



**Executive  
10 December 2012**

**Report from the Director of  
Regeneration and Major Projects**

For Action

Ward Affected:  
Barnhill

**Disposal of the Town Hall**

**NOT FOR PUBLICATION**

**Appendix 1 & 3**

**Appendix 1 & 3 of this report are not for publication as they contain the following category of exempt information in paragraph 3 Schedule 12(A) of the Local Government Act 1972 namely: information relating to the financial or business affairs of any particular person (including the Authority holding the information).**

**1.0 SUMMARY**

- 1.1 With the building of the new Civic Centre, the existing Town Hall site will become surplus to the Council's requirements during 2013. Previous reports to the Executive have outlined that the Council needs to maximise the capital receipt for the Town Hall in order to contribute towards the Civic Centre business plan.
- 1.2 This report sets out the marketing exercise undertaken for the Town Hall and makes recommendations to the Executive in respect of the disposal of the Town Hall site.
- 1.3 The report also recommends that the Executive agree to authorise the appropriation of the Town Hall site to planning purposes to enable the operation of powers under Section 237 of the Town and Country Planning Act 1990 (Section 237) to facilitate the redevelopment of the Town Hall site.

**2.0 RECOMMENDATIONS**

- 2.1 That the Executive approve the disposal of the Town Hall site for the sum set out in the confidential Appendix 1 report, to the preferred bidder, or depending on how negotiations proceed, agree a sale to the reserve

bidder - the second highest bid and that the Director of Regeneration and Major Projects to be authorised to agree the final terms and to complete the disposal.

- 2.2 That the Executive agree to authorise the Director of Regeneration and Major Projects, in consultation with the Director of Legal and Procurement, to appropriate the Town Hall site as shown heavily outlined in black on the plan comprised in Appendix 2 for the planning purposes of facilitating the redevelopment of the Town Hall site pursuant to section 122 of the Local Government Act 1972.

### **3.0 DETAIL**

- 3.1 As far back as in 2003 various reports to the Executive set out a vision for a new Civic Centre. Over the years, this vision began to emerge as a deliverable plan and progress was reported and approved by Executive at almost yearly intervals. On 18<sup>th</sup> March 2008 the Executive approved a report from the Chief Executive that set out in detail a Civic Centre delivery plan.
- 3.3 Subsequently in May 2008, the Executive approved the choice of site for the new Civic Centre as the former Palace of Industry site, Engineers Way. Site acquisition then occurred.
- 3.4 The new Civic Centre is now in construction, buildings works are scheduled for completion in early 2013. The Council will begin occupying the building from spring 2013, and in so doing will vacate a number of buildings from within the existing portfolio. Brent Town Hall is one such building.
- 3.5 The Civic Centre business plan assumes the disposal of Brent Town Hall for a capital receipt, which will be used to fund the cost of the new Civic Centre.
- 3.6 The Town Hall is a Grade II listed building, and therefore the disposal and subsequent planning of the site needs to be handled extremely sensitively. A detailed site specific planning brief was therefore prepared to help guide future development proposals.
- 3.7 In December 2010 the Executive agreed to the appointment of Colliers as marketing agents for the disposal of Brent Town Hall and the appropriation of the Town Hall to planning purposes provided that it is satisfied in principle that the Town Hall site is no longer required for the purposes for which it is currently held. The Executive also noted that a further report would be presented to the Executive recommending disposal after marketing and negotiations.

### Planning Context

3.8 The Wembley Master Plan (2009) sets out the long term vision and parameters for the regeneration of the Wembley area. Subsequently, in July 2010 Brent's Core Strategy identified the Town Hall as a future development site.

3.9 In July 2011, Brent's Local Development Framework – Site Specific Allocation DPD, allocated the Town Hall site for:

*“mixed use development including offices, retail (for local needs only), residential, hotel and community facilities ensuring the retention of the Listed Building. Any change of use and /or development should enhance and not detract from the character and importance of the Town Hall and have regard for existing traffic problems to surrounding residential areas and seek to improve these conditions”.*

3.10 The reason for this allocation is:

*“the building is reaching the limits of its use in terms of purpose and size and the Council is seeking a new Civic Centre within the Wembley Regeneration Area. The existing Grade II Listed building however remains an important visual, social and historic landmark in the borough. The outbuildings to the rear have been added over time and are not subject to the Listing.*

*the sensitive redevelopment of these buildings and appropriate re-use of the main building can enable its continued use and secure its long term restoration.”*

3.11 The provisions of the Brent Town Hall Planning and Development Brief SPD also provide planning guidance for the reuse/redevelopment of the Town Hall site, stating:

*“Brent Council is currently building a new Civic Centre on land off Engineers Way in Wembley and plans to vacate the Town Hall by mid-2013. In the light of this decision, this document is intended to be an informal guide, expanding upon and explaining the development potential outlined in the Council's adopted Site Specific Allocation for the site SSA W3.*

*The guidance will outline the options for extension and alteration of the Town Hall and the further potential of the relatively large plot that the Town Hall occupies. The guidance is solely from a Town Planning perspective and offers no advice direct or implied, regarding the economic and constructional considerations that will inevitably require further investigation.”*

3.12 The Town Hall's Grade II listing restricts how the site can be developed. To help secure a sensitive but ultimately successful future for the site the

Council prepared the Brent Town Hall Planning and Development Brief SPD and this was approved by the Executive in March 2012.

### Appropriation

3.13 In order to provide sensitive re-use and possible redevelopment within the site encompassing proposals in the Site Specific Allocation and the Town Hall Planning Brief it is considered in the public interest that the Town Hall site be appropriated under Section 122 of the Local Government Act for planning purposes. This will enable the Council to utilise powers under Section 237 as stated in paragraph 5.6 below, to facilitate redevelopment to take place and for proposals that will secure a long term future of this important building.

3.14 In making a decision as to whether to appropriate land for planning purposes of facilitating redevelopment the following considerations are relevant:

1. Whether the land is no longer required for the purposes for which it is held immediately before appropriation?

3.15 Given the new Civic Centre will be available for occupation and public use within the next six months, the Town Hall site will become surplus to requirements of the Council and therefore no longer required for the purpose which it is held immediately before the appropriation.

2. The likely extent of infringement?

3.16 The Town Hall land is subject to a number of covenants including a covenant that no part of the land shall be used for any noisy noisome or offensive trade or for the erection of workmen's dwellings or flats for the housing of the working classes other than such quarters or caretakers lodgings as are usual and necessary in connection with a Civic Centre.

3.17 There is the risk that the above covenant could be capable of being enforced by injunction thus preventing the construction and use of the site for a redevelopment consistent with the Town Hall Planning Brief. The appropriation and use of Section 237 powers is required with the object of removing this risk and to facilitate the carrying out of re-development scheme.

3. Whether acquisition will facilitate the carrying out of the redevelopment scheme?

3.18 The acquisition will enable the redevelopment of the Town Hall, a Grade II Listed Building, in accordance with the Site Specific Allocation and the Town Hall Planning Brief consistent with the regeneration of the Wembley area.

4. Whether the redevelopment scheme will contribute to one or more of the following and thus be in the public interest

a) The promotion or improvement of the economic well being of the area?

3.19 The proposed use will result in a number of additional jobs being created which will bring economic benefits to the Wembley area.

b) The promotion or improvement of the social well being of the area?

3.20 The Executive is referred to the Site Specific Allocation and the Town Hall Planning Brief which sets out the mixed use proposal for the site against relevant Council policies the development plan and other material considerations

c) The promotion or improvement of the environmental well being of the area?

3.21 It is considered that the use of Section 237 powers will contribute to the achievement and improvement of the economic well being of the Wembley area as a whole and the environmental and social well being of the area.

5. Are the public benefits proportionate to the interference?

3.22 Human rights issues arise in respect of the proposed arrangements. Following the introduction of the Human Rights Act 1988, the Council is required to act in accordance with the European Convention on Human Rights (ECHR) in deciding whether or not to implement the arrangements.

3.23 However the rights to peaceful enjoyment of possessions is a qualified rather than absolute right as the wording of Article 1 of the Protocol 1 permits the deprivation of an individual's possessions where it is in the public interest and subject to the conditions provided for by law, and Article 8(2) allows for interference which is:

*“in accordance with the law and necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the protection of health and morals, or for the protection of the rights and freedoms of others”*

3.24 There must be a balancing exercise between the public interest and the individual's right whereby any interference in the individual's rights must be necessary and proportionate. 'Proportionate' in this context means the interference must be no more than is necessary to achieve the identified legitimate aim. A 'fair balance' must be struck between the rights of the individual and the rights of the public.

- 3.25 The infringement with the individual's rights is set out in 3.14 and 3.15 above. Any lawful holder of the benefit of the restriction may have a claim for compensation for the interference or breach of the restriction.
- 3.26 The public benefits arising from the redevelopment are set out in the report.
- 3.27 The surplus nature of the Town Hall and the planning guidance for its reuse set out in the Town Hall Planning Brief and the Site Specific Allocation provide support for the appropriation for planning purposes so that it can be reused and redeveloped in the public interest.
- 3.28 It is considered that the public interest in facilitating the redevelopment outweighs the rights of individuals to peaceful enjoyment of their possessions and that the proposed use of Section 237 powers amounts to proportionate interference in all the circumstances.

#### Public Open Space

- 3.29 The Town Hall site includes a Grade II Listed Building and open space. Public notice of the proposed appropriation to planning purposes of the Town Hall site under Section 122 of the Local Government Act 1972 and disposal of the open space under Section 123 of the Local Government Act 1972 was advertised in the local press on 13<sup>th</sup> and 20<sup>th</sup> September 2012. No objections were received.

#### Marketing

- 3.30 Formal marketing of the Town Hall site started in March 2012, with the clear objective to secure a buyer with sufficient financial capacity, the required skill and expertise to deal with a listed building, and a proposal that brought forward a high quality and a deliverable future use for the site.
- 3.31 Officers worked closely with Colliers, to develop a marketing plan. This included a bid assessment form that captured the objectives set out above. Recognising bidders would require a number of documents and reports to develop design proposals and formulate a deliverable bid. In a pass-word protected data room and during the process we provided the following documents:
- Property particulars
  - Proposed timetable for sale
  - Title plan
  - Best consideration form
  - Bid assessment document
  - Questions and answers sheet
  - Floor plans
  - Topography plan

- Photos
- Planning Brief 2012
- Heritage report 2012
- Energy performance certificate
- Reports and surveys of recent years
- Legal and searches
- List of items that will remain or be removed
- Contract enquiries
- Heads of terms
- Draft Contract

3.32 We extensively advertised the property with adverts in Estates Gazette, Wembley and Brent Times, Brent Council and Colliers International website. Our agents sent press releases to various trade journals were issued by our agents and the sale featured in: the Caterer and Hotel Keeper, Harrow Observer, Look West London, Hotel Industry, Business High-beam, Wembley Matters, etc.

3.33 The timetable comprised five stages that delivered the following outcomes:

Stage 1 – expressions of interest were invited as a first stage resulting in a two page PDF brochure being sent to approximately 135 interested parties, 10 viewings were undertaken and a total of 10 expressions of interest were received by 18 May 2012.

Stage 2 – we selected 8 parties from those who had expressed an interest, they were asked to submit planning pre-applications for their proposed scheme's to Brent's planning team, along with comments to heads of term, a total of 5 submissions were received by 31 July 2012.

Stage 3 – we set an informal tender bid date and invited those who had provided a stage 2 submission, to submit comments to contract and financial offers, a total of 5 bids were received on 1 October 2012, using the bid assessment form we shortlisted the bids.

Stage 4 – shortlisted bidders were invited to an interview on 9 October 2012, after this interview scores on the bid assessment form were re-scored.

Stage 5 – as a final stage we invited all shortlisted bidders to submit a 'best and final' financial offer for the property on 19 October 2012.

3.34 On the basis that shortlisted parties have demonstrated:

1. Sufficient financial capacity and access to the necessary financial resource to deliver their proposals;
2. Well considered and developed site designs, which the planning department confirmed were of good quality, realistic and deliverable;

3. Properly considered and commented on the content of the draft contract; and
  4. Provided a strong financial offer or one of a scale which could be considered to allow release of the site.
- 3.35 Our recommendation is that we enter contract with the bidder that has provided the highest financial offer and keep in reserve the second highest bid.

### Contract issues

- 3.36 Bidders were provided with a draft form of sale contract at an early stage in the process (see paragraph 3.31 above) and were given an opportunity to comment on the terms. No bidders returned the contract with any significant mark-ups and all short-listed bidders confirmed their 'high-level' approval of the form of contract at interview stage.
- 3.37 The contract is drafted so that completion of the disposal is conditional on the preferred bidder securing planning permission for the development of the Property. Accordingly, following Executive approval of the disposal of the Property, contracts will be exchanged and the preferred bidder will be required to commence their formal planning application.
- 3.38 Completion will then occur following the satisfaction of the planning condition, at which point the bidder will be granted a long-lease of the Property for a term of 125 years for the agreed purchase price (as a lease premium) and at a peppercorn rent. Following completion of the development of the Property, the bidder will then be transferred the Council's freehold interest in the Property for a nominal £1 consideration.

### Planning Permission

- 3.39 The Site Specific proposal for the Town Hall site, coupled with the detailed guidance provided in the Planning Brief, provide clarity on both the range of uses and extent of alterations/extensions that the Council would regard as being acceptable.
- 3.40 The leading bids are in accordance with the site specific policy and adhere closely to the design and layout principles set out in the brief.
- 3.41 The key 'character spaces' in the existing building are thoughtfully used with minimum design intervention, and the extensions are shown in locations that the brief identifies as being suitable for additional building/enlargement.

- 3.42 Lead bids are also proposing a single use for the whole site that will again assist in achieving the planning objective of maintaining the design integrity of the listed building.
- 3.43 The successful bidders will require planning permission and listed building consent for the proposed use and associated works, and these applications will be judged by the Council against its adopted planning policies and the agreed guidance for the site.

#### Comments on end user

- 3.44 Members are asked to note the confidential letter received at Appendix 3.
- 3.45 As the Executive is aware from the report considered at its August meeting, the Council is projecting a shortfall of school places and has developed plans to expand primary provision. In addition, proposals to increase secondary provision (where the demand is manifested in later years) will be brought to the Executive for consideration in January.
- 3.46 The Town Hall is not identified specifically as an education site and is not factored into any of these plans, firstly (in terms of secondary provision) because of its close proximity to Ark Academy and secondly because its sale at market value is required to enable the Council's move to the Civic Centre.
- 3.47 Education uses outside the state-funded sector on this site might have some wider benefits for the local population but their impact would be mainly neutral in terms of their impact on local state education provision.

#### Conclusion

- 3.48 The Assistant Director Property and Asset Management recommends acceptance of the highest offer which represents best value.

### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 The disposal of the Town Hall forms part of the business case for the Civic Centre. The capital receipt for the disposal of the Town Hall has been ring-fenced to the Civic Centre Programme. The bid for the Town Hall from the preferred bidder is within the range expected in the Civic Centre business case. Successful completion of this disposal at the bid price will remove the risk that the Town Hall is sold for less than assumed in the business case.
- 4.2 The cost of disposal (such as marketing and legal fees) will be met from the capital receipt.
- 4.3 There is a cost of securing the property between vacation of the Town Hall as part of the Civic Centre, and the completion of the sale. This cost

is estimated at £150,000 and will be met from the resources allocated to the Civic Centre programme.

- 4.4 In order to maximise the capital receipt for the Town Hall, the Council will not exercise its 'Option to tax' the proceeds of this transaction, as the Vat on the 'attributable costs of sale' can be absorbed within the Council's 'partial exemption threshold' in the year of sale.

## **5.0 LEGAL IMPLICATIONS**

- 5.1 Under Section 123 of the Local Government Act 1972 the Council has a general power to dispose of properties including by way of the sale of the freehold or the grant of a lease. The essential condition is that the Council obtain (unless it is a lease for 7 years or less) the best consideration that is reasonably obtainable.

- 5.2 Disposals on the open market, either by way of auction or by way of appointing a marketing agent, will satisfy the best consideration requirement.

- 5.3 The Council can appropriate land under section 122 Local Government Act 1972 which states as follows:

*"...a principal council may appropriate for any purpose for which the council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the council and is no longer required for the purpose for which it is held immediately before the appropriation.*

- 5.4 The purposes for which land may be acquired are defined in Section 226(1) Town & Country Planning Act 1990 as follows;

- (a) If the authority think that the acquisition will facilitate the carrying out of development/redevelopment or improvement on or in relation to the land; or
- (b) If the land is required for a purpose which it is necessary to achieve in the interests of proper planning of an area in which the land is situated.

- 5.5 In this case, the purposes fall within the ambit of section 226(1) (a) as the carrying out of the redevelopment of the Town Hall would be facilitated as described in this report.

- 5.6 A local authority must not exercise the power under paragraph (a) unless they think that the development, redevelopment or improvement is likely to contribute to the achievement or the promotion or improvement of one or more of the following objects (namely) the economic, social or environmental well-being of their area.

- 5.7 Under Section 237 of the Town & Country Planning Act 1990 the erection, construction or carrying out or maintenance of any building or work on land or the use of any land which has been acquired or acquired or appropriated by a local authority for planning purposes (whether done by the local authority or by a person deriving title under them) is authorised by virtue of this section if it is done in accordance with planning permission, notwithstanding that it involves interference with an interest or right to which this section applies. The appropriation will be subject (if applicable) to the payment of compensation in respect of third party interests or rights interfered with.
- 5.8 Under Section 241 of the Town and Country Planning Act 1990 land comprising open space which has been appropriated by a local authority for planning purposes may be used by any person in any manner in accordance with planning permission.
- 5.9 The land must no longer be required for the purpose for which it is held immediately before appropriation. The new Civic Centre will be available for occupation in the next six months. The date of the actual appropriation will be when the Town Hall site becomes a vacant site. Once the appropriation is effected, the appropriated land will be held for planning purposes.

## **6.0 DIVERSITY IMPLICATIONS**

- 6.1 An Impact needs / requirements assessment form (INRA) has been completed, Appendix 4 and no issues have been identified.

## **7.0 STAFFING/ACCOMMODATION IMPLICATIONS**

- 7.1 It is expected that staff working at the Town Hall will relocate to the new Civic Centre by mid 2013.

## **8.0 BACKGROUND PAPERS**

Report to the Executive 18<sup>th</sup> March 2008 entitled "A New Civic Centre for Brent – detailed proposals" (available to the public online).

Report to the Executive 13 December 2010 entitled "Civic Offices and Property Disposals" (available to the public online).

Report to the Executive 12 March 2012 entitled "Brent Town Hall Planning and Development Brief" (available to the public online).

## **9.0 APPENDIX PAPERS**

Appendix 1 - CONFIDENTIAL October 2012 Colliers Report and Recommendation on Preferred Bidder

Appendix 2 - Site Plan

Appendix 3 - CONFIDENTIAL Letter received in relation to bids.

Appendix 4 - INRA assessment

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