

Item No.	Classification: Open	Date: 2 March 2004	MEETING NAME Executive
Report title:		Orchard Sports Ground William Booth road Anerley London SE20 - Disposal	
Ward(s) or groups affected:		Out of Borough	
From:		Strategic Director Regeneration	

RECOMMENDATION(S)

1. That members note the offers received for the disposal by the Council of a 999 year leasehold interest in the above property and authorize the Strategic Director of Regeneration, subject to the Secretary of State's consent (DfES), or confirmation that the proposed disposal falls within the general disposal consent, to proceed with the grant of a 999 year lease in consideration of a premium payment.
2. That the Strategic Director of Regeneration be authorized to agree the main terms of the lease subject to the use clause being restricted to open sports use only, or such other uses as fall within the land's planning designation as Metropolitan Open Land.
3. That prior to the disposal of the proposed leasehold interest, a small portion of the land (north eastern corner) be appropriated, subject to the consent of the Secretary of State (DfES), to the adjacent Council property (Orchard Lodge secure childrens' home) in order to improve the security of that property.

BACKGROUND INFORMATION

4. In accordance with Executive Minute 29 8 July 2003, " That the Strategic Director of Regeneration explore further opportunities for disposal of the site and report back its findings at the earliest opportunity", the Council conducted a marketing campaign to establish the level of interest in the property.
5. The offers received as a result of this marketing exercise are set out in the closed version of this report presented elsewhere on this agenda. An offer has recently been received further to the final round of formal bidding. This offer was unsolicited, and in the interests of fairness to all bidders, each party is to be invited to submit their best and final offers by 23 February 2004.
6. As previously reported in July, the site is a large former Inner London Education Authority (ILEA) sports ground extending to some 13.4 hectares (33.4acres). Within this area there is a floodlit hard-play area of approx 1,500 sq/m (16,145 sq/ft), 12 tennis courts, changing rooms, a caretaker's house and grounds maintenance accommodation. The extent of the site is shown on the attached plan.
7. The site is located in the London Borough of Bromley and is enclosed by railway lines, two schools and a secure children's home. Access to the site is

via a single track road running from William Booth Road. This access road is shared in part by Anerley Primary School.

8. The Council owns the freehold interest which was inherited on the 1 April 1990 following the abolition of the Inner London Education Authority.
9. The Council's Education department did use the facility for a number of years, although use gradually reduced and, it is understood, finally finished in 1998. The property has been declared surplus to operational requirements.
10. The property is currently occupied under the terms of a short term lease agreement to Knights Millennium Foyer who use the land as football pitches. This agreement includes a break clause in favour of the Council should vacant possession be required before expiry of the contractual term.

KEY ISSUES FOR CONSIDERATION

11. The land is zoned in Bromley's Unitary Development Plan as Metropolitan Open Land. This designation effectively means that the use of the land is limited to agriculture, forestry, out-door sports, cemeteries or other 'open space' uses. Therefore, in the absence of a change in planning policy there is no development potential of any significance.
12. Notwithstanding the comments in Paragraph 11, it is considered that there is a possibility, no matter how unlikely in the immediately foreseeable future, that planning policy will change, either in response to pressure for housing land or some other factor. If this does occur and residential use is possible the impact on value is extremely significant. If the Council sells its freehold interest in the land it will not be possible to benefit. However, if a lease is granted, as proposed, the Council will be in a position to benefit financially if planning policy changes to allow residential development i.e the use is restricted in the lease and it is proposed that if residential consent is achieved during the term of the lease, the resultant increase in value will be paid by the tenant to the Council.
13. As mentioned in Paragraph 9, the property is surplus to Council requirements and has been vacant for some time. Due to the nature of the land, problems have been experienced with vandalism of the buildings, dumping and illegal occupation by travelers. If the land is held in the hope that some enhanced value can be attained, then the Council will continue to incur management costs in terms of expenditure and officer time, with no guarantee that a change in planning policy will occur.
14. Prior to the disposal (subject to Executive approval), it is proposed to appropriate a small portion of the land (north eastern corner) to the adjacent Council property (Orchard Lodge secure childrens' home) in order to improve the security of that property. It is considered that this appropriation will not adversely affect the proposed disposal.
15. The sale will allow the purchaser to invest the finances necessary to bring the property back in to beneficial use.

16. The purchaser will pay the Council's costs in disposing of the land.
17. The property is held in the Council's Commercial Property Holding Account and, as already mentioned in Paragraph 9 has been declared surplus to operational requirements.

Consultation

18. Not appropriate.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Concurrent Report of the Borough Solicitor & Secretary to the Council – Legal Issues

- 19 The report recommends that the Executive authorises the Strategic Director of Regeneration to proceed with the grant of a 999 year lease to the highest bidder on the terms set out in the Closed report, or to grant a lease for a similar term to the under-bidder, if the lease to the highest bidder has not been completed within 3 months. The proposed lease will restrict the use of the land to open sports use, or such other uses as fall within the land's designation as Metropolitan Open land for planning purposes. Prior to disposal it is recommended that a small portion to the land be appropriated to the adjacent Council property, Orchard Lodge, in order to improve the security of that property.
- 20 As indicated in the report the land transferred to the Council on the abolition of the Inner London Education Authority in 1990. Originally the land was held subject to two conditions, one of which has been revoked by statutory instrument. Although the second condition, condition E, would seem still to be applicable the information in the report indicates that no interest in use of the site has been expressed by other local education authorities and the condition may therefore be regarded as no longer of practical effect.
- 21 Subject to the considerations set out below the Council is in a position to dispose of the site free from the restrictions which originally applied when it was transferred in 1990.
- 22 Based on the information in the report, it would seem that the land may be regarded as playing fields for the purposes of section 77 of the School Standards and Framework Act 1998 ("the 1998 Act"). This section requires the consent of the Secretary of State to the disposal of any playing fields which were either used by a community school for the purposes of the school immediately prior to the date of disposal or which have been so used at any time within 10 years prior to the date of disposal. The report indicates that although the playing fields are no longer used by the Council for educational purposes this use continued, albeit on a gradually reducing scale, until 1998, less than 10 years ago. Section 77 overrides the provisions of section 123 of the Local Government Act 1972 and so the consent of the Secretary of State for Education and Skills would appear to be required despite the fact that the consideration offered by the highest bidder and the under-bidder represents the best consideration that can reasonably be obtained.

- 23 The Secretary of State has issued guidance on the circumstances in which section 77 will apply and has issued a general disposal consent, which may be applicable in this case. The procedure to be followed when relying on the general disposal consent under section 77 is that the local authority must provide information to the DfES and seek confirmation that the general consent applies before proceeding with the disposal.
- 24 A further provision of section 77 of the 1998 Act provides that the consent of the Secretary of State is also required where local authorities propose any action which is intended or likely to result in a change of use of any playing fields so that they will be used for purposes which do not consist of or include their use as playing fields by a maintained school for the purposes of the school. Again this provision applies in circumstances where the playing fields although no longer used for educational purposes, have been so used within the 10 years preceding the date of disposal. As the sports ground continued to be used by the Council until 1998, the proposed appropriation of part of the site to social services purposes in connection with Orchard Lodge will require the consent of the Secretary of State.
- 25 Subject to the Council obtaining the consent of the Secretary of State to the proposed appropriation, and either consent to the disposal or confirmation that it falls within the terms of the general consent, the Executive may approve the recommendations set out in the report. The lease and appropriation will reflect any specific conditions imposed by the Secretary of State when giving his consent to these transactions.

Concurrent Report of the Chief Finance Officer

- 26 Successful disposal of this property will generate a capital receipt for the Council. In addition the Council will recover surveyor's and legal costs from the purchaser.
- 27 The property is held in the Commercial Property Holding Account. Current capital controls dictate that 100% of the receipt generated will be available to fund future capital projects.
- 28 Following disposal savings in management costs in terms of actual expenditure and officer time will be made.
- 29 The Council also stands to benefit from any uplift in value should planning policy change to allow residential use during the term of the lease.

Background Papers	Held At	Contact
Property Division File	Southwark Property Chiltern House Portland Street London SE17 2ES	Peter Barter 020 7525 5373

APPENDIX A

Audit Trail

Lead Officer	Paul Evans	
Report Author	Peter Barter	
Version	Final	
Dated	23/2/04	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor & Secretary	Yes	Yes
Chief Finance Officer	Yes	Yes
Executive Member	Yes	No
Date final report sent to Constitutional Support Services		

APPENDIX B

LOCATION PLAN