

<b><u>MEETING</u></b> <b>CABINET RESOURCES COMMITTEE</b>
<b><u>DATE AND TIME</u></b> <b>WEDNESDAY 1ST AUGUST, 2012</b> <b>AT 8.00 PM</b>
<b><u>VENUE</u></b> <b>HENDON TOWN HALL, THE BURROUGHS, NW4 4BG</b>

Dear Councillors,

Please find enclosed additional papers relating to the following items for the above mentioned meeting which were not available at the time of collation of the agenda.

Item No	Title of Report	Pages
5.	REFERENCE BACK FROM BUSINESS MANAGEMENT OVERVIEW AND SCRUTINY COMMITTEE	1 - 12

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## AGENDA ITEM 10

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Meeting	Cabinet Resources Committee
Date	1 <sup>st</sup> August 2012
<b>Subject</b>	<b>Reference back from Business Management Overview &amp; Scrutiny Committee:</b>  <b>Sale of freehold interest in the former Hendon Football Club ground and adjoining land Claremont Road, Hendon</b>
Report of	Overview & Scrutiny Office
Summary	Cabinet Resources Committee took a decision on the above matter at the meeting on 17 <sup>th</sup> July 2012. The Business Management Overview and Scrutiny Committee has referred the decision back to Cabinet Resources Committee for further reconsideration.

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Officer Contributors	John Murphy, Overview and Scrutiny Officer
Status (public or exempt)	Public, with separate exempt section
Wards Affected	Golders Green Ward
Reason for urgency / exemption from call-in	N/A
Function of	Executive
Enclosures	Annex A – Call-In of Sale of freehold interest in the former Hendon Football Club ground and adjoining land Claremont road, Hendon  Annex B – Decision extract of Business Management Overview & Scrutiny Committee, 31 July 2012  Annex C – Additional information requested by Business Management Overview and Scrutiny Committee
Contact for Further Information:	John Murphy, Overview and Scrutiny Officer, 020 8359 2368

## **1. RECOMMENDATIONS**

- 1.1 That Cabinet Resources Committee indicate whether or not they wish to amend their decision taken at the meeting on 17 July 2012 on the Sale of freehold interest in the former Hendon Football Club ground and adjoining land Claremont Road, Hendon

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 As set out in the Sale of freehold interest in the former Hendon Football Club ground and adjoining land Claremont road, Hendon.

- 2.2 Cabinet Resources Committee, 17 July 2012

Decision Item 5 – The committee resolved to - To take into account the information contained in the public and the exempt reports to give the authority to complete the sale of the Council's freehold interest in this site to Montclare Limited on the terms authorised by the Director for Commercial Services in consultation as set out below.

- a) For a consideration of £2.8 million
- b) Overage payment as set out in the exempt report 2
- c) The provision of £4.1 million worth of Affordable Housing in the borough
- d) Community Infrastructure Levy and Section 106 contributions
- e) Nomination rights on the Affordable Homes as valued in the exempt report

- 2.3 Business Management Overview and Scrutiny Committee, 31 July 2012

Decision Item 6 – the Committee referred the decision back to Cabinet for further consideration (see section 9 below)

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 As set out in Agenda item 5 in the report to Cabinet Resources Committee on 17 July 2012

## **4. RISK MANAGEMENT ISSUES**

- 4.1 As set out in Agenda item 5 in the report to Cabinet Resources Committee on 17 July 2012

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 As set out in Agenda item 5 in the report to Cabinet Resources Committee on 17 July 2012

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

- 6.1 As set out in Agenda item 5 in the report to Cabinet Resources Committee on 17 July 2012

## **7. LEGAL ISSUES**

- 7.1 As set out in Agenda item 5 in the report to Cabinet Resources Committee on 17 July 2012

## **8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)**

- 8.1 Council Constitution, Overview and Scrutiny Procedure Rule 15.6 – Any Member of the Business Management Overview and Scrutiny Committee is empowered to call-in key decisions taken by the Cabinet, Cabinet Resources Committee, individual Cabinet Members or Officers for consideration at the next meeting of the Committee.
- 8.2 Council Constitution, Overview and Scrutiny Procedure Rule 15.9 – If, having considered a decision the Business Management Overview and Scrutiny Committee remain concerned about it then it may refer it back to the decision making body for reconsideration, setting out their concerns.
- 8.3 Council Constitution, Overview and Scrutiny Procedure Rule 15.10 – Where a decision is referred back to the original decision maker, he/she will reconsider the decision and decide whether or not to change it before adopting a final decision.

## **9. BACKGROUND INFORMATION**

- 9.1 Cabinet Resources Committee decision of 17 July 2012 on the Sale of freehold interest in the former Hendon Football Club ground and adjoining land Claremont road, Hendon was called-in for consideration by Business Management Overview and Scrutiny Committee on 31 July 2012.
- 9.2 The Committee decided to refer the decision back to Cabinet Resources Committee requesting that additional information be provided to the Cabinet Resources Committee prior to their reconsideration of the decision in relation to:
- :
- The council's obligations under the Equalities Act 2010 in relation to the decision
  - The financial status of Montclare Developments Ltd, Montclare Limited and Hendon Football Club Limited
  - Consideration of any wider community benefits of the London Jewish Girls High School bid

In addition to points above the Business Management Overview & Scrutiny Committee requested that, subject to the outcome of their reconsideration of the decision, Cabinet Resources Committee ensure that any potential negotiations taking place with the London Jewish Girls High School include consideration of the provision of local community services.

## 10. LIST OF BACKGROUND PAPERS

- 10.1 Cabinet Resources Committee, 17 July 2012, Sale of freehold interest in the former Hendon Football Club ground and adjoining land Claremont road, Hendon:

[http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=151&MId=6754&Ve  
r=4](http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=151&MId=6754&Ve<br/>r=4)

## Annex A

Cabinet Resources Committee – 17 July 2012	
Urgent Item of Business	
<b>Report</b>	Decision of the Cabinet Member for Resources and Performance – <b>Sale of the freehold interest in the former Hendon Football Club Ground and adjoining land Claremont Road, Hendon</b>
<b>Called in by</b>	Councillor Jack Cohen
<b>Decision, Reason and Objective</b>	<p>Decision 1.1:-</p> <p>That the Cabinet Resources Committee takes into account the information contained in the public and the exempt reports to give the authority to complete the sale of the Council's freehold interest in this site to Montclare Limited on the terms authorised by the Director for Commercial Services in consultation as set out below.</p> <ol style="list-style-type: none"> <li>a) For a consideration of £2.8 million</li> <li>b) Overage payment as set out in the exempt report</li> <li>c) The provision of £4.1 million worth of Affordable Housing in the borough</li> <li>d) Community Infrastructure Levy and Section 106 contributions</li> <li>e) Nomination rights on the Affordable Homes as valued in the exempt report</li> </ol> <p>Reasons for call-in:-</p> <ol style="list-style-type: none"> <li>1) To ask questions about the status of Montclare Ltd and whether this company has actually made an offer</li> <li>2) To seek information whether the three relevant Companies that are Hendon Football Club Ltd, Montclare Developments Ltd and Montclare LTD are insolvent</li> <li>3) To ask why the Authority is willing to sell to an under bidder and to ask whether this is lawful</li> <li>4) To ask for a detailed response to allegations that Hendon Football Club is in default on its Bank Loan and as a result does not control the destiny of its lease.</li> <li>5) To ask whether Barnet should fight the Judicial Review with the potential for huge costs to the Council Taxpayer and in particular to ask the Cabinet Member to tell me if he has had advice form officers and what advice he has had of the merits of the case and whether he believes</li> </ol>

	<p>fighting the case is a good use of Council Tax payers money.</p> <p>Objective:-</p> <p>That if satisfactory answers are not given the report is referred back for the Cabinet Resources Committee and officers to actively pursue the offer to buy made by London Jewish Girls High.</p>
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**Decision Extract of the Business Management Overview and Scrutiny  
Committee**

**31 July 2012**

**Agenda item 6 - any matters referred by members of the committee  
relating to key decisions - Decision of the Cabinet Member for  
Resources and Performance – Sale of the freehold interest in the former  
Hendon Football Club Ground and adjoining land Claremont Road,  
Hendon**

Members Present:

Councillor Hugh Rayner (Chairman)  
Councillor Brian Salinger (Vice-Chairman)

Councillor Maureen Braun	Councillor Kath McGuirk
Councillor Jack Cohen	Councillor Rowan Turner
Councillor Barry Rawlings	Councillor Andrew Strongolou
Councillor Alan Schneiderman – in place of Councillor Alison Moore	

Apologies for Absence:

Councillor Alison Moore  
Councillor Brian Gordon

Also in attendance:

Councillor Richard Cornelius – Leader of the Council  
Councillor Sachin Rajput – Cabinet Member for Adults  
Councillor Andrew Harper – Cabinet Member for education, Children and  
Families  
Councillor Dean Cohen – Cabinet Member for Environment  
Councillor Robert Rams – Cabinet Member for Customer Access and  
Partnerships

- 6. ANY MATTERS REFERRED BY MEMBERS OF THE COMMITTEE  
RELATING TO KEY DECISIONS – Decision of the Cabinet Member  
for Resources and Performance – Sale of the freehold interest in the  
former Hendon Football Club Ground and adjoining land Claremont  
Road, Hendon**
- 6.1 The Committee considered a call-in by Councillor Jack Cohen of the  
Cabinet Resources Committee decision of 17 July 2012 on the Sale of  
freehold interest in the former Hendon Football Club ground and  
adjoining land Claremont Road, Hendon.
- 6.2 Two representatives from the London Jewish Girls High School  
provided comments to the committee outlining the case for supporting

the school's bid to buy the freehold and raising their concerns in relation to the council's decision to sell to Montclare Ltd.

- 6.3 Following the submission of their comments, the representatives from the school provided clarifications and responses to questions raised by the committee.
- 6.4 Following the public comments Councillor Jack Cohen addressed the committee stating the reasons for calling in the item as:
  - 1) To ask questions about the status of Montclare Ltd and whether this company has actually made an offer
  - 2) To seek information whether the three relevant Companies that are Hendon Football Club Ltd, Montclare Developments Ltd and Montclare LTD are insolvent
  - 3) To ask why the Authority is willing to sell to an under bidder and to ask whether this is lawful
  - 4) To ask for a detailed response to allegations that Hendon Football Club is in default on its Bank Loan and as a result does not control the destiny of its lease.
  - 5) To ask whether Barnet should fight the Judicial Review with the potential for huge costs to the Council Taxpayer and in particular to ask the Cabinet Member to tell me if he has had advice from officers and what advice he has had of the merits of the case and whether he believes fighting the case is a good use of Council Tax payers money.
- 6.5 In response to the questions raised by Councillor Jack Cohen the committee were provided with written responses from Councillor Daniel Thomas, the Cabinet Member for Resources and Performance.
- 6.6 Councillor Richard Cornelius, the Leader of the Council attended in person accompanied by Craig Cooper, Director of Commercial Services, Jeff Lustig, Director of Corporate Governance, Richard Malinowski, Principal Valuer, and Judith Ellis, Valuation Manager, to provide the committee with clarifications to the written answers provided by Councillor Thomas and respond to further questions raised by the committee.
- 6.7 In response to questions raised by the committee clarifications were provided in relation to the process of judicial review, the financial status of the concerned parties, consideration of the broader community benefits in relation to the disposals of the leasehold and land, and the decision of the District Valuer in determining best value.
- 6.7 Following consideration of the responses provided the Committee decided to refer the decision back to Cabinet Resources Committee for further consideration.

**Resolved:-**

1. That the decision be referred back to Cabinet Resources Committee for reconsideration.

2. That additional information be provided to the Cabinet Resources Committee prior to their reconsideration of the decision in relation to:

- The council's obligations under the Equalities Act 2010 in relation to the decision
- Information on the financial status of Montclare Developments Ltd, Montclare Limited and Hendon Football Club Limited
- Consideration of any wider community benefits of the London Jewish Girls High School bid

3. That, subject to the outcome of their reconsideration of the decision, Cabinet Resources Committee ensure that any potential negotiations taking place with the London Jewish Girls High School include consideration of the provision of local community services.

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## **Annex C Additional Information**

- 1) Has there been sufficient consideration of Equalities Act 2010
- 2) Has there been sufficient consideration of the financial status of Montclare Developments Ltd, Montclare Limited and Hendon Football Club Limited. Are they in default?
- 3) Consideration of the wider benefits of selling to the school.
- 4) If we were to sell to the London Jewish Girls High School could we consider use of the facilities for the local community?

Objective:-

That if satisfactory answers are not given the report is referred back for the Cabinet Resources Committee and officers to actively pursue the offer to buy made by London Jewish Girls High.

### **Equalities Act 2010**

The report considers that the School is a Jewish School and the potential benefit arising there from, but this has been set against :

- The Council's duty to obtain best consideration reasonably obtainable under Section 123. The evidence of this is provided by the DVS advice set out on the financial value plus the wider benefits of the Montclare bid which includes affordable housing and other planning obligations or CIL payments;
- other material considerations as set out in the report
- The decision to sell the freehold interest in the site to Montclare Limited does not have any adverse impact on groups with protected characteristics in relation to the current use of the site.

There is no statutory duty to have a formal equality impact assessment carried out. The requirement is to have due regard and this is what the Council has done. There are no outstanding equality issues for the Council to consider.

### **Sufficient consideration of the financial status of Montclare Ltd/Montclare Developments Ltd/Hendon Football Club. If the IBRC or NAMA have foreclosed on the loan**

In light of the judicial review claim by the School and the points raised in the report, Leading Counsel has advised that there needs to be no further consideration of the issues.

### **Consideration of the wider benefits of selling to the London Jewish Girls High School**

Nothing has been put forward that identified any wider benefits. All material factors have been considered, but the best value consideration outweighs this as set out in the report.

**If we were to sell to the School could we consider use of the facilities for the local community?**

For the reasons that have been outlined in the report, a sale to the School is not being recommended. There are countervailing factors in relation to Affordable Housing and other community benefits that will be delivered from CIL payments from the sale to Montclare Limited.