



## Assets, Regeneration and Growth Committee

16 September 2019

**Title**

**Daws Lane Community Hub update –  
Timescales to Progress hub at 80  
Daws Lane**

**Report of**

Cllr Richard Cornelius

**Wards**

Mill Hill

**Status**

Public

**Urgent**

No

**Key**

No

**Enclosures**

Appendix 1: Milestones for NW7 Hub

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### Summary

The Council received a proposal from NW7 Hub in 2015 to develop an unused building (80 Daws Lane) into a combined community hub and partnership library. Given the passage of time, this report proposes an extension to the original agreed timescales and a number of new milestones, to ensure the development maintains good momentum.

### Officers Recommendations

1. To confirm the Committee's approval of the revised programme and milestones, as outlined in Appendix 1, to ensure that the development is completed by 1 March 2025

2. To confirm that the Committee shall require that any agreements and consents which the Council enters into for NW7 to develop the 80 Daws Lane site, should include appropriate provisions to terminate the same in the event that NW7 Hub should be unable to meet any of the milestones detailed in Appendix 1.

## **1. WHY THIS REPORT IS NEEDED**

- 1.1 This report provides an update on progress with the development of the Daws Lane community hub so committee members can make informed decisions.
- 1.2 The existing building at 80 Daws Lane is in need of significant investment, and the Council received a proposal in 2015 from a community group (NW7 Hub, charity number 1171742) to demolish and re-build this as a community hub, managed by the community for the community. This was reported to the Assets, Growth and Regeneration committee on 30 November 2015.
- 1.3 Subsequently, the Council worked with NW7 Hub to design a hub and refine project costs. The outcome of this exercise was reported at committee on 12 December 2016. at which the committee approved in principle that the Council should enter into a development agreement with NW7 to include the grant of a 125-year lease on completion of the works at nil rent and, subject to NW7 obtaining all relevant statutory consents, including planning consent, for their proposals.
- 1.4 Committee approval on 12 December 2016 was conditional on the NW7 Hub completing the works to the new hub by the 1<sup>st</sup> January 2022. Since the publication of that committee report, NW7 Hub have focused on establishing themselves in the locality and identifying community need but they have not yet substantially fund-raised. They have however recently submitted a planning application (19/3129/FUL). Consequently, the contract documents have not been progressed.
- 1.5 As a result, 80 Daws Lane has been maintained as a vacant asset, protected by property guardians, for approximately four years. This report therefore recommends a number of revised milestones for NW7 Hub to now meet, in order to maintain momentum and ensure timely progress is made on developing the hub.
- 1.6 The recommended milestones and associated timescales are detailed in Appendix 1.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 The Committee's approval to the revised milestones is recommended, in order for the Council to better be able to track progress towards the realisation of a new hub at 80 Daws Lane and to be able to take alternative decisions by way of mitigation should plans for the hub falter or change.
- 2.2 The most recent ARG committee report (12 December 2016) on this matter stated that in the event that works are not completed by the 1st January 2022, the Council will decide the future direction of the site. As NW7 Hub has not yet been in a position to begin fundraising in earnest, it is highly unlikely that this deadline will be met so, understanding

the complexities involved in fundraising and delivering a project of this scale, it is recommended that a time extension is granted to the group, as outlined in Appendix 1.

- 2.3 It is also recommended that, if NW7 Hub are unable to meet any one of the milestones as outlined in Appendix 1, the site at 80 Daws Lane the Council has sufficient control in respect of the overall arrangements including the site to mitigate the effects of this. This is to ensure that 80 Daws Lane can be developed for the good and benefit of the locality.

### **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 The Council could choose not to define milestones for NW7 Hub to adhere to when developing the new hub. This is not recommended as lessons learnt from the previous experience is that this provided insufficient assurance for the Council that plans for the hub were progressing, as had been hoped that they would.
- 3.2 The Council could choose not to give a further opportunity to NW7 Hub to develop 80 Daws Lane and could plan to develop the site in 2022 on the assumption that development by NW7 would not be accomplished. This is not recommended as it is not in the spirit of what was originally intended and therefore revised milestones are proposed.

### **4. POST DECISION IMPLEMENTATION**

- 4.1 NW7 Hub has already submitted a full planning application for the new hub at 80 Daws Lane in June 2019 (19/3129/FUL). The Council will need as landowner to approve the scheme. The Council will expect that the Planning Permission including any Resolution to Grant once granted is the permission that is then implemented. NW7 Hub will inform the Council of fundraising progress every six months from 1 Mar 2020. Therefore, progress updated from NW7 will be required on:

- 1 Mar 2020
- 1 Sep 2020
- 1 Mar 2021
- 1 Sep 2021
- 1 Mar 2022

- 4.2 Within two years of NW7 obtaining planning consent which as stated above will include any Resolution to Grant, NW7 fundraising must be complete and a business case developed by the group, for ARG Committee to review and approve, in order for the Council to confirm the financial viability of the scheme and its deliverability as well as NW7 hub being able to demonstrate that it will be able to comply and continue to comply with its obligations in the proposed lease once granted. Any future report, brought to this Committee would also then seek approval for the scheme to progress, assuming the business case was sound and would also seek approval as to the in principle terms for the development agreement and ground lease for 80 Daws Lane to enable these to be finalised. In accordance with the project milestones both parties are to then complete the development agreement within 6 months of the ARG committee approval but definitely no later than 1 August 2022.

- 4.3 The development agreement will contain appropriate terms to reflect the requirements of the transaction and a future ARG Committee will need to authorise and approve the

Heads of Terms as well as the Council entering into and completing the formal documents. The Council will expect to receive the normal protections under any building contract entered into between NW7 and its preferred contractor in relation to the build. The Council will be seeking to retain its land interest until such time as the development is complete and certified as being practically complete and will then grant the 125 year lease. It is envisaged that the extent of the land to be included in the lease will be the same as the present footprint of the building. It is intended that the lease will contain a number of covenants such as:

- a requirement that the NW7 Hub maintain its charitable status;
- a prohibition on assigning the lease to any organisation but only to the trustees from time to time of NW7.
- the library area being preserved for use throughout the term as a library facility.

4.4 The Development Agreement and Lease shall be drafted by HB Public Law.

4.5 Contractor mobilisation to take place with a view to a meaningful start on site taking place by 1 March 2023. Construction must then be complete by 1 March 2025.

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

5.1.1 The Council's Corporate Plan 2019-24 states that the Council will focus on the strengths of the community and what they can do to help themselves and each other. This will be delivered through encouraging individual and corporate volunteers to help build active communities and supporting the voluntary, community and faith sector to build capacity for meeting the needs of residents.

5.1.2 The grant of this lease will support the corporate plan by bring an asset into use and assist the prospective tenant's long term business plan.

5.1.3 By committing to timescales, progress on the development of the hub will be better monitored and momentum should be maintained.

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

5.2.1 All costs related to the procuring of planning permission and the site's subsequent development will be borne by the NW7 Hub.

5.2.2 Subject to NW7 adhering to the milestones detailed in this report, the council will provide up to a £1m (index linked) contribution for the provision of a partnership library within the proposed building to be constructed on the site in line with the Strategic Outline Case approved in November 2015 and subsequently by Policy and Resources Committee. This sum includes fit out costs (including IT) and re-location of the library costs.

### **5.3 Social Value**

5.3.1 Further information about NW7 hub can be found on the Charity Commission website (charity number 1171742).

### **5.4 Legal and Constitutional References**

- 5.4.1 Local authorities are given powers under Section 123 of the Local Government Act 1972 (as amended) to dispose of land held by them in any manner they wish. S 123(2) states that except with the consent of the Secretary of State a council cannot dispose of land, other than for the grant of a term not exceeding seven years, for a consideration less than best that can reasonably be obtained. A general disposal consent dated 2003 allows Councils to dispose of land at less than best where such undervalue does not exceed £2 Million and the proposed disposal would be for the social, environmental or economic well-being of the residents of the Borough. Any undervalue which exceeds £2 million must be authorised by a specific ministerial consent.
- 5.4.2 The Council Constitution, Article 10- Decision Making –The Management of Asset, Property and Land Rules, Appendix 1, Table A – states that any less than best transaction must be reported to and authorised by this Committee.
- 5.4.3 The Council’s Constitution, Article 10 - Decision making, Table A sets out the authorisation thresholds and delegated powers of officers for land and property transactions. Financial arrangements of up to £181.302 can be approved by an officer with the delegated authority as per the Council’s scheme of delegations. Unless it is for the disposal of land or property for a less than best transaction, in which case it must be reported to the Assets, Regeneration and Growth Committee.
- 5.4.4 Under the Green Belt (London & Home Counties) Act 1938, having regard to the requirements of section 5, the grant of the lease may need the consent of the Secretary of State and should this be the case, advertising of the site will be required and any responses will need to be conveyed to the Secretary of State. The consent of the Secretary of State is also needed for the construction of buildings on green belt land and this will need to be reflected in the development agreement.

## **5.5 Risk Management**

- 5.5.4 NW7 Hub’s planning application may receive local objections due to loss of green belt and or public space. Responsibility for mitigating this risk sits with the NW7 Hub, who are envisaged to undertake all necessary pre-application engagement with the Local Planning Authority and other statutory planning consultees.
- 5.5.5 In order to mitigate the low risk of the project not progressing within agreed timescales, and particularly to ensure that the planning permission does not lapse, a clause shall be inserted within the legal agreements that requires NW7 to undertake a meaningful start on site, on or before 1 Mar 2023 and before the expiration of any planning permission. This is also reinforced by a sensible longstop date for practical completion of the scheme, see appendix 1.
- 5.5.6 A “meaningful start on site” is to be defined as a “material operation” as per the Town and County Planning Act. This is defined as the following:
- any work of construction in the course of the erection of a building;
  - any work of demolition of a building;
  - the digging of a trench which is to contain the foundations, or part of the foundations, of a building;
  - the laying of any underground main or pipe to the foundations, or

part of the foundations, of a building or to any such trench

- 5.5.7 Part of the NW7 Hub funding strategy to finance their build programme is to raise funding from a Charitable/ Social Bank. If the repayment terms of the loan were not met by the NW7 Hub, the lender would have recourse to take possession of the land and sell the lease. The Council would seek to mitigate this by the inclusion of a pre-emption right (see section 5.5.8) if appropriate. This presents a risk to the Council that the new tenant might not carry out the business case objectives, as agreed by Committee and the perceived community benefit offered, from the site could be limited. This is mitigated by the likely planning constraints placed against the land limiting it to community (D1) usage by the Council's control of use via the user clause in the lease.
- 5.5.8 Further to this, given the nature of this lease the Council would seek to have a right of pre-emption to allow the Council the opportunity of having the lease vested in itself. This is envisaged to be required in the event of NW7 Hub defaulting on any loan repayments secured against the land and the lender seeing to take control of the lease.
- 5.5.9 It should be noted however, such charging is common place on commercial ground leases where an effective premium is being paid for a site, the premium in this case being the cost of the works albeit that it should be recognised that the Council will not be charging rent for the life time of the lease and will be effectively at least part subsidising the works.
- 5.5.10 If NW7 Hub fail to raise sufficient funding (£2.5M, as well as demonstrating there are sufficient contingency funds if the hub goes over budget), the group will not be able to deliver the hub, and the Council will not proceed with the lease and development agreement. NW7 Hub will inform the Council of fundraising progress every six months from 1 Mar 2020. If NW7 fail to raise sufficient funding, the scheme will not progress, and the 80 Daws Lane site will be developed by the Council.
- 5.5.11 If the milestones in Appendix 1 are not approved, there may be further delay in the development of the hub, which would not be in the public's interest as the current building is derelict.

## **5.6 Equalities and Diversity**

- 5.6.1 Under the 2010 Equality Act, the Council must have due regard to the need to: a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; b) advance equality of opportunity between those with a protected characteristic and those without; c) foster good relations between those with a protected characteristic and those without. The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy and maternity; race; religion and belief; sex; sexual orientation. It also covers marriage and civil partnership with regards to eliminating discrimination.
- 5.6.2 The Council will undertake a full Equalities Impact Assessment and the scheme and milestones will take the result of any such assessment into account with any necessary amendments being brought back to a future meeting of this Committee. However, no immediate equality impacts are anticipated as a result of this proposal.

## **5.7 Corporate Parenting**

5.7.1 N/A.

## **5.8 Consultation and Engagement**

5.8.4 Ward councillors and NW7 hub have been consulted in developing these milestones.

### **5.8 Insight**

5.8.1 In developing these milestones, progress demonstrated by NW7 Hub was taken into account.

## **6 BACKGROUND PAPERS**

6.4 Daws Lane Community Hub – Strategic Outline Case (30 Nov 2015)  
<https://barnet.moderngov.co.uk/documents/s27742/Daws%20Lane%20Community%20Hub%20-%20Strategic%20Outline%20Case.pdf>

6.5 Transfer of Daws Lane, NW7 (12 Dec 2016)  
<https://barnet.moderngov.co.uk/documents/s36609/ARG-Daws%20Lane%20Community%20Hub%20-%20Land%20Transfer%20-final%2012%2012%2016.pdf>