

SCARBOROUGH BOROUGH COUNCIL

Town Hall
Scarborough
YO11 2HG

Date 08 January 2019

To: Members of the Cabinet

Dear Councillor

Cabinet - Tuesday, 15 January 2019

Please find attached the following report which was not available when the agenda was circulated:

12. Sale of Manor Road Nursery site (Pages 1 - 18)

To consider the report of the Director (RB) (reference 19/001) attached

Yours sincerely

St John Harris

St John Harris
Democratic Services Manager

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NOTES

'K' ITEM

	REPORT TO CABINET TO BE HELD ON 15 JANUARY 2019	
This report contains exempt or confidential information in Appendix 1 which is excluded from publication	Key Decision Forward Plan Ref No	YES
Corporate Aims All	Cabinet Portfolio Holder	Cllr H Mallory – Portfolio Holder for Corporate Investment

REPORT OF: Director (RB) – 19/001

WARDS AFFECTED: STEPNEY

**SUBJECT: DISPOSAL OF THE FREEHOLD INTEREST OF
MANOR ROAD NURSERY SITE, SCARBOROUGH**

RECOMMENDATION (S):

Cabinet is recommended to approve:

- (i) The freehold sale of Manor Road Nursery Site to Bidder 'A' as outlined in Appendix 1 in accordance with the sealed bid received on 15 November 2018.
- (ii) To delegate to the Commercial Director in consultation with the Portfolio Holder for Corporate Investment negotiation of the final terms of the sale on the basis of the offer and terms principally contained in Appendix 1.

REASON FOR RECOMMENDATION (S):

- Bids were submitted in accordance with the Council's requirements for the submission of sealed bids. Bidder 'A's offer was higher than the alternative bid.
- Both bidders have submitted offers that are subject to planning consent. Both offers could be reduced in the light of planning costs/ requirements being higher than expected. Bidder 'A' has taken planning advice and consequently is well informed as to the likely costs whereas bidder B has not.
- With Bidder A the capital receipt is more certain and will be received a lot sooner than Bidder B.

19/001

- To achieve a capital receipt to assist with the rationalisation and move to Dean Road Depot.

HIGHLIGHTED RISKS:

Planning Risks

There is a risk that planning permission will not be forthcoming for the proposed scheme. This has been mitigated considerably as the prospective purchaser (Bidder 'A') has already taken pre-application planning advice. This advice suggests that the amount of development proposed will be broadly acceptable. It should be noted however that the alternative bid was also subject to planning permission. The alternative bidder has not taken pre-application advice so there are many uncertainties around their proposed scheme.

Bidder 'A' has further qualified their bid by requiring grant of a "satisfactory planning permission". There is a risk that even if permission is granted for a scheme, the purchaser is not happy with the permission or conditions attached thereto. This is not unusual and can be mitigated by ensuring a common understanding with the purchaser of what constitutes "satisfactory".

Financial Risks

If the disposal fails to complete either prior to or following agreement with the proposed purchaser it will impact on the expectation of a capital receipt for the site. There are also likely to be additional holding/security/re-marketing costs if the site has been vacated. As we have now received offers for the site there is a greater expectation that the disposal will proceed. Working closely with the preferred bidder will ensure that any issues/ obstacles to completion can be picked up at an early stage and dealt with to ensure the matter proceeds smoothly.

Both offers have been made subject to Planning Permission. There is a risk therefore that the final purchase price will be significantly lower than the original offer if planning costs are higher than expected. This risk has been mitigated by the preferred bidder taking pre-application planning advice. Many of the uncertainties around costs have been clarified already and Bidder 'A' has clarified its net offer on the basis of the costs that are already known.

Timing Risks

If we are unable to give vacant possession of the Manor Road site within the expected timescale the sale could be delayed. This will delay the capital receipt and could ultimately result in the sale not proceeding. Project management will be a key mitigating factor to ensuring a smooth handover.

If the sale does not proceed in the expected timescale due to planning, legal or other delays this will impact on the timing of the capital receipt. There are also likely to be additional holding/ security costs if the site has been vacated. Working closely with the purchaser and other key stakeholders will be key to keeping the disposal on track.

1. BACKGROUND

- 1.1 Following a report to the Overview and Scrutiny Board in July 2016 the Board commissioned a review of the Parks Nursery at Manor Road. On 5 July 2017, the findings of the review by the Member Task and Finish Group were reported to the Board (report reference 17/160).
- 1.2 One of the recommendations from the Board to Cabinet and full Council was: “To approve the closure and disposal of the Manor Road Nursery and to outsource the supply of plants for the Nursery Service”
- 1.3 On 18 July 2017 Cabinet approved the Board’s recommendation (report reference 17/167). More specifically Cabinet agreed:
 - (i) “To approve, in principle, the freehold disposal of land and buildings that form the existing Manor Road Nursery, Scarborough as edged red on the attached plan (Appendix 2);
 - (ii) To approve a disposal and marketing budget of £10,000 to be funded from the Capital Development Reserve;”
- 1.4 In accordance with Cabinet’s approval to dispose of the freehold of the Manor Road Nursery Site, the site has been marketed. It appeared in the Estates Gazette property publication on 6 October 2018 on the Property Link website as a banner advert on 15,000 occasions (commencing 29 September 2018) and on 5 October 2018 was sent out to the Estates Gazette mailing list of 5,000 developers. The site was also on the Council’s Property to let/for sale web page. Marketing costs totalled £2,310 + VAT.
- 1.5 We invited sealed bids for the freehold of the site (shown on the plan at Appendix 2) to be received by the closing date of 15 November 2018.

2. CORPORATE AIMS/OBJECTIVES AND THE COMMUNITY PLAN

- 2.1 Place – High quality planning and development.
- 2.2 Council – Ensure our Service provide value for money and secure best use of our assets.

3. ASSESSMENT

- 3.1 Two offers were received and are detailed in Appendix 1, which also includes a summary of the external valuation of the site.
- 3.2 The bids were scored in accordance with the Evaluation Criteria set out in the Bid Guidelines and reproduced at Appendix 1. Price is given the highest weighting at 70%, with Quality accounting for 30%.

3.3 Bidder 'A' scored higher in both Price and Quality.

4. IMPLICATIONS

4.1 Policy

4.1.1 The proposal is in accordance with the Council's policy framework.

4.2 Financial Implications

4.2.1 Outlined in Appendix 1.

4.3 Legal

4.3.1 Under s. 123(2) of the Local Government Act 1972, a Council may not dispose of land - otherwise than by way of a short tenancy - for a consideration that is less than the best that can reasonably be obtained. The Council has an express statutory duty, in addition to its fiduciary duties, to obtain best consideration.

4.3.2 "Best consideration" is confined to those elements of a transaction which are of commercial or monetary value. The deliverability or credibility of a bid, or the care with which it has been prepared, are commercial factors which are relevant to an assessment of whether the "consideration" offered is the best reasonably obtainable.

4.3.3 Other elements, such as desired use, job creation, planning considerations etc., are not able to be taken into account when assessing "best consideration". In addition to the best consideration requirement if an authority takes into account an irrelevant factor when assessing whether it is obtaining the best "consideration" reasonably obtainable, the decision may be challenged at Court.

4.3.4 The Council will prepare the relevant legal documentation documenting the sale.

4.4 Risk

4.4.1 Detailed in the attached risk matrix at Appendix 3.

4.5 Planning implications

Bidder 'A'	Bidder 'B'
(i) Pre-application advice has already been sought for the proposed scheme. Although minor changes are likely to be required, planning feedback is that a scheme of this size will be considered favourably. Also the majority of the likely planning costs are already	(i) Pre-application advice has not been sought and there is therefore a risk that the proposal will not be acceptable. This could reduce the value of the offer or end the deal altogether. (ii) Planning permission will be

<p>known. This gives more certainty in relation to the bid.</p> <p>(ii) Planning permission will be submitted within 3 months of confirmation of acceptance of the bid. It is therefore likely that a planning application will be submitted by the middle of April 2019.</p>	<p>submitted within 6 months of exchange of contracts with a further 1-2 years to obtain permission.</p>
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4.5 Equalities and Diversity

4.5.1 There are no equality or diversity issues.

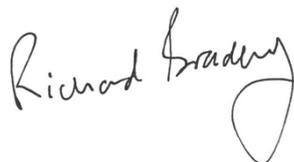
4.6 Communications

4.6.1 The site was marketed both locally and nationally.

5. Action Plan

5.1 The anticipated actions and timeline to deliver this disposal are detailed below:

Report to Cabinet	15 January 2019
Successful Bidder Notified	21 January 2019
Bidder applies for Planning Permission	Mid- April 2019
Planning Obtained (If appeal required)	Mid- October 2019 (Mid- October 2020)
Site vacated	April - June 2019
Sale completed (If planning appeal required)	November 2019 (November 2020)



Richard Bradley
Director

Author: Debbi White, Estates Surveyor

Telephone No: 01723 232467

E-mail address: debbi.white@scarborough.gov.uk

Background Papers:

Report to Overview and Scrutiny Board July 2016

Report to Overview and Scrutiny Board 5 July 2017 (report ref 17/160)

Report to Cabinet 18 July 2017 (report ref 17/167)

Sales Particulars and Tender Pack

Tender submissions (sealed bids – confidential)

Evaluation Criteria and Scoring Sheet (confidential)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT DEBBI WHITE (SEE CONTACT DETAILS ABOVE)

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APPENDIX 3 – DISPOSAL OF THE FREEHOLD INTEREST OF MANOR ROAD NURSERY SITE, SCARBOROUGH
(Report ref: 19/001)
RISK MATRIX

Risk Ref.	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
1	November 2018	Manor Road Nursery site is not sold	Capital receipt is not received Land remains vacant Anti-social behaviour may occur	External valuation has been conducted	B4	A3	Estates	Offers have been received for the site
2	November 2018	The sale of the Manor Road Site is not completed (following agreed sale)	Capital receipt is not received Land remains vacant Anti-social behaviour may occur Need to re-market the site		B4	A3	Estates	Due diligence on the preferred purchaser Work closely with the purchaser
3	November 2018	The sale does not complete within the expected timescale	Capital receipt is delayed impacting on Council priorities Land remains vacant Anti-social behaviour may occur					
4	November 2018	The sale of Manor Road Nursery does not generate the estimated capital receipt	The level of surplus capital receipt is not achieved Final approval of the sale may be with-held by Cabinet	External valuation has been conducted. The site has been marketed and offers received are within the boundaries of the Council's expectations	B4	A3	Estates	Work closely with the purchaser to help de-risk the proposed development

Risk Ref.	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
5	November 2018	The offer is substantially reduced as a result of increased costs and/or onerous planning conditions.	The level of surplus capital receipt is not achieved The sale falls through and we have to re-market the site	Pre-application planning advice sought and most of the planning costs are known and accounted for. Offer clarified prior to acceptance.	B4	A3	Estates	Work closely with the purchaser to help de-risk the proposed scheme.
6	November 2018	Planning permission is not forthcoming for the purchaser's proposed scheme	Delays whilst the application is appealed Capital receipt is reduced if size of scheme is diminished or costs increase. Capital receipt is not received if planning permission is not granted.	Preferred purchaser has taken pre-application planning advice and most of the planning related costs are known.	B4	A3	Estates	Work closely with the purchaser to help de-risk the proposed development. Ensure the purchaser adheres to agreed timescales for submitting planning application.
7	November 2018	Fail to agree with the purchaser what constitutes a satisfactory planning permission.	The sale does not proceed and the capital receipt is not received. Have to re-market the site. Associated holding and costs and security issues arise.	Bidders have experience of working on similar schemes in the local area and will have a clear idea of what is acceptable in order to meet their feasibility requirements.	N/A	A3	Estates	Early work with purchaser to ensure understanding of what constitutes "a satisfactory planning permission." Ensure legal documents reflect agreed understanding.

Risk Ref.	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
8	November 2018	The capital improvement works to Dean Road depot are not delivered on time	<p>Delays in relocating the Manor Road Nursery functions</p> <p>Cannot provide vacant possession of Manor Road Nursery (the sale falls through).</p> <p>Costs escalate and the offer price is reduced due to inability to benefit from vacant building credit</p>	Much of the site has already been vacated by the existing service	B4	A3	<p>Project management</p> <p>Estates</p>	<p>Project management process</p> <p>Robust procurement process</p> <p>Work closely with the purchaser and internal stakeholders to tie up the planning and vacating processes.</p>

Glossary of Terms

Risk	An event which may prevent the Council achieving its objectives
Consequences	The outcome if the risk materialised
Mitigation	The processes and procedures that are in place to reduce the risk
Current Risk Score	The likelihood and impact score with the current mitigation measures in place
Corporate Objectives	An assessment of the Corporate Objectives that are affected by the risk identified.
Target Risk Score	The likelihood and impact score that the Council is aiming to achieve
Service Unit Manager	The Service Unit or Officer responsible for managing the risk
Action Plan	The proposed actions to be implemented in order to reduce the risk to the target score

Risk Scoring

Impact	5					
	4					
	3					
	2					
	1					
		A	B	C	D	E
	Likelihood					

Likelihood:
 A = Very Low
 B = Not Likely
 C = Likely
 D = Very Likely
 E = Almost Certain

Impact:
 1 = Low
 2 = Minor
 3 = Medium
 4 = Major
 5 = Disaster