



Assets Growth and Regeneration Committee

15 December 2014

Title	Land to the rear of 71 Holden Road, North Finchley, N12
Report of	John Hooton – Deputy Chief Operating Officer
Wards	Totteridge
Status	Public with accompanying Exempt Report
Enclosures	Appendix 1
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Summary

This site shown outlined in red on the attached plan no1, comprises 0.29 hectares being 0.7 acres of Public Open Space which is currently land locked and not accessible to the public as it is bounded by Dollis Brook. The owner of one of the adjoining frontage properties approached the Council with a request to acquire the land to provide additional garden area for the redevelopment of the frontage site at 71 Holden Road shown outlined in blue on the attached plan. A scheme was presented by HGS Properties (Brookdene Holden Road) Ltd in August 2014 with an offer detailed in the attached exempt report. Communication with Green spaces was maintained throughout negotiations which resulted upon conditions being imposed of a tree maintenance plan and no building on the woodland site.

Recommendation

- 1. That the land is declared surplus to the council's requirements.**

- 2. That, subject to statutory public open space consultation, the Committee approve the granting of a two year call option to HGS Properties (Brookdene Holden Road Ltd) to purchase the public open space at the rear of 71 Holden Road on a 150 year lease subject to planning, a tree maintenance plan and the required legislative advertising as detailed in this and the exempt report.**

1. WHY THIS REPORT IS NEEDED

- 1.1 This report is required to declare the land as surplus to Council's requirements as the Council was approached by the adjoining owner to acquire the land to complement their development on the frontage land. The land is landlocked and not capable of being accessed for maintenance or the public except by fording the brook, which is not practical. The land has not been maintained and has therefore accrued a maintenance liability which if retained will need to be addressed in the future.
- 1.2 To enable the sale of a long leasehold for 150 years of an area of Public Open Space, thereby retaining an element of control over the management of the woodland.
- 1.3 To agree the terms of the call option for the disposal of the long leasehold interest in the land to include the payment of a non-refundable deposit. The option will be secured for a period of two years to enable planning consent to be obtained. The development proposal is to be for no more than 45 units and if this is exceeded, a claw back provision is to be provided.
- 1.4 The financial details are provided in the exempt report

2. REASONS FOR RECOMMENDATION

- 2.1 To secure a capital receipt from an area of currently un-useable Public Open Space.
- 2.2 The disposal by means of a long lease ensures the Council retains limited control over the future of the site and preserves the visual impact of the woodland.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Retaining the site to preserve the visual amenity but this will incur continuing maintenance liability.
- 3.2 Selling the freehold interest in the land. It is considered that a long leasehold would allow an element of control over the on-going use of the land.

- 3.3 Purchasing a right of way from the developer to provide access from Holden Road. This will incur continuing maintenance liability in addition to the premium for securing a right of way.
- 3.4 Fording the brook or constructing a bridge was considered but it is believed it would not be sufficient reason not to dispose of the site. Providing a bridge would provide access for maintenance at a cost, which would be substantial in relation to its potential use. No maintenance had been carried out and the woodland is in a neglected state. The most economical solution is to dispose of the site by way of a long lease.
- 3.5 Advertising the land in the Open Market. The value of the land will only be achieved by developing the frontage land. In addition there is no practical access to the site except through the frontage site. As a result it was considered that the market for the site is limited to the frontage.

4 POST DECISION IMPLEMENTATION

- 4.1 Advertising under sec 123 (2A) of the Local Government Act 1972, the proposed disposal must be advertised for two consecutive weeks in a newspaper circulating in the area in which the land is situated, with any objections to the proposed disposal being considered by the Council.
- 4.2 HB Public Law to draft the option agreement
- 4.3 Agreeing a tree maintenance plan for the site.
- 4.4 Monitoring the planning application for the development of No. 71 Holden Road.
- 4.5 Monitoring the lease to ensure covenants and the maintenance plan are carried out by the tenant.

5 IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Barnet Corporate Plan 2013 to 2016 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. This proposal does this by producing a capital receipt and reducing potential maintenance and management costs

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 Following the acceptance of the Council's proposal there is a financial

contribution for the leasehold disposal of the Public Open Space site as detailed in the exempt report.

5.3 Legal and Constitutional References

- 5.3.1 Local authorities are given powers under Section 123(1) of the Local Government Act 1972 (as amended) to dispose of land held by them in any manner they wish. The proposed sale will be at market value to the adjoining owner who is a special purchaser as he controls access to the council's land.
- 5.3.2 The Council Constitution, The Management of Asset, Property and Land Rules, Appendix 1, Table A sets out the authorisation thresholds which provides authority for the action proposed to be taken. Paragraph 8.1 states that 'the method by which an Asset is acquired or disposed of should be based upon market testing to ensure that Best Consideration is obtained wherever possible as there is only one possible purchaser an independent valuation will be sought.'
- 5.3.3 Legal Services commented upon the contents of the Official Copy of Title and information collated from the Council's deeds. The Mayor and Burgesses of the London Borough of Barnet possess the Freehold Title of the Land with Title Absolute and the title does not stipulate how the land should be held nor is there any fetter on the council's power to dispose (other than complying with the requirements of sec 123 LGA 1972 noted in paragraph 5.3.5).
- 5.3.4 The land comprises public open space. The advertising requirements for the disposal of open space pursuant to S.123 (2A) of the Local Government Act 1972 apply to the grant of an option. The proposed option must be advertised for two consecutive weeks in a newspaper circulating in the area in which the land is situated, with any objections to the proposed disposal being considered by the Council. The advertisements in accordance with the statutory requirements should provide for a period of four weeks from the date of the first public notice for any objections to be made.
- 5.3.5 If any objections are made to the option then they will have to be considered by the Committee before the option is granted. If no objections are received the option may be granted and the Committee should be advised at the next opportunity.

5.4 Risk Management

There are no risks in granting an option to sell the leasehold interest in the land for a period of two years as the risks will occur during the option period. The two risks, which impact on the corporate plan are as follows

Public objection to the sale of green space – this is a project risk which could prevent the eventual disposal if objections are raised. The nature of the risk is financial as it will prevent the sale.

The land needs to be advertised under the requirements of S123(2A) of the Local Government Act 1972 and if objections are raised and the public outcry is great then it could jeopardise the sale. The situation may be mitigated for if objections are raised the Council has the ability to review the situation. In addition the public have an opportunity to voice their opinion when the development proposal is submitted for planning consent.

Obtaining satisfactory planning outcome, - The main condition of the option is obtaining satisfactory planning consent on the adjoining site and if this is not granted the sale will not proceed. This is a financial project risk, which will terminate the activity

5.5 Equalities and Diversity

- 5.5.1 Any completed development will be marketed so it will be open to any category(ies) of person(s) to submit a bid, irrespective of race, sex, disability, sexual orientation, marital status, transgender, age, religion or religious belief. Further, the Council's Equalities Policy and Scheme take account of the Council's statutory duty to eliminate discrimination and inequality amongst persons of different race, gender and disability and to promote equal opportunities amongst persons of different race, gender and disability. The proposed disposal will be evaluated against the principles in the Equalities Policy and no adverse implications for any, specific, equalities group has been identified.

5.6 Consultation and Engagement

- 5.6.1 None.

6 BACKGROUND PAPERS

- 6.1.1 None.

Appendix 1

Plan 1

