

AGENDA ITEM: 12 Pages 240 – 247

Meeting	Cabinet Resources Committee
Date	28 March 2011
Subject	London Equestrian Centre
Report of	Cabinet Member for Resources and Performance
Summary	To seek approval to the surrender of an existing lease, and to grant a new 50 year lease.

Officer Contributors	Richard Malinowski – Principal Valuer (Property Services) Judith Ellis – Valuation Manager (Property Services)
Status (public or exempt)	Public (with separate exempt report)
Wards affected	Mill Hill
Enclosures	Plan and Photos
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable
Contact for further information:	Richard Malinowski, Principal Valuer (Property Services), 020 8359 7359, richard.malinowski@barnet.gov.uk.

1. RECOMMENDATIONS

1.1 That the Council accepts a surrender of the leased land edged red on the attached plan no. 993-91.

1.2 That the Council's freehold interest in the land edged red on the attached plan no 993-91 be let under a new 50 year lease.

2. RELEVANT PREVIOUS DECISIONS

2.1 Land and Buildings Executive Committee, 30 May 1991, to grant the current lease.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

3.1 The Corporate Plan 2010-2013 commits the Council to delivering 'Better services with less money'. A key principle of the medium term financial strategy is to continually review the use of Council assets so as to reduce the cost of accommodation year on year and to obtain best consideration for any surplus assets to maximise funds for capital investment and/or the repayment of capital debt. The re-letting of the London Equestrian Centre would provide a rental income which would support the Council's priorities and maximize the premises' use.

4. RISK MANAGEMENT ISSUES

4.1 Low.

4.2 Where the Council proposes to dispose of land in reliance on section 123 (2) of the Local Government Act 1972, subsection 2 of that section prevents the council from disposing of the land (otherwise than by way of a short tenancy) for a consideration which is less than the best that can reasonably be obtained.

5. EQUALITIES AND DIVERSITY ISSUES

5.1 The recommendation has been evaluated against the principles in the Equalities Policy and Equalities scheme and there are no adverse implications for specific groups.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

6.1 There are no procurement, performance and value for money, staffing, IT or sustainability implications. The financial and property implications are set out in paragraph 9 below and in the accompanying exempt report.

7. LEGAL ISSUES

None, other than as mentioned in the body of the report.

8. CONSTITUTIONAL POWERS

8.1 The Council's constitution in Part 3, Responsibility for Functions, paragraph 3.6 states the functions delegated to the Cabinet Resources Committee including all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.

9. BACKGROUND INFORMATION

- 9.1 The land under consideration is outlined in red on the attached plan and is some 13.36 Ha/33 acres.
- 9.2 The property lies on the north side of Lullington Garth just before it becomes Firth Lane at the Partingdale Lane Junction. The Frith Manor Primary School is located opposite the site to the south and the Frith Manor Equestrian Centre is on the western boundary.
- 9.3 The Site is owned freehold by the Council and comprises a substantial rural allotment used as an Equestrian Centre situated within the Green Belt and Conservation Area. There are several buildings of different construction including a 4 bedroom house, 2 4-bedroom flats, a café, 2 menages and stabling for some 50 horses.
- 9.4 The property is let under a lease dated 5 July 1991 to Bravebyte Limited for a term of 50 years commencing on the 24 June 1991 at a rent of £25,000 per annum for which a premium of £125,000 was paid. The rent was subject to a fixed review to £35,000 per annum after 4½ years and then open market rent after the subsequent 5½ years and thereafter 5 yearly. The rent was reviewed to in 2001 after the matter was referred for determination by a third party and the rent awarded is set out in the exempt report
- 9.5 In trying to implement the 2006 rent review it has been found that there is the lack of clarity regarding the rent review cycle, which has resulted in the tenant not accepting that the Landlord has the right to carry out further reviews post 2006. To rectify this without going through expensive formal legal proceedings the tenant has agreed to heads of terms where by the Tenant will surrender the existing lease, and there then can be a grant of a new 50 year lease in its place.
- 9.6 The Heads of Terms in principal have been agreed to as detailed in Appendix 1:

Planning

- 9.7 The site is located within the Green Belt and falls in a Conservation Area.

Summary

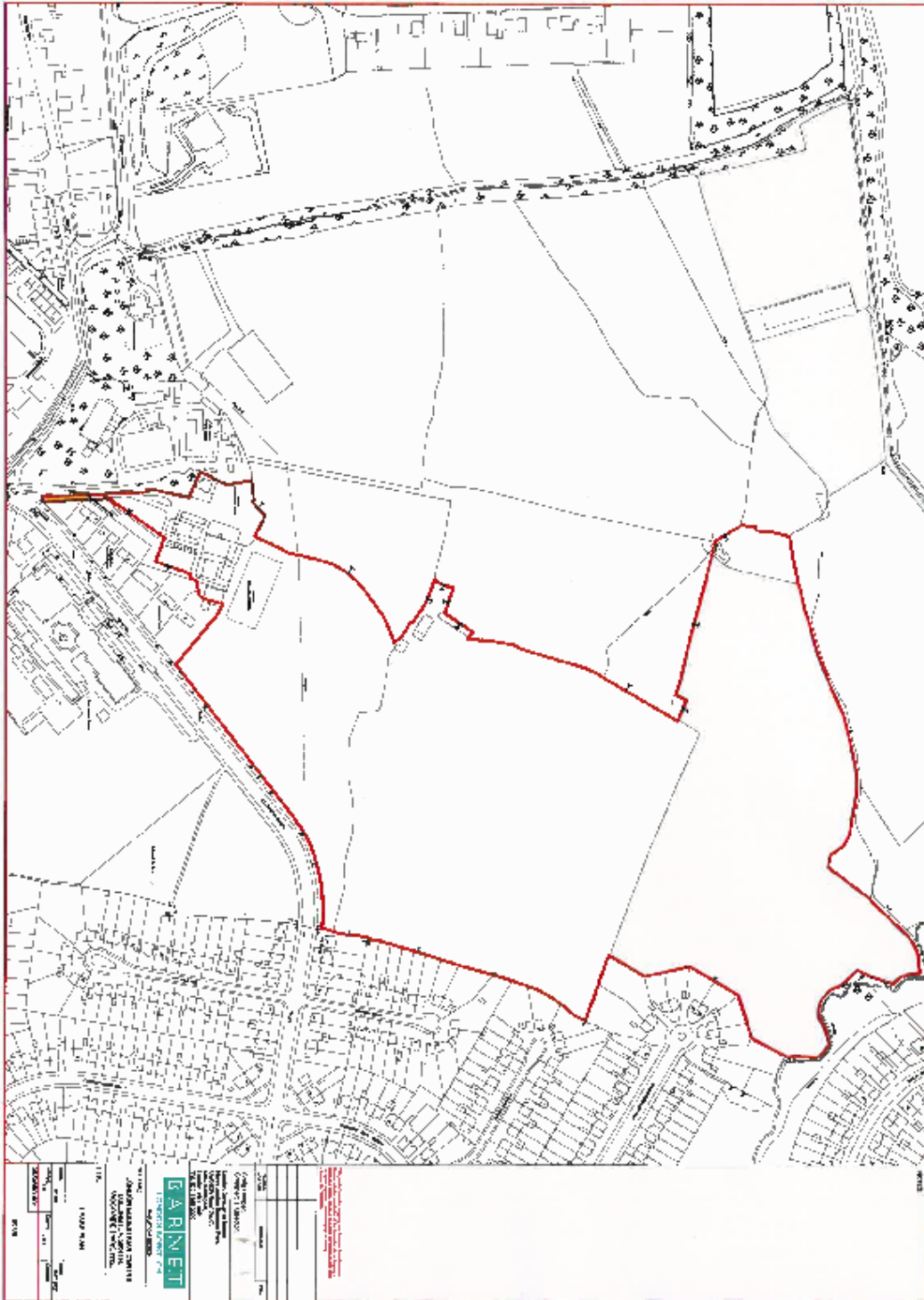
- 9.8 This proposal if approved will provide an increase in revenue for future investment by the Council, and adds to the investment value of the property.

10. LIST OF BACKGROUND PAPERS

- 10.1 None.

Legal – JMck
CFO – MC

Site Plan



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Photos



The Main House.



Barn



Menage.



Block of Flats.

Appendix 1:

Heads of Terms in Principal which have been agreed to:

Term: 1 September 2010 to 31 August 2060

User: Premises to be used for the business of an equestrian centre including the specified activities under the current lease, plus the right to operate a restaurant/café from the premises. (Such restaurant/Café use must be in the direct control of the Tenant at all times.)

Maintenance and Repair: The Tenant to put and keep the premises in full repair.

Alterations: The tenant shall not construct any new buildings or structures on the premises or make alterations, additions or improvements to the premises without the previous written consent of the Landlord (not to be unreasonably withheld).

Alienation: Not to assign, underlet or part with, or share possession of any part of the premises or make alterations, additions or improvements to the premise without the previous written consent of the Landlord (not to be unreasonably withheld).

Insurance: The Tenant to insure the premises for the full reinstatement value.

Guarantors' Covenant: Should the Tenant default in payment of the rent, or be in breach of any of the covenants, conditions or terms of the lease, the Guarantors will be fully liable in their place.

Improvements: None of the existing facilities are to be treated as tenant's improvements at the commencement of the lease.

Rent Review Dates: Five yearly, from the commencement of the lease, on the anniversary date.

Rent Properly Payable: The rent payable shall be the passing rent, or open market rent, whichever is the greater. Rent reviews shall determine the rent at which the premises might reasonably be expected to be let on the open market at the relevant review date subject to the following.

- a) the premises are fit for immediate occupation;
- b) the premises are available to let by a willing landlord to a willing tenant as a whole, without a premium or a rent free period for a term equal to the original term of the lease;
- c) the premises have been fully fitted out and equipped for immediate occupation;
- d) the Tenant's covenants have been fully performed and observed;
- e) the benefit of any planning or other consent current at the review date would be available to such willing tenant but disregarding the following;
- f) any effect on the rent due to the Tenant's occupation of the premises

- g) any goodwill attached to the premises by reason of the business operated by the tenant;
- h) any increase in rental value due to the existence of any improvement to the premises carried out since the commencement of the tenancy with the written consent of the landlord (with the exception of obligations requiring compliance with statutes or directions of local authorities).

Rent Review Disputes: Either party may apply to the RICS for the appointment of an arbitrator, or an independent expert may be appointed by mutual agreement, no sooner than 3 months after a rent review date.

If the revised rent payable from a review date has not been agreed, then the rent shall continue to be payable at the previous rate. Once the rent review has been settled the shortfall shall be immediately due, together with any interest on the shortfall at the rate of 4% above the Nat West base rate for the period from the review date calculated on a daily basis.

Agreement Costs: Tenant to pay the Landlord's legal and surveyors fees in relation to the negotiation and preparation of the new lease. Legal Fees are estimated at £2,615 plus VAT, with surveyor fees estimated at £2,250 plus VAT.