

Report title

Disposal of Former Southwark Fire Station and Training Centre

Report to

London Fire Commissioner

Date

1 August 2018

Report by

Assistant Director, Technical and Commercial

Report number

LFC-0054x

NOT PROTECTIVELY MARKED

Summary

This report sets out recommendations for the completion of the transaction with the purchaser (Hadston) and on all associated matters with regards to the sale of the former Southwark Fire Station and Training Centre.

Recommendations:

The London Fire Commissioner gives approval to the Assistant Director Technical and Commercial to complete the transaction with Hadston for the sale of the premises on the following basis:

- Vary the existing sale contract with Hadston, to reduce the price from £54 million to £42.255 million, by way of a Deed of Variation.
- At Hadston's election (by notice served on the London Fire Commissioner), to split the transaction into two parts, whereby the residential element of the scheme is sold to Hadston on a freehold basis and the school section is disposed of via a long leasehold interest being granted to the Education and Skills Funding Agency (ESFA).
- Conclude the parts of the transaction which relate the Grotto as described in paragraphs 11–14.
- Authorise Officers and their consultants to progress the detailed work which is necessary in order to effect completion as soon as is practicably possible. It is envisaged that completion of all matters should take place by the end of September 2018. Specifically, Hadston's request for a deferral in the period for completion of up to three months should be accepted, subject to a provision being added to the sale contract which permits LFC to charge Hadston interest at the rate specified in the contract during the period of delay in receipt of any completion monies.

Background

1. The Mayoral Directions of 26 March and 27 April 2015, together with the letter from the former Mayor to the London Fire and Emergency Planning Authority ('LFEPA' or 'the Authority') dated 18 May 2015 and the letter sent on behalf of the current Mayor dated 9 September 2016, directed

the Authority to enter into the sale contract with Hadston, which was to complete on the grant of a satisfactory planning consent, by no later than 29 October 2017.

2. Hadston approached the Authority prior to the expiry of the above deadline and requested an extension to the long stop date in the sale contract until 31 March 2018. That was on the basis that, although their planning application was originally submitted in early 2017, it was taking much longer than they originally anticipated to resolve all of the relevant planning issues with the London Borough of Southwark (LB Southwark) and the Greater London Authority (GLA). That request (and the Mayoral letter authorising the administrative amendment to the direction) were considered by the Authority's Resource Committee on 3 November 2017 (FEP 2796) and approved, on the basis that it represented the best chance of securing the sale of the property at the highest price, in the shortest timeframe.
3. For the reasons which are referred to in paragraph 9 below, Hadston did not actually progress the completion of a deed of variation for the extension to the long stop date in the sale contract. Hence, the sale agreement remains in place, albeit that an acceptable planning consent was not obtained by the deadline of 29 October 2017. Hadston subsequently made a request to extend the long stop date for completion of the sale contract to 31 July 2018, which was approved by the Authority's Resources Committee on 16 March 2018 (FEP2832). Again, for the reasons stated below, Hadston did not progress the completion of the deed of variation to the sale contract, to document that extension but officers are working to complete the sale as quickly as possible following the 31 July deadline.

Update on planning position

4. The main reason why Hadston requested the deadline extension was the difficulties they had experienced in resolving viability and affordable housing (AH) with LB Southwark and the GLA. There is widespread support for the scheme, due to the inclusion of the secondary school and the sixth form college. However, when LB Southwark sought views from the GLA on the planning application, the GLA planning officers raised a number of concerns, most notably that the scheme did not include any AH, contrary to the Mayor's policies. Hadston responded on the basis that it was not viable for them to provide any AH in the scheme, due to the inclusion of the school.
5. On 30 January 2018, the Planning Committee of LB Southwark resolved to grant planning consent for the scheme, comprising the school and 199 residential units. This 'resolution to grant' was made subject to a number of matters, most notably the completion of a Section 106 Agreement in respect of AH and other matters, which was anticipated to be formally concluded by the middle of April 2018. However, that timescale has been subject to significant delay as a consequence of comprehensive discussions taking place between Hadston, LB Southwark, Education and Skills Funding Agency and Bankside Open Space Trust in relation to the detailed workings of the sports facility. The AH element of the resolution to grant consisted of a requirement for Hadston to make a financial contribution to LB Southwark of nearly £13.856 million, in lieu of on-site AH of circa 22 per cent.

Implications for the purchase price

6. At meetings in late 2017 and early 2018, GLA officers indicated to the Authority that they wished to retain the school in the scheme but also that the scheme should now incorporate a significant proportion of AH too. That was to be facilitated by way of a price reduction in the Hadston sale contract, to bring it more into line with current values (based on compliance with AH policies, rather than on the previous Mayoral Direction for the price to be at a specified level).

7. The Authority indicated to Hadston that it would be able to accept a reduced purchase price on the following conditions:

- Receipt of a report from GL Hearn (the GLA's valuers in this connection) addressed to the Authority, confirming to the Authority that the Hadston transaction at a reduced price of £42.255 million represents the best consideration which is reasonably achievable for the Authority, in comparison to the other options which are open to us, including terminating the Hadston contract and remarketing the property for another disposal. This is in order to ensure that the Authority complies with its statutory duty to achieve the best value which is reasonably obtainable on all property transactions and acts in accordance with advice received from leading Counsel in recent years on similar disposal situations.
- GL Hearn confirming that the Authority was in fact a co-client of theirs with the GLA and could therefore rely on the professional advice contained in the report particularly with regard to best consideration.
- A Deed of Variation being completed for the existing sale contract with Hadston, to give legal effect to the price reduction, the extended long-stop date the other consequential amendments which are required.

8. Officers received letters from Hadston dated 6 April and 10 April 2018 confirming that the price reduction being requested is from £54 million to £42.255 million, i.e. a reduction of £11.475 million. On 12 June 2018, officers received confirmation from GL Hearn that the proposal to amend the transaction by way of the reduced purchase price represents the best consideration which is reasonably obtainable for the London Fire Commissioner, in compliance with their statutory duty.

Other changes to the Hadston transaction

9. In early February 2018, Hadston repeated a request which it had originally made of the Authority in October 2016, to restructure the sale transaction. In summary, this was for the disposal to be split into two parts, whereby the housing element of the scheme is sold on a freehold basis to Hadston, with the sections of the property which are earmarked for the school to be sold on a long leasehold basis, to the Education and Skills Funding Agency (ESFA). The underlying freehold interest subject to that long lease will also be sold to Hadston, so that they (in effect) become the landlord of the school. We understand that this change is being sought as a Stamp Duty Land Tax (SDLT) mitigation measure, thereby to assist with viability and the delivery of the school.

10. Officers had some concerns about this proposed change when it was first requested, and those issues were raised with Hadston, and after some delay their detailed response on the various points has now been received. As a result, these matters have been resolved, subject to approval of the detailed drafting of the legal documentation, which has recently been received. These documents have now been returned to the lawyers acting for Hadston.

Grotto Place

11. In September 2015, Hadston first raised the potential for Grotto Place (Grotto) to be included in their scheme and in the property transaction. The Grotto site was required by Hadston to house the school sports facility which could not be sited on the main school site as this would have led to density issues and have a detrimental effect on viability of the scheme. The Grotto is held by the Commissioner on a 200-year lease granted by LB Southwark in 1996, for the purposes of London Fire Brigade (LFB) training/parking and open space facilities. In September 2016, heads of terms

were agreed between the Authority and Hadston for this element of the project, which incorporated the following items:

- The Authority were to grant to Hadston a 50-year lease (with an option to extend for a further period of 49 years) over those parts of Grotto which are required by the school, at a rent of £1 per annum, without rent review.
- The Authority were to grant to Bankside Open Spaces Trust (BOST) a 25-year lease over the 'landscape area' (the area between the sports facility and the existing Sawyer Street car park), at a rent of a peppercorn, without review.

12. The consideration due to the Authority in respect of the above, was as follows:

- Hadston were to pay the Authority the sum of £385,000 on the grant of the 50-year lease. This figure is the estimated value of the property interest being disposed of by the Authority.
- If the option to extend the lease by the further term of 49 years was exercised, Hadston were to make an additional payment of £70,000. Again, this is the estimated value of the interest being disposed of by the Authority.
- Hadston are to demolish the small remaining training building on the Grotto site (or pay for the Authority to do so) and install storage facilities for 85 cycles on the 'landscape area', for use by LFB. It was subsequently accepted by all parties that this item would require planning permission and Hadston made the requisite application on 15 May, which was validated by LB Southwark on 16 May and has since been agreed by LB Southwark.
- Hadston are to regularise the planning position for the LFB use of the 40 parking spaces in the Sawyer Street section of Grotto, by including that item within its planning application for the whole scheme. It should be noted that the Sawyer Street part of Grotto was actually excluded from the planning application which by LB Southwark granted a resolution to consent to on 30 January 2018. However, they made an application to LB Southwark in mid-May for a Certificate of Lawfulness in respect of the LFB use of the parking area. This application was not validated by LB Southwark until 20 June, due to problems with a missing site plan. If granted by the Council, this is a suitable means of regularising the position. This decision is expected by 3 August which is the statutory expiry date for a decision by LB Southwark.

13. Despite agreeing heads of terms and draft legal documentation for the items in paragraph 12, the matter did not proceed to completion in a normal timeframe. Earlier this year, Hadston and LB Southwark approached officers, requesting changes to the part of the transaction relating to Grotto, as follows:

- Firstly, it was suggested that instead of granting a 50-year lease (with an option to extend by 49 years) over the school areas, the Authority should simply grant a leasehold term of 99 years, from the commencement of the tenancy.
- Secondly, to increase the length of the BOST lease on the 'landscape areas' to be coterminous with the school lease, i.e. from 25 years to 99 years.

14. Officers have informed Hadston and LB Southwark that it is essential that they resolve the third and fourth bullet points in paragraph 12 above to the Commissioner's reasonable satisfaction. Officers also told them that, in respect of paragraph 13, the first item can be accepted by the

Commissioner, if the consideration which is applicable to the whole 99 lease term (£455,000) is paid at the grant of the tenancy. Officers have also indicated to the parties that it may be possible for the Commissioner to accept the second request which is referred to in paragraph 13 relating to the BOST lease. Although it could be contended that additional consideration of up to £75,000 for the increase from 25 to 99 years should be applicable, however officers consider that it is appropriate to forego that sum, subject to Hadston and the other parties regularising the issues which are referred to in the third and fourth bullet points of paragraph 12 above for us. This is particularly in the interests of securing the planning consent and hence facilitating the completion of the whole transaction, under which we are due to obtain a substantial capital receipt. The draft legal documentation for the Grotto part of the deal is being progressed on this basis.

15. In recent weeks, Hadston have been keeping us updated on the difficulties they are having in resolving their negotiations with ESFA in connection with the school's final commitment to the transaction and the impact which that has had on Hadston securing funding for the deal. At one point, Hadston made a request for a deferment of one year to the period in which completion is to take place. Officers informed them that their suggestion was completely unacceptable to LFC. On 30th August, Hadston moderated their request to a deferment in the period for completion of up to a maximum of three months. Officers and their advisers consider this period to be reasonable/manageable and recommend that it should be accepted, subject to LFC receiving 'best consideration' for this 'last minute' change to the terms of the deal. In that connection, it is considered appropriate for LFC to charge Hadston interest, at 4% over base rate (the rate which is prescribed in the existing sale contract), for the period of delay in LFC receiving any completion monies which would otherwise have been due in accordance with the terms of the existing contract. Adopting the expected completion figure of £31,877,500 and at an interest rate of 4.75% per annum (4% over the current base rate), that produces a daily interest payment to LFC of £4,148 and a total figure of just over £375,000 should Hadston use the full three months deferment period. In addition, LFC should have the right to determine the sale contract, in the event that Hadston fail to complete the transaction within the extended long-stop date which they are seeking from us.

Finance comments

16. This report recommends that the transaction for the disposal of the former Southwark Fire Station and Training Centre is completed, subject to the requirements set out in the report. The report notes that the sale price is to be reduced from £54m to £42.3m, following a change to ensure the proposal complies with affordable housing requirements.
17. The Mayor's Budget for 2018/19 included additional business rates funding for the Commissioner of £11.8m spread over the 2018/19 and 2019/20 financial years, to reflect the above reduction. The Mayor's Budget report stated that this additional business rates funding is temporary and pending the capital receipt which LFEPA will potentially receive for its former headquarters at Albert Embankment. If the capital receipt for the sale of that site meets or exceeds the £11.8m, then the temporary funding will be returned to the GLA. If that capital receipt does not arise, then the additional GLA funding will be made permanent.
18. As a result, this reduction in the sale price for the Southwark site will not have an immediate financial impact, but will need to be considered as part of the potential future sale of the Albert Embankment site.

Workforce comments

19. Cycle and car parking provision are major concerns for the workforce in Union Street currently making use of this facility. The cycle provision has been agreed with the London Borough of Southwark and the car parking issue should be decided by 3 August.

Legal comments

20. The price reduction proposed by Hadston has been confirmed by a professionally qualified valuer to constitute best consideration and hence satisfies the Commissioner's duties under s123 of the Local Government Act 1972. The other consequential amendments to the documentation will allow the sale to Hadston to proceed to completion.

Sustainability implications

21. The London Environment Strategy (LES) sets out the aim for London to achieve National Park City status, whereby more than half of the city's area is green. The provision of a lease to BOST is not expected to reduce the extent of landscaping on the site. The provision of cycle parking may result in a minor (~10%) reduction in landscaping at the Grotto.
22. The LES sets out plans to increase cycling levels. The London Cycling Design Standards developed by Transport for London in support of the strategy and London Plan set out cycle parking principles that it should be fit for purpose, secure and well-located, including convenient, accessible, as close as possible to the destination, and preferably sheltered. The proposed cycle parking meets the fit for purpose and secure principles, however only the accessible element of the well-located principle is met and as such may not assist in encouraging an increased uptake in staff cycling to Union Street.

Equalities implications

23. There are no equalities implications in this report.

List of Appendices to this report:

There are no appendices to this report.

Consultation [Note: this section is for internal reference only – consultation information for public consideration should be included within the body of the report]

Name/role	Method consulted
Corporate Services Directorate Board	24 July 2018