

Report to:	Cabinet	Date of Meeting:	1 September 2022
Subject:	Pendle Drive Litherland – Asset Disposal		
Report of:	Executive Director of Corporate Resources and Customer Services	Wards Affected:	St. Oswald;
Portfolio:	Cabinet Member - Regulatory, Compliance and Corporate Services		
Is this a Key Decision:	No	Included in Forward Plan:	Yes
Exempt / Confidential Report:	Appendices 1 and 2 to the report are NOT FOR PUBLICATION by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972. The Public Interest Test has been applied and favours the information being treated as exempt		

Summary:

Cabinet in January 2020 approved the disposal of the first phase of surplus assets to generate capital receipts in support of the Growth and Strategic Investment and Framework for Change Programmes. Officers were provided with the authority to negotiate terms and conditions for each disposal in line with delegated authority set out in the Council's Asset Disposal Policy.

Brooklea House, Pendle House, and Pendle Drive are three unoccupied buildings located on the site known as Pendle Drive, Litherland ("Pendle Drive"). This site was in the first phase of the disposal programme. In 2019, the Council was approached by a retail operator to acquire part of the site. This represented an opportunistic disposal to provide a new food store, which is permissible under the processes approved within the Asset Disposal Policy. The remainder of the site would be redeveloped for housing, most likely via an informal tender exercise marketing it to interested Registered Providers and similar Companies.

The COVID19 pandemic led to discussions between the Council and retail operator stalling for a time. However, following recent contact the basis of a deal has been resurrected and principal Heads of Terms agreed. The purchaser has agreed to demolish the three unoccupied buildings with the cost of demolition to be deducted from the gross land price as set out in Appendix 1.

The Council will market the balance of the site to Registered Providers, so that a small affordable housing residential development scheme can be brought forward. This is not expected to generate a significant capital receipt.

Recommendations:

- (1) Approves the disposal of 2.40 acres of land at Pendle Drive Litherland at a gross

purchase price as set out in the Heads of Terms in Appendix 1. The disposal to be subject to the purchaser demolishing the three unoccupied buildings and the receipt of satisfactory planning consent for a new food store. The final land price will be subject to deductions for the cost of the demolition works.

- (2) Approves the deduction of up to 4% of the eventual capital receipt to cover the professional fees and incidental costs of disposal as set out in Capital Accounting Regulations.
- (3) Authorises the Chief Legal and Democratic Officer to finalise a Licence Agreement to enable the purchaser to progress all technical due diligence and building surveys to support demolition works and to draw up the appropriate legal documentation to document the Transfer.
- (4) Authorises the marketing and disposal of the remainder of land in the Council's ownership to Registered Providers for residential development, with terms of the disposal to be delegated to the Cabinet Member for Regulatory Compliance and Corporate Services for approval.

Reasons for the Recommendations:

- (i) Disposal of the land will provide capital funding in support of the Growth and Strategic Investment Programme. The disposal will maximise the land receipt that the Council can secure for Pendle Drive. Alternative use value (residential) will not generate a capital receipt of a comparable level. The opportunity cost will be the loss of a capital receipt as currently projected in the disposal programme.
- (ii) Incidental costs of disposal such as Consultant's fees and valuation reports can be deducted from a capital receipt in accordance with Local Authority Capital accounting Regulations.
- (iii) The disposal of land adheres to two criteria: that each capital receipt forecasted represents financial "best consideration" and where the loss of other opportunities is quantifiable and does not undermine wider service delivery and economic development/ regeneration priorities.
- (iv) The agreed Heads of Terms require that the purchaser demolishes all buildings across the site, including Pendle House which is located on the retained land. This ensures that the Council has no capital expenditure ask to progress demolition work and is left with a de-risked opportunity.
- (v) The agreed disposal price, as set out in Appendix 1, meets best consideration requirements in accordance with Section 123 of the Local Government Act 1972 and complies with the approved processes within the Council's Asset Disposal Policy.

Alternative Options Considered and Rejected: (including any Risk Implications)

- (i) Dispose of site to Registered Provider: The Council can look to market all the Pendle Drive site to Registered Providers. The site has marginal financial

viability for residential use and this option is discounted as it secures only a nominal land receipt. The Council would likely have to commit capital up front to progress demolition works to de-risk the site. Redevelopment of part for a retail store is the only way to secure a significant capital receipt to the Council.

- (ii) Demolish buildings to reduce management liability and risk of antisocial behaviour on the site and retain land as an area of recreational amenity. This option is not favoured as there would be ongoing management and maintenance costs to the Council. The asset is in the disposals programme – its’ disposal has previously been approved for the very purpose of generating a land receipt to support the delivery of the Framework of Change programme.
- (iii) Dispose of site for residential development: a financial appraisal completed in 2019 estimated that the site would generate a land receipt of no more than £150,000 for redevelopment for this alternative use, given its location in a lower sales value area. The appraisal did not factor in any deductions for demolition or other site abnormal costs, so any land receipt for residential development would in reality only generate a nominal capital receipt, which would not comply with achieving Best Consideration, which is more expressly set out in Section 3 of this report.

What will it cost and how will it be financed?

(A) Revenue Costs

The purchaser has agreed to pay up to 1% of the net purchase price, which will cover the Council’s legal and professional fees for concluding sale contracts.

(B) Capital Costs

Under Local Authority Capital Accounting Regulations,’ the Council is entitled to use up to 4% of a capital receipt to meet the incidental costs of a disposal. In this case the costs of the valuation report and the fees for the appointment of a consultant to negotiate the terms for the disposal will be deducted from the eventual receipt.

Implications of the Proposals:

<p>Resource Implications (Financial, IT, Staffing and Assets): Property and Facilities Management will work alongside the Chief Legal and Democratic Officer to complete the disposal.</p>
<p>Legal Implications: The Chief Legal and Democratic Officer will complete the legal documentation for the disposal. The purchaser shall enter into a Licence agreement to progress intrusive site investigations and building demolition surveys.</p>
<p>Equality Implications: There are no equality implications.</p>
<p>Climate Emergency Implications:</p>

The recommendations within this report will	
Have a positive impact	N
Have a neutral impact	N
Have a negative impact	Y
The Author has undertaken the Climate Emergency training for report authors	Y

The recommendations within this report will have a negative impact on the carbon footprint of the Borough. There are the direct emissions which result from the demolition of the buildings and the subsequent redevelopment of the vacant site for both retail and housing purposes as well as the long-term carbon emissions from each new building / operation created.

The development of the site with buildings will be required to go through the Planning and Building Regulations processes which will help to minimise their carbon impact by applying the nationally required environmental standards.

The purchaser has confirmed that its new build stores always look to achieve a BREEAM “Excellent” rating.

Contribution to the Council’s Core Purpose:

Protect the most vulnerable: Not applicable.
Facilitate confident and resilient communities: Redevelopment of the remaining area of the site for social housing will provide new affordable housing in the Borough, to help meet local need.
Commission, broker and provide core services: Not applicable.
Place – leadership and influencer: Not applicable.
Drivers of change and reform: Not applicable.
Facilitate sustainable economic prosperity: The disposal will maximise the return to the Council and the land receipt can be used to help facilitate the delivery of the wider Growth Programme and individual economic development projects. The purchaser has confirmed that the new store will generate up to 30 new jobs with potential to increase should the store perform successfully. The employment contracts will be a mix of full-time and part-time contracts and employees working in the store would benefit from a minimum hourly wage of £10.10 per hour from 1 st March, which is higher than the Government’s “National Living Wage”. The purchaser has confirmed that the new store will benefit from their surplus food donation programme, “Feed It Back” in partnership with Neighbourly.
Greater income for social investment: Not applicable, although the purchaser has confirmed that the new store form part of their surplus food donation programme, “Feed It Back”, in partnership with Neighbourly.
Cleaner Greener: The purchaser has confirmed that they purchase 100% of the electricity required for their operations from renewable sources to help support

decarbonisation of the UK power sector through the purchase of solar panels and electronic vehicle chargers. The Company's new build stores always look to achieve a BREEAM "Excellent" rating.

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.6896/22) and the Chief Legal and Democratic Officer (LD.5096/22) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

E-mails and meetings

Implementation Date for the Decision

Following the expiry of the "call-in" period for the Minutes of the Cabinet Meeting

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Appendices:

The following exempt Appendices are attached to this report:

1. Heads of Terms
2. Proposed store layout plan.

Background Papers:

There are no background papers available for inspection.

1. Introduction/Background

- 1.1 Pendle Drive is a brownfield site located in Litherland off Gorsey Lane (B5422). The site has a gross area of 3.58 acres and contains three vacant Council buildings: Pendle House, Pendle Drive HMU and the Brooklea Centre.
- 1.2 The Asset Maximisation Project requires that assets be identified as supporting operational activity, having heritage value, being required for economic growth purposes, or would be considered for disposal. Officers went through a process to assess options for Pendle Drive in line with the Asset Maximisation methodology, which led to Cabinet approving in January 2020 that Pendle Drive be identified as a surplus asset and included within the first phase of the Council's disposal programme.

- 1.3 The prospective purchaser first approached the Council in 2019 and expressed an interest in acquiring part of the Pendle Drive site for a new food store development. Whilst discussions were paused due to the wider COVID-19 pandemic, in autumn 2021 Council officers re-engaged with the Company. Principal Heads of terms have now been agreed (see Appendix 1) which detail the key elements of the commercial transaction and to assist Solicitors in preparing sale contracts.

2. Planning Policy Context

- 2.1 Pendle Drive is identified as a brownfield site in the Local Plan and is allocated for housing redevelopment. The purchaser will be required to submit a planning application for their food store proposals. The Local Planning Authority has indicated that there are no significant planning policy obstacles and that change of use for a new food store on part of the site would be supported, pending the scheme demonstrating compliance with statutory highways, flood risk and other planning policy requirements.
- 2.2 A site layout plan for the proposed store is attached at Appendix 2.
- 2.3 The Local Plan site allocation highlights that redevelopment of Pendle Drive has the potential to contribute to the wider regeneration of the adjacent deprived area, which is in one of the most 20% deprived areas in the UK. The purchaser has confirmed that the new food store will generate up to 30 new jobs for local people with potential to increase should the store perform successfully – these will be a mixture of full-time and part-time contracts.

3. Best Consideration and Capital Receipt

- 3.1 The Council is under an obligation to ensure that any offers for properties represent “best consideration” in accordance with Section 123 of the Local Government Act 1972 (as amended). As such, all work and subsequent negotiations and offers must be undertaken and considered in this context.
- 3.2 The principal Heads of Terms negotiated for the sale of Pendle Drive for retail purposes require the purchaser to demolish all buildings across the land earmarked for both the food store and the Council’s retained land. Demolition costs will be subject to surveys and contractor quotes, with the cost of these to be deducted from the land price. The exact amount of capital receipt is not finalised at present. The gross land receipt is set out in Appendix 1.
- 3.3 A formal RICS Red Book valuation report has been prepared by a Chartered Surveyor in accordance with the Asset Disposal Policy. This has examined comparable land sales to verify that the land value set out in Appendix 1 (less deductions for demolition costs) meets the Council’s best consideration requirements.
- 3.4 The Council’s Asset Disposal Policy allows for disposals by private treaty where this results in a better overall outcome. In this instance the sale will generate a significant capital receipt and will involve the demolition of an additional vacant building saving the Council in terms of maintenance repair security and insurance costs.

3.5 Under Local Authority Capital Accounting Regulations, the Council is entitled to use up to 4% of a capital receipt to meet the incidental costs of a disposal for both housing and non-housing land. These incidental costs can include administrative costs advertising and professional fees. In this particular disposal the Council has used a consultant to assist with the negotiation of Heads of Terms together with a Chartered Surveyor commissioned to undertake the valuation report. These costs will be deducted from the eventual capital receipt.