

Agenda Item 8**Forward Plan reference number:** FP/951/01/15

Report title: Surplus Property Disposal – the sale of the former Epping St John's Junior & Primary School, St Johns Road, Epping , CM16 5DN to Epping Forest District Council	
Report to: Cabinet	
Report author: Report by Mark Hobson – Director for Corporate Operations	
Date: 19 July 2016	For: Decision
Enquiries to: Simon Hughes – EPF, Corporate Services- 07809 314951 Email - simon.hughes@essex.gov.uk	
County Divisions affected: Epping and Theydon Bois	

NOT FOR PUBLICATION

This report contains a confidential appendix listed in Part II of the agenda which is exempt from publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

1. Purpose of report

- 1.1. The purpose of the report is to declare the following property surplus to requirements and provide authority for the disposal: The former Epping St John's Junior & Primary School, St Johns Road, Epping, CM16 5DN ('the Property').
- 1.2. The report summarises the legal, financial and any other key implications.

2. Recommendations

- 2.1. Agree to authorise the Director of Corporate Operations to dispose of the freehold of the Property to Epping Forest District Council at a figure not less than the price shown in the attached confidential appendix, on terms and conditions to be agreed by the Director of Corporate Operations subject to the Secretary of State confirming consent for the disposal at an undervalue.

3. Summary of issue

- 3.1. The former Epping Junior School and adjacent Adult Education and Youth Centre, known locally as Centre Point, in St. John's Road Epping are owned by the Council and vacant and boarded. The site was vacated in April 2010 when the new Epping Primary School was completed. The site has been declared surplus to service requirements and the necessary approvals have been obtained from the DfE for a disposal to take place.
- 3.2. The site is close to Epping Town Centre and offers a significant regeneration opportunity, particularly as it adjoins a depot owned by Epping Forest District Council (EFDC) and Epping town hall, owned by Epping Town Council (ETC).

- 3.3. ECC committed to work collaboratively with EFDC as Local Planning Authority toward the approval of a Development Brief for the St. John's Road Area. This has been a lengthy process but the Development Brief was finally approved by EFDC at their Cabinet on 10 September 2012 and was referred to their Full Council on 27 September 2012 for adoption as non-statutory planning guidance. The Development Brief has the status of a material planning consideration in the assessment of any future planning applications for the sites.
- 3.4. The ECC disposal strategy has been for the site to be taken to the market on the basis of the Development Brief as a first phase of the regeneration of the area. ECC has committed to a joint marketing of the site.
- 3.5. The premises are deteriorating, with on-going problems of lead theft, other vandalism and flooding of the boiler room. Holding costs continue in the order of £100k p.a.

Development Brief

- 3.6. The Development Brief promotes the ECC site and adjacent property for redevelopment for mixed use development including residential, retail and leisure as uses in isolation or on a mixed use basis. In planning and economic terms the local planning authority's preference is for a mixed use scheme that – amongst other things - provides for a variety of commercial and residential uses as a stimulus for an improved town centre offering. Whilst other uses in isolation, i.e. residential or the part development of sites, may be appropriate in local and national planning policy terms, they are not the EFDC preferred approach.
- 3.7. The disposal and redevelopment of the whole, combined site would necessitate the relocation of ETC from the existing town hall into alternative accommodation. The current town hall premises are understood to be an expensive overhead that the ETC would wish to reduce. The EFDC depot facility which has potential to allow access to the High Street would also be vacated.
- 3.8. The combined site comprises approximately 3.72 acres in total (2.59 acres of which comprises the ECC land) and has been jointly marketed.

Joint Marketing of the site

- 3.9. Joint marketing commenced in June 2013 with a deadline for expressions of interest set for 30 Aug 2013 with a view to establishing the level of interest, potential uses and indicative values. The site was offered as a whole or a combination of plots.
- 3.10. In general terms all but one of the offers were submitted on a fully conditional basis subject to contract, planning and due diligence on the property. The notable proposals were;
- 3 offers received on the basis of mixed use retail, leisure and residential use;

- 11 offers received on the whole for residential use. The higher offers anticipated a high density residential scheme which may not be practically deliverable;
- 7 offers received, for residential or similar uses;
- Notably ECC also received offers on part of the ECC holding (two plots of 2.05 and 0.54 acres respectively);
- Various other offers were also received on alternative plot configurations but these are not likely to achieve better value for ECC's assets.

Epping Forest District Council

- 3.11. The preferred offer from the perspective of EFDC was for a proposal from Frontier Developments, as it met:
- their regeneration aims
 - the findings of the public consultation about the site.
- 3.12. The general proposal from Frontier Developments is anchored by a Waitrose food store of 20,000 sq ft gross, a cinema of 10,000 sq ft, restaurants of 15,000 sq ft, hotel 20,000 sq ft, 35 residential units, together with 200 car parking spaces, all constructed on a multi storey format with main access off the High Street and service access off St Johns Road.
- 3.13. The indicative programme is 12 months for acquisition and planning application, 12 months planning approval and 18-24 months on site construction. Overall this is a 4 year programme. Potential sale receipts would be expected in 24 months.
- 3.14. Our agents, Lambert Smith Hampton (LSH), have raised queries on the appraisal provided by Frontier around:
- Income and sales assumptions,
 - Cost assumptions,
 - Planning proposal,
 - Highways proposals.
- 3.15. EFDC have sought further information from Frontier and are content that these issues can all be addressed through the normal planning / design processes.

Epping Town Council

- 3.16. At the time of marketing the Town Council were not committed to a disposal of their site as part of a whole site redevelopment proposal. However, the inclusion of the ETC site is key to the viability of a mixed use proposal.

- 3.17. ETC has subsequently engaged consultants to give them valuation and development advice. ETC decided at a meeting on 14th January 2014 they wish to proceed with a bid from Frontier.
- 3.18. The Frontier proposal provides ETC with the opportunity to discharge a current mortgage liability together with securing replacement office space to their specification and at no cost.

Essex County Council

- 3.19. Section 123 of the Local Government Act 1972 requires ECC to secure 'the best consideration that can reasonably be obtained' or seek consent for the disposal. The commercial value of the disposal is a central consideration in deciding what 'best consideration' is, taking into account relevant policies in place and any professional advice given. However, general consents issued by the Secretary of State for Communities and Local Government permit many disposals at undervalue in the interests of the economic, social or environmental wellbeing of the residents of Essex.
- 3.20. Essex County Council has received unconditional offers for the Property which substantially exceed the value that would be payable to ECC under the Frontier proposal.
- 3.21. The higher offer was for a residential unit for older people. EFDC raised some potential planning concerns however these would have been addressed by the developer as part of the normal planning / development process.
- 3.22. Whilst ECC is supportive of the regenerative benefits of the Frontier Scheme, ECC felt that it would be inappropriate to take an under-value of this level and we would have required Secretary of State consent to do so.
- 3.23. ECC undertook a dialogue with EFDC, who were interested in acquiring the ECC land interests. The agreed approach was for EFDC to make a cash payment on exchange of contracts.

Best Consideration

- 3.24. A 'Red Book Valuation' of the Property undertaken in line with the definitions and standards in 'Valuation-professional standards January 2014', published by the Royal Institute of Chartered Surveyors was commissioned by ECC. The report, prepared by LSH in June 2015 advised that:
- In the event ECC were to remarket their land a conditional offer for the use of the site could be achieved
 - As a result LSH advised that the proposed terms of the disposal to EFDC were not at the best price reasonably obtainable. Their valuation is set out in the confidential Appendix.
- 3.25. ECC is only allowed to sell land at less than the market value with the consent of the Secretary of State.

Secretary of State Consent:

- 3.26. Secretary of State Consent was sought to dispose of the site, under Section 123 of the Local Government Act 1972.
- 3.27. Consent was received from the Secretary of State on 3 November 2015 to the proposal set out in the application.
- 3.28. In January 2016, as final negotiations were underway between ECC, EFDC and Frontier we received a further, higher, offer from a bidder who wished to develop a residential unit for older people. This is a conditional offer. This offer is well in excess of previous offers and has been made by a credible bidder.
- 3.29. A further higher acquisition price on an unconditional basis, has been agreed between EFDC and ECC in June 2016. However there remains an undervalue compared to the alternative offer.
- 3.30. Accordingly it has been decided to submit a further application to the Secretary of State for further consent in the light of the new offer. If the Secretary of State considers consent to be necessary and decides to refuse consent to dispose, ECC will not proceed with the sale and a further decision of the authority will be required in relation to the disposal of the site.

4. Options

Considerations:

- 4.1. ECC must weigh up the financial benefits of a larger capital receipt the wider community regeneration benefits and the opportunity to improve, against our wider obligations as a place shaper – particularly in respects of economic regeneration. However the key economic considerations are:
- 4.2. This site is effectively the last substantial development site within Epping town centre.
- 4.3. Whilst housing development is of course important, so are job numbers and ECC is looking to build and secure economic prosperity within the County.
- 4.4. The use of the site to bring in a new retail anchor is an important consideration. Epping town centre has fallen down the national list of successful town centres and for their Local Development Framework Epping Forest DC have identified the need for a major leisure anchor and a new retail anchor.
- 4.5. A new leisure and retail anchor would help to attract more shoppers to the town and will help to stimulate new business growth within the area, particularly for smaller retailers in the area.
- 4.6. Whilst there are some vacant units within Epping High Street, these units are not suitable to develop a supermarket or cinema/leisure complex.

- 4.7. Although Epping is a prosperous town, it is as important to secure our high performing areas, as much as regenerating the less well performing towns.
- 4.8. The proposal from Frontier also provides a number of wider community benefits:
- The Frontier scheme re-provides new and cheaper accommodation for the Town Council - consistent with the ECC policy objective of strengthening our communities. Town and Parish Councils play a key role in the community life of Essex residents
 - The scheme provides community facilities and open space - consistent with the ECC policy objective of strengthening our communities.
 - Essex County Council in working closely with Epping Forest District Council and Epping Town Council is showing how Local Government can work effectively in partnership. ECC was one of the Government's pathfinder authorities 'One Public Estate' programme. This is a good example of how Local Authorities can work together in partnership in asset management.
 - Public consultation has been undertaken on the use of this site by EFDC. The proposed scheme meets the aspirations of Epping residents.
- 4.9. Disposal to EFDC does not guarantee the delivery of the scheme but if the scheme is developed for a higher value scheme then ECC will be entitled to overage payments.
- 4.10. In summary, in progressing the transaction with EFDC ECC is delivering several wider economic and community benefits. The Cabinet will have to decide whether these outweigh the reduction in capital receipt. Although a larger capital receipt could be invested to deliver some of these benefits, it could not deliver a large retail /leisure scheme in Epping.

5. Issues for consideration

Financial implications:

- 5.1. In selling the land to EFDC, Essex County Council has secured a consideration which is less than the *potential* consideration from an alternative use outside of this wider scheme. However, it assists Essex County Council's wider obligations as a place shaper; particularly in respects of economic regeneration as detailed in Section 3 and 4 and removes the ongoing substantial maintenance costs of the existing building.
- 5.2. The proposed consideration is higher than the book value of the asset. The disposal is below market value which is explained and covered elsewhere in the report.
- 5.3. The estimated Capital Receipt is documented within the attached Confidential Appendix. ECC will be selling the Property for a particular purpose (a mixed

use commercial led scheme) with covenants in place to secure ECC's financial position if a different purpose was subsequently implemented.

- 5.4. The capital receipt will contribute to the Property Transformation target for 2016/17.
- 5.5. The costs of disposals will be met from existing specific budgeted resources earmarked for Capital disposal activity.

Legal implications:

- 5.6. As stated above, the Council is obliged to obtain the best consideration reasonably obtainable on the disposal of its own property unless the Secretary of State consents to the disposal or the disposal falls within the terms of the disposal consents issued under the Local Government Act 1972. As outlined in this report there is an undervalue and the Secretary of State's consent is being sought.
- 5.7. Covenants and clawback provisions will be imposed on the Epping St John's site that restrict the quantum and type of development, as well as provide an opportunity for ECC to recover additional Capital receipts in the event of further development.
- 5.8. As ECC will be selling the Property for a particular purpose (a mixed use commercial led scheme) covenants will be put in place to secure ECC's financial position if EFDC (or any future owner) was to seek planning permission for a different purpose for a use of higher value.
- 5.9. There are no state aid issues for ECC since the site will be transferred to another local authority.

Policy context and Outcomes Framework:

- 5.10. The proposals in this report align with the following aims and principles in A Vision for Essex 2013 -17
- 5.11. The Capital Receipt will reduce the Council's borrowing, and support the Capital Programme to achieve the County's commitments above; specifically spending taxpayers' money wisely.
- 5.12. It will also help to deliver 'Support employment and entrepreneurship across our economy' by helping to secure the position of a key town centre.
- 5.13. It will also help to deliver 'Improve public health and well-being across Essex' by providing high quality supported housing.
- 5.14. It will also help to deliver 'Keep our communities safe and build community resilience' through the provision of community facilities.
- 5.15. The Transformation Property Strategy has aims that are consistent with the Essex Vision: "we want to build a new partnership with public bodies, Essex citizens, private businesses, civil society and local communities: a partnership

based on Essex's long-term interests and on our shared responsibility for improving local quality of life".

6. Equality and Diversity implications

- 6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc on the grounds of a protected characteristic unlawful.
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 6.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

7. List of appendices:

- 7.1. A confidential appendix setting out the detail of the transaction is attached.
- 7.2 Equality Impact Assessment

8. List of Background papers

None