
AGENDA ITEM: 8 Pages 33 – 40

Meeting	Cabinet Resources Committee
Date	28 July 2011
Subject	Ex Hendon Football Club Ground and adjoining land Claremont Road, Hendon
Report of	Cabinet Member for Resources and Performance
Summary	Provisional indicative terms have been agreed with the tenant of this site for their purchase of the Council's freehold interest. Authority is sought to proceed with negotiations on the basis set out in this Report.

Officer Contributors	Philip Stanbridge – Principal Valuer
Status (public or exempt)	Public
Wards affected	Golders Green Ward
Enclosures	Appendix 1 - Plan no. 23356/17
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

Contact for further information: Philip Stanbridge, Principal Valuer, 020 8359 7349, philip.stanbridge@barnet.gov.uk.

1. RECOMMENDATIONS

- 1.1 That officers be given authority to seek to conclude negotiations for the sale of the freehold interest of this site to Montclare Ltd (the current owners of Hendon Football Club Ltd), being the tenant of this site. This should be upon a basis which satisfies the Council's requirement to achieve best consideration and reflect the development, permitted under a new planning consent to be submitted by Montclare.**
- 1.2 That upon conclusion, the outcome of these negotiations be reported to the Chairman for authority for the Council to complete the necessary documentation for the sale of the freehold site.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet Resources Committee (CRC), 18th September 2003, approved in principle the freehold sale of the Hendon Football Club site for residential development.
- 2.2 CRC, 8th July 2004, approved terms, (amongst other matters) to the ultimate transfer of the freehold interest in part of the site to Ealing Family Housing Association for the building of an elderly persons care home and day centre.
- 2.3 On 18th October 2004 Outline Planning Consent was granted for 162 two bedroom flats and a care home.
- 2.4 CRC, 26th September 2005, approved terms for the sale of the freehold of the site to the developer Kings Oak North London, subject to extensive conditions safeguarding the Council's objectives and the future of Hendon Football Club.
- 2.5 CRC 6th December 2006 agreed to proceed with conditional contracts to Oracle Homes Ltd and City and Docklands Property Group on their offers for the sale of part of the Hendon Football Club site subject to various conditions.
- 2.6 CRC 14th January 2008 approval was given to the sale of this Council's freehold interest to Hendon Football Club Ltd

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 Under the Corporate priority 'Better Services with Less Money', the Council has committed to 'Better use Council assets'.
- 3.2 The Council's Estates Strategy 2011- 2015 sets out our commitment 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. This proposal supports this, by producing a capital receipt for the Council in line with this objective.
- 3.3 These proposals align with the Council's objectives for regeneration in the Borough as set out in the Council's Local Development Framework. The Regeneration Service has been consulted and their observations are included below.

4. RISK MANAGEMENT ISSUES

- 4.1 When disposing of land, Section 123 of the Local Government Act 1972 requires local authorities to achieve the best consideration reasonably obtainable. The proposed sale has not been the subject of a marketing process because it has arisen out of on-going negotiations with the Montclare. An independent valuation will therefore be sought to confirm that the agreed price satisfies the Council's statutory duty.
- 4.2 The outline planning consent was granted without the usual S106 agreement because, as the applicant was the London Borough of Barnet, any such agreement would have been with itself and therefore invalid. The intention had been to secure to the Council these S106 benefits in settlements as part of the land deal. The reserved matters submitted by Montclare have never been determined, leaving the permission extant. Whilst this represents a risk to the Council this has been addressed by Montclare's agreement to withdraw the reserved matters. This will cause the original planning application to lapse and any new application will be concluded with an appropriate S106 agreement by Montclare.
- 4.3 In 2000, LBB invited tenders for the provision of new care homes and their ongoing management. The tender that was accepted from Catalyst, involved the sequential demolition of old unsuitable care homes and the reconstruction of new purpose built facilities. Perryfields, was one of the units which it was intended to rebuild. However when the potential extent of the West Hendon Regeneration area became clear, there was a possibility that the unit might be subject to compulsory purchase. Catalyst were thus offered two alternative units which they rejected. Further discussions took place in 2002 which resulted in a proposal to utilise part of the Hendon Football Club site subject to various conditions which were not satisfied.
- 4.4 Legal Services have confirmed that although a site swap agreement was entered into with Catalyst in respect of Perryfields, the conditions were not satisfied within the time frame and long stop dates have expired.
- 4.5 Whilst discussions are ongoing with Catalyst, these sites no longer form part of negotiations. Arbitration proceedings have taken place regarding a deficit claim by Catalyst, have been settled. Whilst discussions are ongoing with Catalyst concerning abortive costs, these sites no longer form part of negotiations. There is therefore no reason why this proposed disposal cannot now proceed.
- 4.6 The possibility of retention of the site for inclusion within the Brent Cross regeneration scheme has also been considered. This would require the acquisition of the leasehold interest from Montclare in order to achieve a unified site. This option has been examined with the Council's regeneration department, who have not to date secured the requisite interest from the Council's identified regeneration partners, to commit the necessary capital to the purchase.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The proposals have been considered and will not give rise to any issues under the Council's Equalities Policy and do not compromise the Council in meeting its statutory equalities duties.

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

- 6.1 On the conclusion of further negotiations between the Council and Montclare, it is anticipated that a capital receipt will be receivable by this Council although the current rent receivable will cease.

7. LEGAL ISSUES

- 7.1 Any disposal of land must comply with the provisions of Section 123 of the Local Government Act 1972 in that, 'except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained'. As noted above an independent valuation has been commissioned, to ensure that the Council satisfies this statutory requirement.

8. CONSTITUTIONAL POWERS

- 8.1 The 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 London Borough of Barnet owns the freehold of the site in Claremont Road, being the former site of the Hendon Football Club ground. The site is subject to a 99 year lease granted to the club in 1997. The original intention at the time of that grant was that the club would continue to play at the ground.
- 9.2 It became evident however that there was a capital gain to be made, for both parties, from the redevelopment of the facility and LBB worked very closely with Hendon Football Club Ltd (HFC Ltd) to bring that about. In 2004 outline planning permission was granted (to LBB) for a substantial residential development which provided a residential care home and 162 two bedroom flats.
- 9.3 As set out in section 2 above, various options were proposed and a joint marketing of the site was undertaken. In 2007, it was agreed that LBB would sell its freehold interest to HFC Ltd (by that point owned by Montclare) who would then proceed to redevelop the site. However, before this sale could be completed, there was a significant collapse in the property market which undermined the viability of the scheme and Montclare withdrew.
- 9.4 The vacated stadium and ancillary buildings became the subject of unauthorised occupation by squatters. After legal action by Montclare to secure possession, the buildings were demolished and the site hoarded in the autumn of 2009 although in recent months it has again been the subject of further squatting which has been addressed as at the date of this Report.
- 9.5 With the steadying of the property market, interest in the potential redevelopment has re-emerged although at significantly lower levels than those of 2007. Whilst active marketing has not been undertaken, the Council has received approaches to sell its freehold interest including an offer from Montclare who wish now to proceed and build a residential scheme on the site.

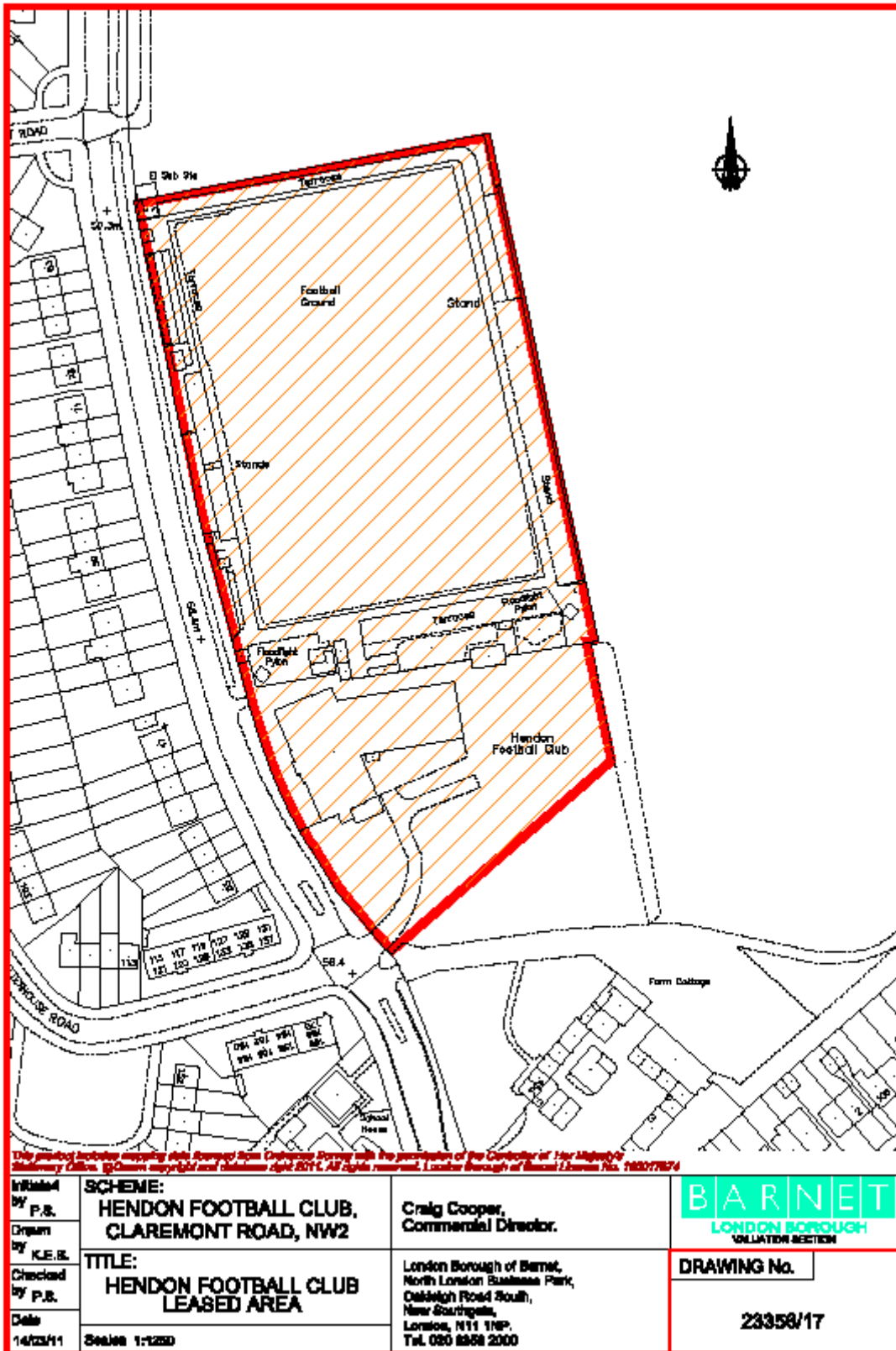
- 9.6 In theory, the holder of an interest in land should always be able to bid more than competitors who hold no interest. This is because the merger of two interests, (in this case the leasehold and the freehold), produces an asset worth more than the sum of its parts. Thus a bid from Montclare, who hold the leasehold interest, should exceed that which could be offered by other bidders. This will however, be confirmed by independent valuation as set out in section 7 above.
- 9.7 As noted in paragraph 4.2, a condition of the agreement will be that the existing outline planning consent be allowed to lapse by withdrawal of the reserved matters application. This will permit a new, less dense and more appropriate development in a low rise configuration to be considered for the site. Inevitably this less intense development will reduce the value of the site from its earlier levels and the formula shown in the exempt report for determining the value allows the development permitted, to determine the price to be paid. If approval is given to seek to conclude a sale with Montclare, they will then proceed to submit a new planning application.
- 9.8 An offer, in the form of a structure and method of calculation of payments, has been submitted by Montclare. Details are set out in the exempt report and will, subject to approval by this Committee, form the starting point for negotiations seeking a recommendable transaction. These negotiations will examine alternative deal structures to be sure that best value is secured for the Council in any transaction. It is intended that the outcome of any negotiations will be reported back to the Chairman of this committee before any agreement is finalised.

LIST OF BACKGROUND PAPERS

- 10.1 None.

Legal: JK
CFO: MC/JH

Appendix 1: Plan



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Initiated by P.S. Drawn by K.E.S. Checked by P.S. Date 14/03/11	SCHEME: HENDON FOOTBALL CLUB, CLAREMONT ROAD, NW2 TITLE: HENDON FOOTBALL CLUB LEASED AREA Session 1:250	Craig Cooper, Commercial Director. London Borough of Barnet, North London Business Park, Celsiegh Road South, New Southgate, London, N11 1NP, Tel. 020 8958 2000	BARNET LONDON BOROUGH ULLIATOR SECTION DRAWING No. 23358/17
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