

Report to the Cabinet

Report reference: C-004-2014/15
Date of meeting: 23 June 2014



Portfolio: Asset Management & Economic Development
Subject: Property Transfer - Victory Hall, Hainault Road, Chigwell
Responsible Officer: Mark Scott (01992 564407)
Democratic Services: Gary Woodhall (01992 564470)

Recommendations/Decisions Required:

- (1) To note that at the 7 April 2014 meeting of the Cabinet it was decided to transfer the Council's freehold interest in Sites A and C shown on the attached plan to Chigwell Parish Council;**
- (2) To agree that, following the Cabinet Decision, it had become apparent that the area to be transferred should also have included Site B on the plan;**
- (3) The following revised recommendations be brought to the Cabinet, numbered 1-4 in the original report:**
 - (a) That the District Council's freehold in Site A and B (shown on the plan appended to this report) be transferred to Chigwell Parish Council for nil consideration subject to a claw back provision in the event that commercial or residential development of Site A and B is proposed;**
 - (b) That the District Council's maintenance liability for the car park and access road on Site A and B be extinguished on transfer;**
 - (c) That the District Council's legal interest in Site C (shown on the plan appended to this report) be transferred to Chigwell Parish Council subject to a claw back provision as with Site A and B; and**
 - (d) That the Director of Governance in consultation with the Portfolio Holder for Asset Management and Economic Development be given delegated authority to negotiate and agree the final terms.**

Executive Summary:

The current lease for Victory Hall expires in 2019. Chigwell Parish Council has applied for the land to be transferred to them for nil consideration. It is understood this will provide new community facilities on the land including Essex County Council's ownership. In the event of commercial or residential development the District Council's financial position will be protected by suitable claw back provisions. At the time of the original Cabinet decision on 7 April 2014 Site B shown on the attached plan was thought to be owned by the County Council but after further clarification it has been found to be in the District Council's ownership. Thus Site B is now proposed to be included in the proposed transfer to Chigwell Parish Council and the report regularises the position. Site E is in the ownership of Essex County Council.

Reasons for Proposed Decision:

To provide enhanced community facilities in Chigwell.

Other Options for Action:

Negotiate a new lease with the Trustees of Victory Hall for life expired buildings and lose the opportunity for a comprehensive scheme with adjoining land.

Report:

1. The Victory Hall site is situated off Hainault Road Chigwell, shown by Site 'A' on the attached plan. It comprises a site area of 0.5 acres. A 60 year ground lease was granted, expiring on 24 April 2019 to the Trustees of the Lewis Memorial and Victory Hall Foundation by the former Chigwell UDC. The lease originally included Site 'B' on the plan. The Council took a surrender of this land on 19 March 1974 and subsequently sold part, comprising Site 'E' on the plan to Essex County Council. It is now the site of the Chigwell Library. It should be noted that under the terms of the surrender and following the sale to the County Council the District Council retains responsibility for the maintenance of the access road and the car park adjoining the library.

2. The Trustees have requested a 30 year lease extension from 25 April 2019. There is no legal vehicle to accommodate this so there would have to be surrender and renewal for 30 years plus the unexpired term of the existing lease.

3. The site may have long term development potential and if so any new lease should take account of this with break clauses. In the event of redevelopment the existing community facilities would be retained on site. They are safe guarded by the presumption in planning policy that community facilities are retained (Policy CT 12 EFDC Local Plan). Accordingly any scheme which did not retain the community element would not receive planning consent. With this proviso it is unlikely commercial or residential development could be viable on Site 'A' and 'B' in isolation. That part of Site 'B' north of the Site 'E' comprises back land with no independent access. Site 'B' comprises 0.59 acres.

4. On investigation it was assumed that the adjoining building 'Chigwell Men's Club' was a separate letting but for which no evidence could be found. Research revealed that this is an informal arrangement between Victory Hall and Chigwell Men's Club, not permitted under the terms of the lease.

5. In the absence of agreement between the parties over the terms of a new lease the Trustees are entitled to a maximum 15 year occupational lease.

6. It was recently established that the Council has title to Site 'C' on the plan but it has been taken in with the adjoining agricultural land for many years. This matter will be resolved as part of the legal transfer process.

7. It has been suggested by the Assistant Director of Neighbourhoods (Technical Services) that in the event of the Chigwell Parish Council resisting assuming liability for the access road and car park that it be designated a 'Pay and Display' facility with approximately 25 spaces. At present there is no income to defray future repairing liability. Routine maintenance has recently been carried out.

8. In 2009 the Council resolved to grant Planning Application EPF/0247/09 for residential development on Site 'D'. This land is not owned by the Council. The consent was subject to the completion of a S106 agreement to provide additional car parking on the application site. Access would be over Site 'A' thus requiring the consent of the Council and the Trustees of Victory Hall. The Trustees did not agree to this. In any event the development did not proceed.

9. In October 2013 Planning Application EPF/0735/13 for car parking on part of Site 'D' was granted. On 11 December 2013 District Development Control Committee resolved to grant Planning Application EPF/0247/09 on Site 'D' subject to:

(i) the completion within six months of the decision a S106 to agreement to secure the car parking. If not planning permission will be refused. The S106 has now been completed.

(ii) Within 3 months of the service of notice on the landowner by EFDC to transfer the parking land at Site 'D' to EFDC at no cost. Such notice to be served within 10 years. No sale to a third party within this period. The lease to the Trustees of Victory Hall expires in five years.

(iii) Within 3 months, the payment of the sum of £ 33,000 by the developer to EFDC as a contribution towards the cost of constructing the car park. If a after a period of 10 years from the receipt of payment the sum is not spent it shall be returned to developer within 3 months.

10. It is understood that an EFDC ward member has been speaking to the Trustees of the Lewis Memorial and Victory Hall Foundation, Essex County Council and Chigwell Parish Council regarding the future of the whole site. This is has resulted in a written application to EFDC from Chigwell Parish Council for the property to be transferred to them. Such a transfer would have to be justified on the grounds of social wellbeing, subject to claw back provisions in the event of a commercial or residential development taking place on the site. It is understood they would have access to grants to refurbish or replace the community facilities and provide the opportunity to work up a scheme for the whole site with the County Council. An undertaking to refurbish or replace the community facilities has been requested from Chigwell Parish Council.

11. The Local Government Act 1972: General Disposal Consent (England) 2003 provisions have removed the need to seek the Secretary of State's consent for disposals not exceeding £2,000,000. The freehold market value of the property is very considerably less than this figure. However the disposal must meet the following criteria:

The local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of the area, or of all or any persons resident or present in its area:

(i) *the promotion or improvement of economic well being;*

(ii) *the promotion or improvement of social well being; and*

(iii) *the promotion or improvement of environmental well being.*

12. As both the District and Parish Councils are of the view that a transfer satisfies (i) and (ii) and (iii) above it is recommended that in principle that the freehold interest in Victory Hall no cost, subject to a claw back provision in the event that commercial or residential development of Sites A and C is proposed.

13. A condition of the transfer would be the extinguishment of the Council's remaining repairing liability for the access road and car park.

Resource Implications:

Finance

Transfer of community facilities at nil consideration subject to claw back provisions in the event

of value being released at a later date.

Personnel

Valuation and Estate Management Service
Legal Services

Land

Site of Victory Hall and adjoining land

Legal and Governance Implications:

Section 123 Local Government Act 1972 – best consideration for the land and property assets.
Consent is given for sale of land (covenants are deemed to be a sale for this purpose)

Safer, Cleaner and Greener Implications:

Potential for life expired buildings to be replaced to modern standards

Consultation Undertaken:

Trustees of Victory Hall
Chigwell Parish Council

Background Papers:

None.

Impact Assessments:

Risk Management

Failure to take this opportunity to facilitate new community facilities on the Victory Hall Site