

DISPOSAL OF CROYLANDS, ELY

To: **Cabinet**

Date: **15th April 2014**

From: **Head of Finance**

Electoral division(s): **Ely South**

Forward Plan ref: **N/A**

Key decision: **No**

Purpose: **To advise Cabinet of offers received to purchase Croylands, 30 Cambridge Road, Ely.**

Recommendation: **That Members accept the highest unconditional bid for the property which is in line with the advice of the Council's selling agents.**

| <i>Officer contact:</i> | | <i>Member contact:</i> | |
|--------------------------------|--|-------------------------------|--|
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1. BACKGROUND

- 1.1 Croylands is a large Victorian former residential property with 4,500 sq ft of accommodation arranged over three floors. It sits on a large well established site of approximately 0.92 acres with a number of trees protected by Tree Preservation Orders. More recently it has been used for accommodation for a day service for adults of working age with mental health needs and an integrated community mental health team. As the building had structural problems and no longer provided a suitable standard of accommodation for the service provided, it was declared surplus to Council needs by Cabinet in 2007. The service vacated Croylands on 23rd January 2013 and the building is now vacant.
- 1.2 The property has been marketed through selling agents Lambert Smith Hampton on a number of occasions. Following marketing in 2011, the Council entered into a contract for sale with McCarthy and Stone (M&S) conditional on planning consent for an assisted living housing scheme.
- 1.3 The planning application submitted by M&S after lengthy reiterations with the local planning authority was refused by East Cambridgeshire District Council (ECDC) at its Planning Committee meeting on 6th December. As M&S had failed to achieve planning by the dates specified in the contract, the contract was terminated by the County Council in December 2013.

2. MAIN ISSUES

- 2.1 Following the termination of the contract with M&S, Croylands was remarketed and entered into Lambert Smith Hampton's property auction in London on 24th February 2014 but failed to reach the reserve price. Interested parties were therefore asked to submit best and final offers by the 6th March 2014 resulting in four unconditional offers and two conditional offers being received. On 1st April 2014 the highest conditional offer, which was made by M&S, was formally withdrawn.
- 2.2 Local authorities have a fiduciary duty to obtain the 'best consideration reasonably obtainable' for the disposal of any interest in property in accordance with S.123 of the Local Government Act 1972. Disposals include sales, the granting of leases and licences. Although 'best consideration' is not precisely defined in the Local Government Act 1972, case law and guidance suggest that, in general terms, it is the highest market price achievable. If the Council wishes to sell at less than the highest price, it can only do so with the consent of Government.
- 2.3 On 30th July 2003, the Government published a new General Disposal Consent (GDC) to permit local authorities to exercise their own discretion to dispose of interests in property at up to £2m below 'best consideration'. The discretion is available if the disposal is likely to contribute to the achievement of one or more of the Local Government Act 2000 objectives, namely, improvements to the economic, social and environmental well-being of its area
- 2.4 The GDC also requires qualified officers to conduct valuations of all disposal transactions in such a way that they are completely transparent and open to scrutiny. They must provide a detailed analysis of the value of any concession offered. In addition non-financial benefits will also have to be

quantified and value judgements made wherever possible. This approach is reinforced by similar obligatory requirements on all qualified valuers by their professional body, the Royal Institution of Chartered Surveyors.

- 2.5 Councils considering exercising the discretion will need to have regard to their Community Strategy, Asset Management Plan, Capital Strategy and other Plans to ensure that their decisions are related to specific objectives contained within these plans.

3. CONSIDERATION OF OFFERS

- 3.1 To obtain best consideration for the site it was marketed without any restriction on its future use or requesting a share of any future uplift in value. Based on enquiries made of ECDC prior to marketing, the property was also marketed on the basis that the original house be retained.
- 3.2 Following the auction six offers were received, with three of these being conditional on planning permission. Now M&S have withdrawn their offer three unconditional offers and two conditional offers remain.
- 3.3 The highest unconditional offer is significantly higher than the other two unconditional offers made, so these lower offers may be easily discounted. The proposed use is for conversion to a residence for the offeror's family. The offeror states that he is aware of the structural condition of the property and the purchase is not subject to planning or survey. The offeror will complete on an auction contract basis i.e. will pay a non refundable deposit of 10% of purchase price and complete a purchase within 28 days of receipt of a sale contract and he has indicated that he wishes to sign a contract without delay.
- 3.4 The two conditional offers are both subject to gaining planning permission for a residential use. No further information has been provided in respect of the lower offer and the higher conditional offer is for a 12,000 sq ft residential scheme. The lower offer is lower by a significant margin and may easily be discounted.
- 3.5 The choice to be made is therefore between an offer conditional on the receipt of planning permission for a 12,000 sq ft residential scheme and a lower unconditional offer for a conversion to a family home. Members are reminded that there will be no restriction made on use or future development.
- 3.6 The Council's selling agents are of the opinion that the property has been exhaustively marketed and "that a best value sale, in this instance, would be effected by accepting an unconditional offer" and that "the risk of accepting a conditional bid is too great" even though the conditional bid is higher.
- 3.7 Members will be aware that the recent M&S planning application involved a 3-storey residential extension to the rear of Croylands, retaining the majority of the existing building. Based on the plans supporting that planning application, that proposal involved an approximate 17,000 sq ft extension. The M&S planning application (12/00901/FUM) was refused planning consent by ECDC in December 2013 on three conditions:
 - 1) Insufficient evidence has been provided to ensure that biodiversity and species protection has been properly taken into account and the proposed development is therefore contrary to relevant Planning Policy Guidance

contained within Circular 0612005, Policy EN6 of the adopted East Cambridgeshire Core Strategy 2009 and the standing advice of Natural England

- 2) The proposed development, which is situated within the designated Ely Conservation Area, would constitute an inappropriate and disproportionate overdevelopment, seriously detracting from both the existing building and its setting. As such, it would be contrary to the policies and advice contained in the National Planning Policy Framework, Policies EN2 and EN5 of the adopted East Cambridgeshire Core Strategy 2009 and the East Cambridgeshire Design Guide SPD
 - 3) Policy H3 in the East Cambridgeshire Core Strategy 2009 requires that an appropriate provision be made for affordable housing and seeks a minimum of 30% of dwelling within Ely to be affordable. Ideally affordable housing should be provided on site unless the applicant demonstrates that there are exceptional circumstances for off-site provision. Whilst account is also to be taken of viability considerations, in this instance, the very limited commuted sum for offsite affordable housing provision would represent insufficient public benefit that would not outweigh the harm that would be caused to the Conservation Area by the proposed development. The development would therefore be contrary to advice relating to conserving and enhancing the historic environment contained within the National Planning Policy Framework.
- 3.8 As condition (1) of the planning refusal is likely to affect any bidder wanting to undertake extension works and needs to be carried out during March and June, the County Council may need to commission a survey to establish the existence of great crested newts, this being the main issue raised by Natural England and ECDC in the Planning Committee report on 6th December 2013. Quotes have been received for this work and need placing now if an offer involving extension is accepted. If a sale is completed to a purchaser who does not plan to extend, then a newt survey would not be needed.
- 3.9 The consideration of the other grounds for refusal would have been a matter for the Planning Inspectorate to consider in reaching a decision as part of an appeal process. Now that the M&S offer is withdrawn, an appeal is not likely to be made and any new planning application would be considered on its merits by ECDC. In this case the conditional offer is for a scheme of 12,000 sq ft, which is considerably smaller than the M&S application, but which would obviously involve extending the property.
- 3.10 The conditional offer is the highest offer but is more uncertain as planning permission is needed and it is not unreasonable to suggest that this might take up to a year to achieve. There is also a risk that planning permission might not be granted. The Council would continue to bear running costs of holding the property in the meantime and the property condition is likely to deteriorate further as it is unused and not heated.
- 3.11 If the Council invested the money received from the unconditional offer, the interest gained from this (currently 0.7% per year for cash) plus reflecting savings on running costs for a year, it would still make the conditional offer the highest monetary offer. However if a modest risk premium is applied to discount the higher offer to reflect planning uncertainty, the unconditional offer then is the highest. Officer time in further dealing with a conditional offer has

not been accounted for.

- 3.12 Members are recommended to accept the unconditional offer which is also in line with the selling agent's advice in 3.6 above.

4. ALIGNMENT WITH PRIORITIES AND WAYS OF WORKING

4.1 Developing the local economy for the benefit of all

There are no significant implications for this priority.

4.2 Helping people live healthy and independent lives

There are no significant implications for this priority.

4.3 Supporting and protecting vulnerable people

There are no significant implications for this priority.

4.4 Ways of working

There are no significant implications for this priority.

5. SIGNIFICANT IMPLICATIONS

5.1 Resource and Performance Implications

The sale proceeds from the disposal of Croylands, Ely will be received shortly if the unconditional offer is accepted, but if a conditional offer is accepted there will be a delay in receiving any capital receipt and if planning permission is not granted, no receipt would be achieved.

5.2 Statutory, Risk and Legal Implications

There is a risk that offerors could seek to renegotiate terms before exchange of contracts having taken further professional opinion. The conditional offer is inherently less secure.

5.3 Equality and Diversity Implications

There are no significant implications for this priority.

5.4 Engagement and Consultation Implications

Any planning application for a change of use will be addressed through the planning process by East Cambridgeshire District Council.

5.5 Public Health Implications

There are no significant implications for this priority.

| Source Documents | Location |
|-------------------------|-------------------|
| Sales particulars | RM 320 Shire Hall |