

DELEGATED POWERS REPORT NO. 1619**SUBJECT: Pert Close Car Park, N10 – Proposed Disposal****Control sheet**

All reports		
1. Governance Service receive draft report	Name of GSO Date	Jeremy Williams 14.3.12
2. Governance Service cleared draft report as being constitutionally appropriate	Name of GSO Date	Jeremy Williams 23.3.12
3. Finance clearance obtained (<i>report author to complete</i>)	Name of Fin. officer Date	Kate Kennally, Kerry- Anne Smith 15.3.12 & 22.3.12
4. Staff and other resources issues clearance obtained (<i>report author to complete</i>)	Name of Res. officer Date	Susan Hunter/Heather Bates/Eryl Davies 29/2/12
5. Trade Union response received (Staffing issues only)	Name of TU rep. Date	N/A
6. Legal clearance obtained from (<i>report author to complete</i>)	Name of Legal officer Date	Steven Krempel 28.2.12
7. Policy & Partnerships clearance obtained (<i>report author to complete</i>)	Name of P&P officer Date	Andrew Nathan 14.3.12
8. Equalities & Diversity clearance obtained (<i>report author to complete</i>)	Name of officer Date	Andrew Nathan 14.3.12
9. The above process has been checked and verified by Director, Head of Service or Deputy (<i>report author to complete</i>)	Name Date	Judith Ellis, Colin Bradley 28.2.12 & 13.3.12
10. Signed & dated report, <u>scanned or hard copy</u> received by Governance Service for publishing	Name of GSO Date	Andrew Charlwood 18.04.12
11. Report published by Governance Service to website	Name of GSO Date	Andrew Charlwood 19.04.12
Officer reports:		
12. Head of Service informed report is published and can be implemented.	Name of GSO Date	Andrew Charlwood 19.04.12
Cabinet Member reports:		
13. Expiry of call-in period	Date	N/A
14. Report circulated for call-in purposes to Business Management OSC members & copied to Cabinet & Head of Service	Name of GSO	
	Date	

ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER IN CONSULTATION WITH CABINET MEMBER(S) (EXECUTIVE FUNCTION)

Subject	Car Park at Pert Close, N10 proposed grant of long lease
Officer taking decision	Director of Commercial Services
Cabinet Member(s)	Cabinet Member for Resources and Performance
Date of decision	26 March 2012

Summary	To seek approval to agree to indemnify Notting Hill Housing Trust against all actions, claims, demands, liabilities, costs and expenses arising directly or indirectly from any rights acquired by third parties and exercised over or in relation to the land at Pert Close, London N10 ('the Property') (edged red on the attached drawing) incurred by Notting Hill Housing Trust ('NHHT') and to amend the boundary to incorporate a small additional parcel of land (shown hatched on the attached drawing)
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Officer Contributors	Eryl Davies – Head of Strategic Commissioning – Adult Social Services Colin Bradley, Assistant Director Commercial Judith Ellis, Valuation Manager – Property Services
Status (public or exempt)	Public
Wards affected	Coppetts
Enclosures	None
Reason for exemption from call-in (if appropriate)	N/A

Contact for further information: Eryl Davies – Head of Strategic Commissioning, Adult Social Services 0208 359 4559, email eryl.davies@barnet.gov.uk or Judith Ellis, Property Services 020 8359 7364, email Judith.ellis@barnet.gov.uk.

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1. RELEVANT PREVIOUS DECISIONS

- 1.1 Cabinet Resources Committee, 19 October 2010 (Decision item 12) – approved that a 125 years lease be granted to NHHT to enable it to build up to eight supported living units within a new building developed on the Property and resolved that the previous decision on 16 February 2006, as amended by the Leader of the Council and Cabinet Members for Resources by delegated powers on 23 February 2010, to sell the site to NHHT for a social housing scheme, be rescinded.

2. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 2.1 The Corporate Plan commits the Council to a priority of “More Choice, Better Value” by delivering value for money across Council services through better use of resources including Council assets, staff and technology.
- 2.2 The development also supports the corporate plan priorities of ‘Sharing Opportunities and Sharing Responsibilities’ which includes the objective of ‘embedding a safeguarding culture throughout Barnet to ensure all children, young people and adults remain safe’ and ‘Better services with Less Money’ as alternatives are developed to institutional care.
- 2.3 The supported living units to be constructed will provide the necessary living accommodation for care provision for some of the:
- Barnet residents of Harperbury NHS hospital campus identified as part of the Campus Re-provision project; and
 - Individuals whose social care needs are currently being met within residential care home settings
- 2.4 The Campus Re-provision programme is a national programme, driven by the Department of Health, to close all remaining long stay NHS beds for people with a learning disability. A national target, which is monitored by the Care Quality Commission, has been set to close all campuses by the end 2010/11.

3. RISK MANAGEMENT ISSUES

- 3.1 It is possible that third parties may have acquired rights over the parking and amenity areas of the Property. These are considered to be temporary rights, which have not achieved the status necessary for enforceability and therefore prejudice the development. The Assistant Director – Legal has previously sought Counsel’s opinion on the issue of the acquisition of adverse rights by third parties in similar circumstances, which favours the view that these rights are such that exist from time to time, and are not permanent rights in favour of the third parties.
- 3.2 Although, there is a small risk that this view could be challenged, which could result in a delay in the development, (which risk is considered to be small given the period that has elapsed since planning consent was first obtained and the temporary use of the Property denied first by security fencing and then by the process of development) the Council has agreed to indemnify NHHT against all actions claims demands, liabilities, costs and expenses arising directly or indirectly from any third party rights exercised over or in relation to the Property incurred by NHHT in relation to delays in developing the Property caused by third party action.

3.3 NHHT have funded the project with a mix of its own funds, grant funding and funding provided as set out in Paragraph 6 of the decision referred to at paragraph 1.1 above and 5.1 below.

3.4 It is officers' view that the disposal of the hatched land for a nil consideration does not expose the council to any additional or further risk and does not constitute a disposal at an undervalue and thereby fall foul of the provisions of the Local Government Act 1972.

4. EQUALITIES AND DIVERSITY ISSUES

4.1 The Council is committed to improving the quality of life and wider participation for all in the economic, educational, cultural, social and community life of the Borough. This development is fully wheelchair accessible and supported by assistive technology which assists in providing greater independence for people with a learning and/or physical disability.

4.2 The variation to the Cabinet Resources Committee approval of 19 October does not give rise to any issues under the Council's Equalities or Diversity policies.

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

5.1 The omission of the hatched land was as a result of NHHT's initial oversight in neglecting to ask for it to be included in the land to be demised by the lease referred to at paragraph 1.1 above.

6. LEGAL ISSUES

6.1 None except as detailed in the body of this and the original public report.

7. CONSTITUTIONAL POWERS

7.1 Council Constitution, Part 3, Responsibility for Functions - paragraph 6.1 provides that Chief Officers can take decisions in consultation with the Cabinet Member concerned to discharge the functions allocated to them or dealt with by their staff and in all matters where they have managerial and professional responsibility. This report is pursuant to that requirement and the decision to proceed with the grant of the lease, subject to indemnifying Notting Hill Housing Trust with the incorporation of a small additional parcel of land is being taken by the Commercial Director (in accordance with his delegated powers) in consultation with the Cabinet Member for Resources and Performance (Chairman of the Cabinet Resources Committee).

8. BACKGROUND INFORMATION

8.1 As set out in the original public report – attached.

8.2 The variation is required for the following reason:

- To sanction the indemnity offered to NHHT against all actions claims demands, liabilities, costs and expenses arising directly or indirectly from any third parties' rights exercised over or in relation to the Property incurred by NHHT in relation to developing the Property.
- To sanction the inclusion of the small additional area of land shown hatched on the attached drawing in the Property, in order to prevent a minor encroachment by the proposed new building.

9. LIST OF BACKGROUND PAPERS

9.1 None.

10. CONSULTATION WITH CABINET MEMBER(S)

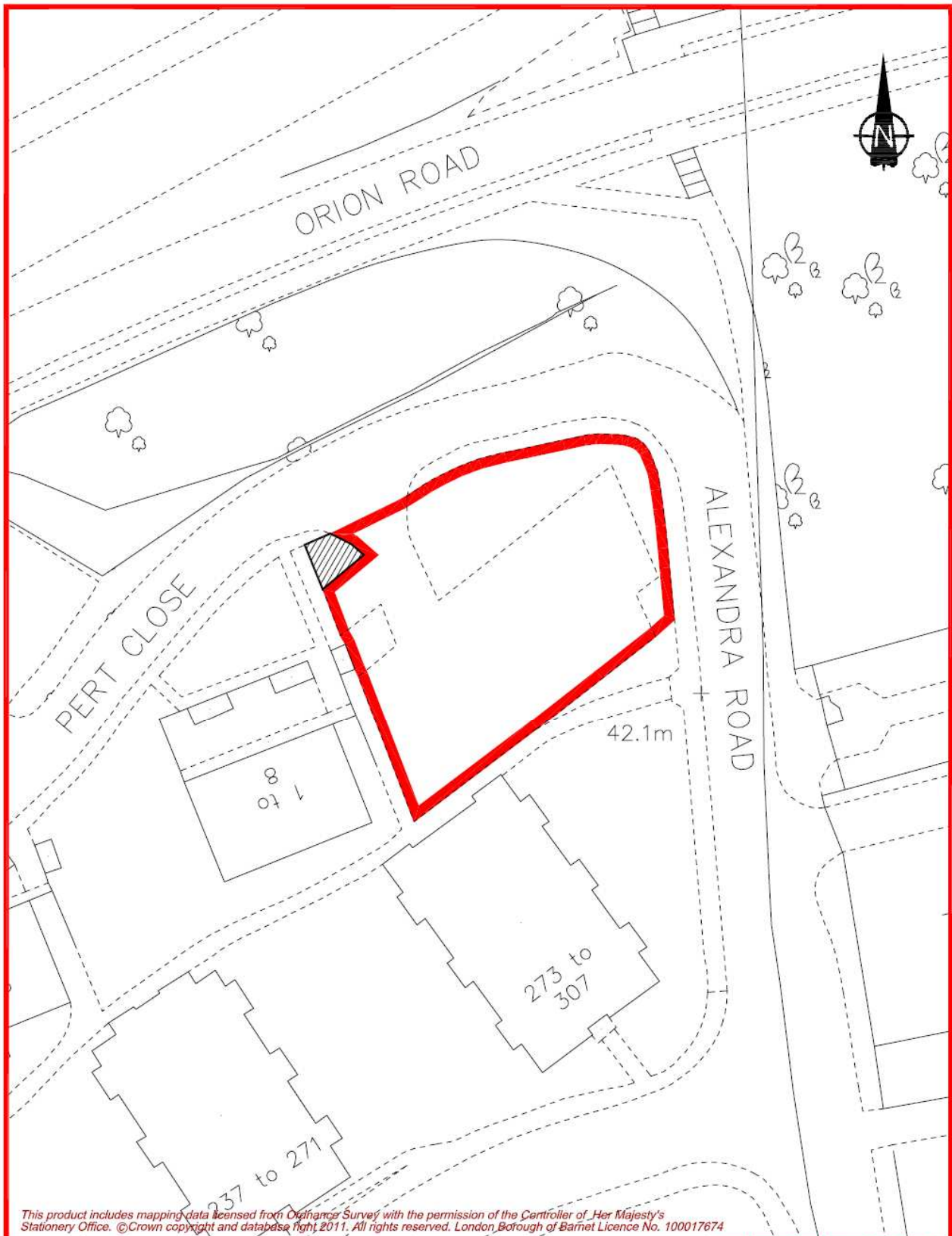
10.1 The Cabinet Member for Resources and Performance has been consulted and has advised of his agreement to proceed as per the details of this report

11. OFFICER DECISION

I authorise the following action:

- 11.1 To agree to indemnify Notting Hill Housing Trust against all actions, claims, demands, liabilities, costs and expenses arising directly or indirectly from any leaseholders rights exercised over or in relation to the Property at Pert Close, London N10 incurred by Notting Hill Housing trust in relation to delays incurred by NHHT in developing the said property arising as a consequence of any such claim.
- 11.2 To vary the boundary of the land to be disposed of to include the area shown hatched on drawing No 23688/2.

Signed	Craig Cooper _____
	Commercial Director
Date	26 March 2012 _____



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Initiated by J.P.	SCHEME: LAND AT PERT CLOSE, MUSWELL HILL, LONDON, N10	Craig Cooper, Commercial Director.	
Drawn by K.E.B.	TITLE: DISPOSAL PLAN	London Borough of Barnet, North London Business Park, Oakleigh Road South, New Southgate, London, N11 1NP. Tel. 020 8359 2000	
Checked by J.P.			DRAWING No.
Date 26/01/11	Scales 1:500		23688/2