

	Assets Growth and Regeneration Committee 07th September 2015
Title	Land to the rear of 71 Holden Road, North Finchley, N12 7DR
Report of	Chief Operating Officer
Wards	Totteridge
Status	Public
Urgent	No
Key	Yes
Enclosures	Appendix A - Representations Appendix B - Summary of most frequently asked questions Appendix C – Fact sheet summary Appendix D – Councillors queries Appendix E - Plan
Officer Contact Details	Chris Smith – Head of Estates Chris.Smith@barnet.gov.uk Glenn Miller – Director of Estates and Valuation Glenn.Miller2@capita.co.uk Jeremy McDermott– Registered Valuer Jeremy.McDermott@barnet.gov.uk
Summary	
<p>On the 15th of December 2014, the Assets Growth and Regeneration Committee (ARG) considered and approved a decision relating to the disposal of the rear of 71 Holden Road North Finchley N12 7DR on a long lease subject to planning, a tree maintenance plan and advertising in the local paper.</p> <p>As a result of statutory public open space public consultation and advertising under Sec 123 (2A) of the Local Government Act 1972, representations have now been received and are reported to herein in the report which is being brought to the Committee for consideration. (See appendix A)</p> <p>The Committee is now requested to consider the representations of the public consultation and to ratify the Committee’s decision of the 15th of December.</p>	

Recommendations

That the committee

- 1. Consider the objections received.**
- 2. Declare the land as surplus to the Council's requirements.**
- 3. Approve the granting of a two year call option to HGS Properties (Brookdene Holden Road Ltd) to purchase the public open space land at the rear of 71 Holden Road on a 150 year lease subject to planning, and a tree maintenance plan. A condition of the lease will be that the public are afforded access to the amenity land**
- 4. Delegate authority to the Chief Operating Officer in consultation with the Chairman of the Assets Regeneration and Growth Committee to negotiate and finalise the terms of the Lease including the 2 year call option**

1. WHY THIS REPORT IS NEEDED

- 1.1 This report is required to consider the representations and objections received following advertising under Sec 123 (2A) of the Local Government Act 1972.

2. REASONS FOR RECOMMENDATIONS

- 2.1 Following the meeting of the 15th of December 2014 Public consultation was undertaken under section 123(2) of the Local Government act 1972.
- 2.2 The Council received 63 objections predominantly relating to the opposition to the disposal of the land which are detailed in (Appendix A)
- 2.3 Officers provided responses by way of answers to their specific questions and a summary of the frequently asked questions was also provided and is attached in (Appendix B). The answers supplied have mitigated these objections and explained how the Public will benefit from the proposed disposal.
- 2.4 There is also a clause in the prospective lease that the land will remain accessible to the public.
- 2.5 The disposal by means of a long lease ensures that the Council retains limited control over the future of the site and preserves the visual impact of the woodland. This evidenced by previous transactions such as:
 - Noah's Ark Hospice Byng Road - A long lease was granted for 125 years from July 2010 for the land to managed by the wildlife trust.
 - Land at the rear of 258 -280 Long Lane Finchley N3 2RN (Long Lane Pastures) - A twenty five year lease as a nature reserve
 - Former disused railway line Bunns lane & Deans Lane - A twenty five year term granted from 1988
 - Totteridge fields - A twenty five year term was granted from January 2002 to manage as a nature reserve.

- Oakhill Woods - A five year licence was granted effective from April 1999 thereby on a year to year basis thereafter.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Retaining the site will incur a continuing maintenance liability or further deterioration would occur. The opportunity presented to the Council allowed a disposal to take place with the Council still retaining control by way of a long lease.
- 3.2 **Selling the freehold interest in the land.** This was rejected because it is essential that the council retain reasonable control over the on-going use of the land, which giving up the freehold would not provide
- 3.3 **Purchasing a right of way from the developer to provide access from Holden Road.** This was rejected because it would mean the council would incur continuing maintenance liability in addition to the premium for securing a right of way.
- 3.4 **Fording the brook or constructing a bridge.** Providing a bridge would provide access for maintenance at a cost, which would be substantial in relation to its potential use. We also looked at the complexities of this and there are a number of obstacles to be overcome principally regarding rights of way. 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 it is not that easily accessible except through the frontage site which is trespassing or fording the brook. Therefore the disposal of the land would be of limited interest except to a special purchaser.

4. POST DECISION IMPLEMENTATION

- 4.1 HB Public Law to draft the option agreement.
- 4.2 Agree a tree maintenance plan for the site and public access and right of way over the land
- 4.3 Monitoring the planning application for the development of No. 71 Holden Road.
- 4.4 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 Council's Corporate Plan 2015-20 states that the Council, working with local, regional and national partners, will strive to ensure that Barnet is a place:
- Of opportunity, where people can further their quality of life
 - Where people are helped to help themselves, recognising that prevention is better than cure
 - Where responsibility is shared, fairly and
 - where services are delivered efficiently to get value for money for the taxpayer.
- 5.1.2 Disposing of this land by way of a long lease will help meet these objectives by obtaining a significant capital receipt and improving the access rights and maintenance of a largely inaccessible parcel of amenity land.

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

5.3 **Social Value**

- 5.3.1 There are a number of benefits from the proposal:
- A condition of the 150 year lease will protect the area from development and removes the liability of the land from the (LBB) and hence the rate payers.
 - The land will be managed through an agreed Woodland Management Plan to improve its ecological contribution including clearing brambles, putting up signs, bat and bird boxes.. This would be part of the Section 106 Planning Agreement.
 - The Council will be given a right of access to the remaining woodland which they currently have no access rights.
 - At pre-application stage, it was agreed that the following would be sought through the Section 106 process, acknowledging also that a Capital infrastructure payment would be substantial as a result of this development:
 - Affordable housing provision, either on site, off site or in the form of a commuted payment and a contribution towards employment and training

5.4 **Legal and Constitutional References**

- 5.4.1 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.
- 5.4.2 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 which has now been undertaken)
- 5.4.3 Council Constitution, Responsibility for Functions, Annex A – The Assets, Regeneration and Growth Committee has responsibility for "Asset Management – all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.

5.4.4 The Council Constitution, The Management of Asset, Property and Land Rules, Appendix 1, Table A sets out the authorisation thresholds and requires the disposal of an asset to be authorised by the Assets Growth and Regeneration Committee.

5.5 Risk Management

5.5.1 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.

5.5.2 The risk that impact on the corporate plan is obtaining satisfactory planning outcome.

5.5.3 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

5.6 Equalities and Diversity

5.6.1 The 2010 Equality Act outlines the provisions of the Public Sector Equalities Duty which requires Public Bodies **to have due regard** to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people from different groups.
- Foster good relations between people from different groups.

5.6.2 This will be done at design concept and prior to build by assessing the impact of our actions on different groups in Barnet including those identified in equality legislation as protected characteristics, namely: age, disability, gender, gender reassignment marriage, civil partnership, pregnancy, maternity, sexual orientation, religion or belief

5.7 Consultation and Engagement

5.7.1 The matter went to public consultation and representations are included in Appendix A. Councillors have also been afforded the opportunity to visit the site at a predetermined date and case workers will be available to answer any queries they may have.

5.8 Insight

5.8.1 As stated previously the matter went to public consultation and the representations are included in Appendix A. We also have summarised the main body of the representations into six standard question and answers which are also enclosed in appendix B and a fact sheet in Appendix C. In addition Councillors were also consulted (see Appendix D)

6. BACKGROUND PAPERS

6.1 Assets Growth and Regeneration report of the 15th December 2014: <https://barnet.moderngov.co.uk/documents/s19829/ARG%20Public%20Report%2071%20Holden%20Road%20-%20Publish.pdf>