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**POLICY COMMITTEE - 3 AUGUST 2020**

Further to the agenda for the meeting of the Policy Committee on Monday, 3 August 2020 please see attached the reports for Agenda Items 3 and 9, originally marked 'To Follow'.

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This report advises the Committee of the outcome of a marketing exercise to dispose of the freehold of Southcote Library and seeks authority to dispose of the freehold interest on the terms set out in the report.

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# Agenda Item 3

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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## READING BOROUGH COUNCIL

### REPORT BY DIRECTOR OF ECONOMIC GROWTH AND NEIGHBOURHOOD SERVICES

<b>TO:</b>	POLICY COMMITTEE		
<b>DATE:</b>	3 AUGUST 2020		
<b>TITLE:</b>	SOUTHCOTE LIBRARY		
<b>LEAD COUNCILLOR:</b>	COUNCILLOR EMBERSON COUNCILLOR ENNIS	<b>PORTFOLIO:</b>	CORPORATE & CONSUMER SERVICES HOUSING
<b>SERVICE:</b>	PROPERTY & ASSET MANAGEMENT HOUSING & NEIGHBOURHOOD SERVICES	<b>WARDS:</b>	SOUTHCOTE
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#### 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 To advise the Committee of the outcome of a marketing exercise to dispose of the freehold of Southcote Library and to seek authority to dispose of the freehold interest on the terms set out in this report.
- 1.2 Elsewhere on this meeting's agenda in closed session commercial information in relation to this decision was presented and this should be considered when making a decision as regards the recommendation.
- 1.3 A grant request has been submitted by one of the bidders to support the delivery of a 100% affordable scheme.

Appendix 1 - Location Plan

#### 2. RECOMMENDED ACTION

- 2.1 That the Property be sold to Bidder D for a development of affordable rented properties on the terms set out in paragraph 4.3.1 of the report.
- 2.2 That the Committee approve the allocation of £785,000 Local Authority Social Housing Grant (LASHG) to support the delivery of the Housing Association's proposed development as set out in paragraph 4.3.1 of the report.
- 2.3 In the event that the offer price is subsequently reduced or the purchaser does not perform to an acceptable timescale the Executive Director of Economic Growth & Neighbourhood Services be given delegated authority

in consultation with the Leader of the Council, the Lead Councillor for Corporate and Consumer Services and the Assistant Director for Legal and Democratic Services to:

a) agree a revised offer price which secures best consideration

b) reengage with other bidders as appropriate or remarket the property for disposal at best consideration.

- 2.4. If in the event that the LASHG increases above the sum of £785,000 then the Director of Economic Growth & Neighbourhood Services in consultation with the Lead Councillor for Housing is given delegated authority to consider and agree any variation.

### 3. POLICY CONTEXT

- 3.1 Southcote Library is edged black on the attached Plan **Appendix 1** and is currently vacant.
- 3.2 As part of the Community Hubs project Policy Committee approved the relocation of the Southcote library services to the Coronation Square Y&C Centre. This formed part of a wider capital project to create a new multi-functional community hub, which also includes children's centre, youth facilities and other space for community lettings and other shared uses.
- 3.3 As part of the Hubs programme on 10<sup>th</sup> April 2017, Policy Committee (Minute 114 community hub spend approval) also resolved that the Southcote library once vacant be disposed of on the open market and through the community lettings policy process and the results reported back to a future meeting for decision.
- 3.4 Reading Borough Council's Third Sector Policy Statement states that when a Council asset is declared surplus in accordance with Corporate Asset Management Plan criteria and is therefore not required for operational or service delivery purposes by the Council or a partner organisation, it will be advertised for disposal usually on a freehold basis.
- 3.5 Third Sector organisations can bid for a surplus property and all bids received will be considered by Policy Committee. Additionally, Third sector organisations will also be able to bid for a leasehold interest rather than the freehold of the premises, subject to certain criteria.
- 3.6 Since the introduction of self-financing of the Housing Revenue Account in 2012, the Council has been able to retain of proportion of the receipt of each property sold through Right to Buy (RTB). This arrangement is governed by an agreement signed with Central Government that set out the terms as to how these receipts (known as the RTB 1-4-1 replacement receipts) can be spent.
- 3.7 This agreement states that the 1-4-1 replacement receipts have to be spent within 3 years of receiving them (or they are returned to Central Government plus interest for the 3 years), they have to be spent on delivering rented affordable housing within the boundaries of the Local Authority and can fund up to 30% of any development. The receipts can be spent either directly by

the Local Authority or they can be passed as a grant to a Registered Provider (RP) developing in the area, with the RP providing the 70% match funding that is required.

#### **4. THE PROPOSAL**

##### **4.1 Current Position:**

- 4.1.1 Officers invited three firms of chartered surveyors to submit a fee quote in relation to the marketing of the Property resulting in the appointment of Haslams.
- 4.1.2 Haslams were formally instructed and marketed the property for 12 weeks with bid returns due on 17<sup>th</sup> January 2020.
- 4.1.3 The disposal was also advertised on the RVA website in accordance with the Council's Third Sector Policy.
- 4.1.4 A total of ten offers were initially received. Due to Covid 19 Round 2 bid returns were delayed until 12<sup>th</sup> June. Ten revised Round 2 offers were received from nine parties. A summary of offers are enclosed with the confidential report.
- 4.1.5 The highest offer is for a residential development (Bidder A) proposing a scheme of 9 flats and 4 houses on a conditional subject to planning basis.
- 4.1.6 The other top offers received were also from residential developers (Bidder B & C) proposing a scheme of 9 flats and 4 houses and 12 flats and 2 houses respectively. These are both on a conditional subject to planning basis.
- 4.1.7 A Housing Association (Bidder D) submitted an improved offer for a scheme of 15 x 1 & 2 bed affordable flats also on a conditional subject to planning basis.
- 4.1.8 A subject to planning disposal can take 15-18 months and whilst the final development form will not be known until planning consent is granted the Council as landowner can work with housing associations through the disposal contract and as local housing authority. Members should note that the Bids A, B and C should generate Community Infrastructure Levy (CIL) payments of approximately £100k depending on the eventual floor area. Bidder D will not generate CIL payment as an affordable housing scheme.
- 4.1.9 With an unconditional disposal the Council can only influence the detail of a development as the Planning Authority.

##### **4.2 Analysis:**

- 4.2.1 The housing association offer is for 4 x 1 bed and 11 x 2 bed Affordable Rent homes with the rent capped at 70% of Market rent. There are cogent reasons to consider the offer of the underbidder although the offer price for the land is £97,000 lower than the highest bid.
- 4.2.2 The Council currently has 3,200 people on the council housing waiting list and although the largest pressure on the Housing Register is for 3 bedroom accommodation or above, there is high demand for all types of rented

properties and 2 bedroom homes meet the need of families. The Council's Local Plan Policy seeks to secure 30% affordable housing on schemes of 10 dwellings or more. However, the final scale of the affordable housing secured and the tenure of the affordable housing is subject to development viability.

- 4.2.3 The proposed 70% cap on rent is lower than the Local Housing Allowance in the area and increases the affordability for households.
- 4.2.4 The delivery of Affordable Housing, especially rented tenure, is a strategic priority for the Council and there are wider social and financial impacts for families accessing this accommodation.
- 4.2.5 As a result of the Covid Pandemic and the subsequent financial difficulties there is a risk of prolonged and significant increase in households presenting as homeless. This could result in the continued use of high cost emergency accommodation.
- 4.2.6 An increase in social housing of 15 homes will reduce this risk and through nominations could potentially prevent a cost pressure for the Council equivalent to circa £150k and £10k per unit for each successive nomination if and when arising, based on nightly paid self-contained accommodation cost savings.
- 4.2.7 The Housing Association is also proposing to grant nomination rights to the Council. These nominations rights have an intrinsic monetary value to the Council and our valuers have been instructed to value these in light of the Housing Association's offer.
- 4.2.8 The offer from the Housing Association assumes that £785,000 of Right To Buy 1-4-1 replacement receipts which are ring fenced for the purpose of delivering social housing, will be grant funded to the Housing Association in order to deliver these homes.
- 4.2.9 The £785,000 grant requested can be met from within the existing retained receipts without putting pressure on other existing, forecasted or aspirational Local Authority housing development schemes.
- 4.2.10 Committee approval is required to formally allocate the grant monies to the Housing Association.
- 4.2.11 Two unconditional offers were also received directly by the Council in accordance with the Third Sector Policy.
- 4.2.12 The Third Sector bids were evaluated by officers from Property and Voluntary Sector neither score highly enough to outweigh the value offered by the Housing Association's bid.
- 4.2.13 Other lower bids were submitted for a number of different uses to include a nursery and supported living scheme. These are detailed in the confidential appendix.

### **4.3 Recommended Option**

4.3.1 It is proposed that the Property be sold to Bidder D (the Housing Association) on the following terms:-

Offer: £X (as set out in the confidential report)  
for the freehold interest

Use: Proposed residential development of 15 flats,  
comprising 11 x 2 bed units and 4 x 1 bed units

Offer conditions: Subject to Planning

The offer does not make allowance for Community  
Infrastructure Levy or S016 payments

Subject to ground, building and services surveys

The properties will be 100% affordable housing, all  
rented, with rent levels capped at 70% of market rent.

The Council will provide Local Authority Social Housing  
Grant (LASHG) of £785,000.

The Council will obtain 100% nomination rights for the  
ingoing Tenants.

4.3.2 In the event that the offer price is materially reduced prior to exchange or the Purchaser does not perform to an acceptable timescale, it is recommended that the Executive Director of Economic Growth & Neighbourhood Services in consultation with the Leader of the Council be given delegated authority to reengage with the other best or highest offers or appropriate bidder or remarket the property for disposal for best consideration.

4.3.3 If in the event that the LASHG increases above the sum of £785,000 it is recommended that the Director of Economic Growth & Neighbourhood Services in consultation with the Leader of the Council are given delegated authority to consider and agree any increase.

### **4.3 Other Options Considered**

4.3.1 The options are to not dispose of the property or to dispose to another bidder.

4.3.2 The capital receipt arising from the disposal is required to support the Council's Medium Term Financial Strategy and if not disposed of would present an ongoing liability and revenue burden.

4.3.3 The unconditional offers are lower and whilst resulting in an earlier capital receipt would not secure the added benefits of the housing association's proposal.

4.3.4 The higher conditional subject to planning bids may result in a higher capital receipt but will not secure the additional financial benefits brought by a 100% affordable housing development, namely nominations rights and revenue savings as set out in this report.

4.3.5 Annual holding costs are circa £15-20,000 pa but the Council can consider early demolition of the property with the purchaser as necessary.

## **5. CONTRIBUTION TO STRATEGIC AIMS**

5.1 The disposal of the Property supports the aim of remaining financially sustainable to deliver service priorities in accordance with the Medium-Term Financial Strategy.

5.2 The disposal also supports the adopted Strategic Framework (March 2020) which sets out the Council's key priorities during the Coronavirus Pandemic including:

- To keep social care services running for the children and adults who need them;
- To support vulnerable and isolated people during the crisis;
- To support business and the economy, which will secure the long term recovery of Reading.

5.3 The proposal meets the following priorities of the Council's Corporate plan:

- Ensuring access to decent housing to meet local need.
- Ensuring the Council is Fit for the Future.

## **6. ENVIRONMENTAL AND CLIMATE IMPLICATIONS**

6.1 The building has been unoccupied since the library was moved to Coronation Square as part of the Community Hub programme which brought the council and partners services into one building.

6.2 The building would be demolished and the site redeveloped for new housing required to be meet prevailing energy efficiency and carbon neutral polices.

## **7. COMMUNITY ENGAGEMENT AND INFORMATION**

7.1 The disposal is subject to an open market and Third Sector marketing exercise and generated a rage of interest from the community/voluntary sector.

## **8. EQUALITY IMPACT ASSESSMENT**

8.1 Under the Equality Act 2010, Section 149 the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.2 The Council has reviewed the scope of the proposals as outlined within this report and considers that the proposals have no direct impact on any groups with protected characteristics.

## 9. LEGAL IMPLICATIONS

### Sale of land at an undervalue.

- 9.1 This is covered by section 123 of the Local Government Act 1972. A council cannot dispose of its land for a consideration less than the best that can be reasonably obtained in the market, except with the express consent of the Secretary of State.
- 9.2 What constitutes consideration less than the best that can reasonably be obtained? The overriding consideration when answering this question is the commercial value of the disposition to the local authority that is capable of being assessed by a valuer. In determining "best consideration reasonably obtainable", the only consideration that can be taken into account is that which has commercial or monetary value to the local authority.
- 9.3 In relation to the commercial value of the disposal, the following principles have emerged from case law:
- What is reasonable in any particular case depends entirely on the facts of the transaction.
  - The duty to obtain the best price does not require the highest offer to be accepted, regardless of who makes it and when it is made. The court has recognised that there may be cases where trustees could properly refuse a higher price and proceed with a lower offer. Each case will depend on its facts.
- 9.4 Local authorities cannot justify a disposal on the ground that non-monetary consideration is being provided.
- 9.5 The government recognises that there may be circumstances where a local authority considers it is appropriate to dispose of land at an undervalue.
- 9.6 As a trustee of the land that it holds on behalf of its residents and given the nature of its fiduciary duty to its charge payers, a local authority should not divest itself of valuable public assets unless it is satisfied that the circumstances warrant such an action. However, the Secretary of State's General Consent provides autonomy for local authorities to carry out their statutory duties and functions and to fulfil any other objectives that it considers necessary or desirable.
- 9.7 Under the General Consent, a specific consent is not required for the disposal of any interest in land that the authority considers will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area. In this instance an affordable housing scheme will meet these criteria.
- 9.8 Even where a specific proposal to dispose of land for less than the best consideration falls within the terms of the general consent, a local authority should comply with usual and prudent commercial practices, including obtaining the view of a professionally qualified valuer as to the likely amount of the undervalue.

- 9.9 So in this instance, although the transaction appears to be at an undervalue it is still within the Council's powers to accept it because it can take into account the financial value of the nomination rights and the revenue savings. It would also fall within the General Consent as a disposal for the economic, social or environmental well-being of the area which is the delivery of the affordable housing scheme.

### **State Aid**

- 9.10 If publicly owned land is disposed of at less than best consideration, the local authority is in theory effectively providing a subsidy to the purchaser. The sale may be investigated by the European Commission to ensure that it does not breach state aid rules. A disposal must be notified to the Commission where the undervalue is not de minimis. Under the Regulation, aid totalling up to EUR200,000 to a firm over a three-year period is considered de minimis and exempt on the grounds that it does not distort competition or trade to an appreciable extent. So at first sight, this is a de minimis issue.
- 9.11 The Commission's most recent guidance explains in detail the criteria that apply in order to decide whether a transaction involves state aid. Councils should use a competitive, transparent, non-discriminatory and unconditional bidding process or commission an independent expert valuation prior to the sale negotiations to establish the market value. The Council has abided by that guidance.
- 9.12 If a public authority wishes to justify the price that the land has been sold for, it must be able to provide evidence showing that its decision to carry out the transaction was taken based on an economic evaluation comparable to that which a rational market economy operator would have taken into account. This report demonstrates such a rationale.
- 9.13 Notwithstanding those points above, Members should note that identity of the Bidder D as a charitable housing association is relevant. The sale at an undervalue is not subsidising the company, it is facilitating the provision of affordable housing, and the effective beneficiaries of the "subsidy" are the eventual tenants of the properties and in these circumstances State Aid is not being provided in the way envisaged by the State Aid rules.
- 9.14 There is no State Aid issue in the grant of Local Authority Social Housing Grant.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 The proposed sale of Southcote Library would generate a capital receipt to the Council. The property disposal schedule agreed as part of budget setting for 2020/21 onwards at Policy Committee in February 2020 identified Southcote library as one of the sites for disposal in 2020/21.
- 10.2 The offer would not be received until 2021/22 due to the disposal being on a subject to planning basis.

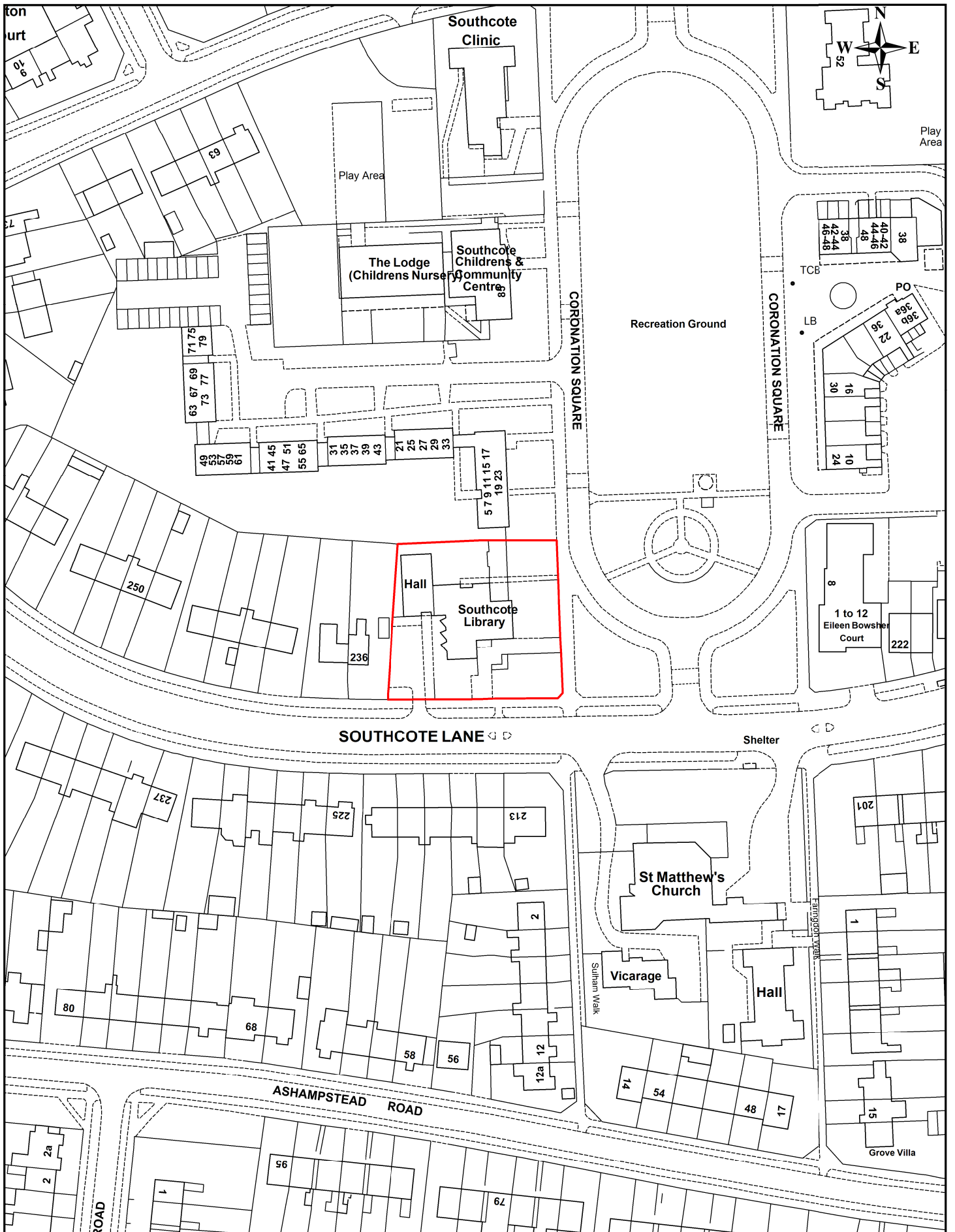


- 10.3 The delayed receipt is manageable within the Council's overall capital programme.
- 10.4 The £785,000 grant request can be met from existing and expected RTB 1-4-1 replacement receipts and the offer from the housing association is reliant on this funding being provided to deliver the scheme.
- 10.5 The 100% affordable housing proposal has potential revenue savings of circa £150k based on nightly paid self contained accommodation and ongoing savings of up to £10k per successive nomination if and when arising.

## **11. BACKGROUND PAPERS**

There are none.

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