday) |
|--------------------|---|----------------------------------|----------------------------------|--|
| Keswick Avenue | 48 | 23 | 25 | 50 |
| | Surface car park providing 48 spaces, including 2 disabled spaces. Nearest alternative car parks are: Council: Billet Lane (94 spaces, inc. 7 disabled) Fentiman Way (133 spaces, inc. 9 disabled) Appleton Way (48 spaces, inc. 2 disabled) Other: Sainsbury's (480 spaces) | | | |
| Angel Way | 480 | 111 | 123 | 24 |
| | Multi-storey car park providing 320 spaces (weekday), 480 spaces (weekend) including 22 disabled spaces Nearest alternative car parks are: Council: Cottons Park (24 spaces) Market Place (Mon/Tues/Thurs) (160 spaces, inc. 4 disabled) Town Hall (weekends) (60 spaces, inc. 7 disabled) Other: Brewery Shopping centre (1126 spaces) Liberty Shopping Centre (800 spaces) Britannia Car Park (252 spaces) The Mall/Asda (986 spaces) | | | |
| Slaney Road | 100 | 98 | 99 | 98 |
| | Surface car park providing 100 spaces, including 7 disabled spaces. Nearest alternative car parks are: Council: Cottons Park (24 spaces) Market Place (Mon/Tues/Thurs) (160 spaces, inc. 4 disabled) Town Hall (weekends) (60 spaces, inc. 7 disabled) Other: Brewery Shopping centre (1126 spaces) Liberty Shopping Centre (800 spaces) Britannia Car Park (252 spaces) The Mall/Asda (986 spaces) | | | |
| Dorrington Gardens | 191 | 27 | 37 | 17 |
| | Surface car park providing 191 spaces, including 5 disabled spaces. Nearest alternative car parks are: | | | |

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| | | | | |
|-------------|---|----|----|----|
| | Council: Billet Lane (94 spaces, inc. 7 disabled) Fentiman Way (133 spaces, inc. 9 disabled) Appleton Way (48 spaces, inc. 2 disabled) Other: Sainsburys (480 spaces) | | | |
| Como Street | 134 | 22 | 29 | 19 |
| | Surface car park providing 134 spaces, including 7 disabled spaces. Nearest alternative car parks are: Council: Cottons Park (24 spaces) Market Place (Mon/Tues/Thurs) (160 spaces, inc. 4 disabled) Town Hall (weekends) (60 spaces, inc. 7 disabled) Other: Brewery Shopping centre (1126 spaces) Liberty Shopping Centre (800 spaces) Britannia Car Park (252 spaces) The Mall/Asda (986 spaces) | | | |

Appropriation

As a matter of law, councils hold or own land for a particular statutory purpose. If they want to hold the land for a different purpose, they must formally appropriate the land to that purpose. Appropriation is a statutory process that allows the Council, following consultation, to change the purpose for which it holds property in its ownership from one purpose to another.

Councils are authorised to appropriate land for planning purposes. By formally appropriating the selected sites for planning purposes subject to section 241 Town and Country Planning Act 1990, the Council (or any other person) may develop the land in accordance with a planning permission.

The Council should only propose to appropriate land for planning purposes if it has an intention to see the land used for development that promotes or improves the economic, social or environmental wellbeing of its area and believes that the appropriation is needed in order to facilitate or achieve any of these aims.

In each case, the Council intends to see the sites used for development, subject to securing planning and any other relevant authorisations.

A Council is authorised to appropriate land that it owns. However, if the land is used as public open space, which is legally defined as “any land laid out as a public garden or used for the purposes of public recreation” the Council must advertise its intention to appropriate the land for two successive weeks in a newspaper circulating in the area. It must then consider any objections made to the intended appropriation.

REASONS AND OPTIONS

Reasons for the decision:

The Council's Asset Management Plan seeks to optimise the contribution our assets to support delivery of the Council's strategic and corporate objectives.

There is no strategic reason for the Council's continued ownership of the assets and they no longer support delivery of any service and where the assets generate any income, the redevelopment options optimise the values while providing much needed housing. Therefore, they are considered surplus to Council requirements and a clear and approved plan for their disposal is required.

The removal of the car parks listed above from the Council's off street parking Traffic Management Orders is a statutory procedure. Modification of the orders should be carried out prior to change of use of the car park sites, given the Council's intention to see the car parks used for development that promotes or improves the economic, social or environmental wellbeing of the borough.

Other options considered:

Retention of the subject sites

They are considered to be surplus to the Council's requirements and retaining them may not maximise their contribution to the Council's aims. Retaining the operational assets could open the Council to void holding costs and associated risks.

IMPLICATIONS AND RISKS

Financial implications and risks:

The current capital strategy and MTFS includes the requirement to generate £20m capital receipts by the end of the 2023/24 financial year, with a projected need for a further £10m in each of the subsequent three financial years, to be used to fund elements of the capital programme, thereby reducing potential capital borrowing requirement. The financial implications of each disposal will be considered individually as they are progressed, including satisfying the best value requirement.

To maximise the potential receipt generated from the sale of assets there will be the requirement to incur pre-sale expenditure as identified above within this report.

Accounting regulation allows for up to 4% of the expected sale value to be financed from capital receipts and whilst this then increases the amount of receipts needed to be generated, it will ease any additional pressure on revenue as a result of these costs

There is a risk that the disposal proceeds may be less than anticipated or that additional pre-sale expenses may be identified in which case the Director of Asset Management Services would reconsider the position in consultation with the appropriate Lead Member and Finance Officers. The economic case for each disposal will be kept under consideration throughout the sale process.

Legal implications and risks:

In respect of the sites contained at Appendix A - The Council has the power to dispose of the land under section 123 of the Local Government Act 1972 ("LGA 72") subject to obtaining the best consideration reasonably obtainable. Where a site is open space, under section 123 2A of the LGA 1972, this power is also subject to advertising the proposed disposal in a local paper for two consecutive weeks and considering any objections raised before taking a decision on whether to dispose of the land. . In the event the land is appropriated for planning purposes prior to disposal of the land, then section 233 of the Town and Country Planning Act 1990 ("TCPA 1990") will apply which has the same requirement to obtain the best consideration reasonably obtainable

In exercising the delegated authority recommended by this report, the Assistant Director Housing, Property & Assets will be required to comply with the above requirements. In respect of any site to be disposed by way of auction the Assistant Director Housing, Property and Assets, in consultation with the Lead Member for Regeneration, will agree adequate reserve prices and a sale price respectively, which will be informed by independent valuation advice, to ensure that the Council can comply with the same duties to obtain best consideration, pursuant s.123 LGA 1972/s.233 TCPA.

Prior to any sale it will also be necessary for Legal Services to review the title to the property to confirm that no interests exist that may prevent a transfer. If any restrictions or covenants exist, the review will ascertain whether or not they are still capable of being enforced or will continue to bind the Council following the transfer.

In respect of the sites proposed for disposal to MLH the ability for MLH to develop and/or dispose of those sites will depend upon legal and financial due diligence. Furthermore, there remains the possibility that planning permission could be refused. As set out in the Cabinet report of February 2023 any disposal to MLH will allow for buy-back to account for the above factors and as such any capital receipt generated by this arrangement may be repayable. A separate report/s will be required to seek a decision as to whether monies will be made available to Mercury Land Holdings to make necessary arrangements for the sale and purchase. These reports will require the Council to demonstrate compliance with the relevant laws including s.123 LGA 1972/s. 233 TCPA and Subsidy Control laws.

Appropriation

The Council is seeking to appropriate land for planning purposes under section 122 LGA 1972.

Section 122 LGA 1972 enables the Council to appropriate (transfer) land it owns from one use to another, as long as (1) the new use is for a purpose it could have purchased the land and (2) the land is no longer required to be held for the purpose for which it is held immediately before the appropriation. The Council must therefore, consider whether the land is no longer needed for the purpose for which it is currently held if it is to be appropriated for planning purposes.

The meaning of the words “no longer required for the purpose for which it was held immediately before the appropriation” in law means “not required” or “not needed in the public interest of the locality”.

The appropriation for planning purposes, in this instance, must follow the process set out in section 122(2A) LGA 1972. This involves placing a notice in two consecutive editions of a local weekly newspaper and the formal consideration of any representations made in response to the notice. There is a legal duty to consider such representations fully and properly.

Appropriation of the land for “planning purposes” (in order to engage the provisions of section 203 Planning and Housing Act 2016 (“PHA 2016”)) requires the Council to consider the following factors, that is, whether:

- the appropriation will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land or is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated;
- the proposed development, re-development or improvement will contribute to the promotion or improvement of the economic, social and/or environmental well-being of the area;
- it is in the public interest that the proposed development should be carried out, having regard to the provisions of the development plan, whether planning permission is in force and any other considerations that would be material to the determination of a planning application for development of the land; and
- as noted above, whether the land is no longer required for the original purpose for which it was acquired

“Planning purposes” is defined in section 246(1) TCPA 1990 and acquisition for such purposes includes acquisition under section 226 or section 227 TCPA 1990.

Where land is appropriated for planning purposes, it is then held by the Council under the statutory provisions of Part 9 of the TCPA 1990. The consequence is that the erection, construction or carrying out of any maintenance or any building

or work on the land and subsequent use of the land is authorised under those planning powers, if the works are done in accordance with planning permission, even if they interfere with third party rights.

The purpose of section 203 PHA 2016 is to ensure that where land has been appropriated for planning purposes, and provided that work is done in accordance with planning permission, then existing rights, which could prevent the development of that land from proceeding, can be overridden. The rights are overridden whether the Council or another person carries out the development. Persons who would otherwise benefit from those rights are entitled to claim compensation for the interference from the person carrying out the development.

Section 122(2A) LGA 1972 requires that before appropriating any land consisting or forming part of open space the Council must advertise the proposed appropriation in two consecutive editions of a local newspaper and consider any objections received in response.

In exercising the delegated authority recommended by this report to appropriate land for planning purposes, the Assistant Director Housing, Property & Assets will be required to comply with the above requirements.

Human Resources implications and risks:

There are no anticipated HR issues resulting from these decisions.

Equalities implications and risks:

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- i. The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- ii. The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- iii. Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

An EqHIA (Equality and Health Impact Assessment) is usually carried out when a current or planned service/policy/activity is likely to affect staff, service users, or other residents.

The sites proposed for disposal are no longer operational, as detailed in Appendix A, and have been declared surplus, meaning that there is no material impact upon groups with protected characteristics

The proposed asset sales include a number of car parks with varying levels of disabled parking provision within. Consideration has been given to the proximity and capacity of alternative disabled parking provision (provided by both the Council and others) within Romford and Hornchurch town centres in order to mitigate the impact of withdrawing the subject car parks from their current use. For the time being these facilities remain in operational use and a full EqHIA will be conducted in advance of any change of operational status.

Health and Wellbeing implications and Risks

There are no specific Health & Wellbeing implications identified a consequence of the proposed resolution to dispose. The assets identified have already been vacant/surplus for some time, meaning there is unlikely to be any material wellbeing impact arising.

Environmental and Climate Change Implications and Risks

Disposal of the proposed sites will not, in itself, generate any environmental or climate change implications. Subsequent development of the sites will be subject to seeking planning permission and building control approvals, the process for which will require the applicant to demonstrate how any potential impacts are addressed

BACKGROUND PAPERS

Cabinet report of 8th February 2023 for the Asset Disposal Programme 2022-2028