

PFCC Decision Report

Report reference number: PFCC/119/23

Classification: OFFICIAL

Title of report: Deed of Variation to modify the Contract for Sale for the former Harlow MIT and Transport Workshop

Area of county / stakeholders affected: District of Harlow

Report by: Patrick Duffy – Head of Estates

Chief Officer: ACO Jules Lawson

Date of report: 27th July 2023

Enquiries to: Patrick.Duffy@essex.pnn.police.uk

1. Purpose of the report

This decision report seeks approval of a Deed of Variation to modify the sales contract and the sale price for the disposal of the former Harlow MIT and Transport Workshop, following exchange of contracts on a conditional basis.

2. Recommendations

The first recommendation to the PFCC is to agree to the revised contract sale price of £1,575,000 (from £1,650,000, a reduction of £75,000) and the varying of contract clauses relating to overage associated with contaminated land remediation works and planning contributions.

The second recommendation to the PFCC is to agree that the existing Contract for Sale is modified by the way of a Deed of Variation.

The third recommendation to the PFCC is to seal the Deed of Variation contained within Section 16 (Background Papers and Appendices).

3. Benefits of the proposal

To maintain a reasonable market value for the property by providing continuity with the current purchaser, whilst progressing with the planning appeal, thus avoiding a further

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(third) marketing process and disclosure of site contamination where there is a high risk of impact on the sale proceeds.

4. Background and proposal

In August 2021, we received four offers for the property ranging from £1,275,000 to £1,650,000. The highest conditional offer was accepted through decision report PFCC/028/22.

The offer from the highest bidder was conditional upon them having positive planning approval from Harlow District Council. However, the planning application was not successful which subsequently has led to the purchaser reconsidering both the sale price and overage elements of the contract, given that their development plan would need to change, market conditions were deteriorating and that building costs had escalated rapidly since the original offer was made. Ultimately, the buyer was suggesting that, without renegotiating terms, they were going to withdraw from the transaction.

The purchaser submitted various proposals to amend their offer and, after a period of negotiation, provided a final offer to reduce the sale price by £75,000 and remove their original proposed overage conditions. The proposal was based upon a planning appeal being submitted by no later than 9th June 2023.

Having discussed the new proposals with our agents and solicitors and, considering that remarketing of the building would be unlikely to achieve the level of offer received from the current purchaser, that the known level of contamination onsite will cost at least £400,000 to eradicate, that recent changes in market condition have affected resale values and the significant increase in construction material costs, it was agreed that the recommended option was to accept the revised negotiated terms from the purchaser.

The new terms recommended would revise the contract sale price to £1,575,000 and require the varying of contract clauses relating to overage associated with contaminated land remediation works and planning contributions.

5. Alternative options considered and rejected

The alternative option to remarket the property was considered and our estate agents suggested that we might achieve bids in the region of £1,000,000 on an unconditional contract basis. However, disclosure of the contamination would have to be made and potentially result in any unconditional offers being reduced, either on submission of the offer or caveated to state their offer is reduced by the cost of remediation. The conclusion being that the sale price would be less than £1,000,000. This option was rejected on the basis that there would be a significant financial impact on the capital receipt.

5. Police and Crime Plan

The provision of a Deed of Variation has no impact on the Police and Crime Plan.

6. Police operational implications

There are no operational implications associated with this decision report.

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7. Financial implications

The financial impact of the variation is a £75,000 reduction in the sale price from £1,650,000 to £1,575,000. However, remarketing could potentially realise a reduction of more than £500,000.

In addition to the price reduction, the Deed also varies the contract clauses relating to overage associated with contaminated land remediation works and planning contributions. The two overage clauses detailed below will be removed from the contract. These are not accounted for in our capital resources.

- Within the offer and contract there were £500,000 of costs allowed by the purchaser to remove the underground fuel tanks and to remediate contaminated soil and ground water as a result of historic petrol leakages. Any savings below the level of £500,000 would be shared on a 70:30 basis in the Vendor's favour.
- The Purchaser had made allowances for off-site Affordable Housing Contributions, other Section 106 costs and CIL charges in the region of £440,000. If the Planning Contribution Costs were less than the Planning Contribution Allowances, any savings would be shared between the Vendor and the Purchaser on a 50:50 split.

8. Legal implications

By sealing the attached Variation Agreement as a Deed, the following changes will be made to the sale contract.

The Purchase Price in the Particulars to the principal Agreement is amended to read:

1. **Purchase Price:** £1,575,000 (one million five hundred and seventy five thousand pounds) exclusive of VAT
2. *The definitions of Actual Remediation Cost, Estimated Remediation Cost and Remediation Works in clause 1.1 of the Principal Agreement are deleted.*
3. *Clauses 38 (ESCROW FOR REMEDIATION WORK COSTS) and 39 (PRICE ADJUSTMENT FOR PLANNING CONTRIBUTION COSTS) of the Principal Agreement are deleted.*

9. Staffing implications

There are no staffing or resource implications associated with this decision report.

10. Equality and Diversity implications

It is not considered that an Equality Impact Assessment is required for this decision.

11. Risks

There are no operational risks affecting the proposed disposal of this site.

12. Governance Boards

Although this decision report has not been submitted to any governance boards, the matter was discussed at the Estates Strategic Board on 5 June 2023, and it was agreed in principle that the matter would progress as proposed.

13. Background papers

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Estate Strategy 2018 – 2023

<http://www.essex.pfcc.police.uk/finance-reporting/publications/police-estates-strategy/>

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Report Approval

The report will be signed off by the PFCC Chief Executive and Chief Finance Officer prior to review and sign off by the PFCC / DPFC.

Chief Executive / M.O.

Sign:

Print: P. Brent-Isherwood

Date: 28 July 2023

Chief Financial Officer

Sign:

Print: Janet Perry

Date 01 August 2023

Publication

Is the report for publication?

YES

NO

If 'NO', please give reasons for non-publication (Where relevant, cite the security classification of the document(s). State 'None' if applicable)

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If the report is not for publication, the Chief Executive will decide if and how the public can be informed of the decision.

Redaction

If the report is for publication, is redaction required:

1. Of Decision Sheet?

YES

2. Of Appendix?

YES

NO

NO


If 'YES', please provide details of required redaction:

The appendices are not to be published, as they are protectively marked OFFICIAL-SENSITIVE

Date redaction carried out: 18/09/2023

Treasurer / Chief Executive Sign Off – for Redactions only

If redaction is required, the Treasurer or Chief Executive is to sign off that redaction has been completed.

Sign: 
Print: Janet Perry _____

~~Chief Executive~~/Treasurer

Decision and Final Sign Off

I agree the recommendations to this report:

Sign: 
Print: Roger Hirst

PFCC/~~Deputy~~ PFCC

Date signed: 03 August 2023

I do not agree the recommendations to this report because:

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.....
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Sign:

Print:

PFCC/Deputy PFCC

Date signed: