
Meeting	Cabinet Resources Committee
Date	27 September 2012
Subject	99 Year Lease of Land and Garages to the Rear of 7 Victoria Avenue Finchley, N3
Report of	Cabinet Member for Resources and Performance
Summary	Authority is sought to proceed with the grant of a 99 year lease to the Rocking Horse Nursery for a capital premium payment of £50,000 for the land and garages to the rear of 7 Victoria Avenue, Finchley, N3

Officer Contributors	Ashley Wright – Valuer (Property Services)
Status (public or exempt)	Public (with separate exempt report)
Wards affected	Finchley Church End
Key Decision	No
Reason for urgency / exemption from call-in	N/A
Function of	Executive
Enclosures	Drawing No. 24206 – Garages at Victoria Avenue, Finchley N3
Contact for further information:	Ashley Wright, Valuer, Property Services, Tel: 020 8359 7362 ashley.wright@barnet.gov.uk

1. RECOMMENDATIONS

- 1.1 **That the Council grant a 99 year lease to the Rocking Horse Nursery for a capital premium of £50,000 for the area shown edged in red on drawing no.24206 comprising land and garages to the rear of 7 Victoria Avenue, Finchley N3.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 None

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The corporate plan 2012-13 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. The granting of this lease will support the HRA capital programme.
- 3.2 The Council's Estates Strategy 2011-2015 commits the Council to 'providing sustainable, value for money solutions, to enabling high quality service delivery and community activity, at every stage of the property and assets life cycle.' In granting a 99 year lease of the land to the rear of 7 Victoria Avenue, the Council would be driving achievement for the Estates Strategy, contributing to a financially sustainable property portfolio and holding only those assets that are required to deliver the functions driven by our corporate priorities and proactively pursuing opportunities to release and recycle capital and revenue into these priorities.

4. RISK MANAGEMENT ISSUES

- 4.1 The site currently has two garages on it. The garages have no doors and have fallen into disrepair, attracting large numbers of vermin and cats. This is having a detrimental effect on the adjoining properties to the site. The Rocking Horse Nursery have complained that the site attracting vermin and cats has posed health and safety issues for the children who play in the adjacent garden. Additionally, an individual who leases one of the privately adjoining garages has raised similar concerns about the current condition of the site.
- 4.2 The freehold value of the property needs to be considered as an asset within the ownership of the council although the land to be leased is not currently used by 7 Victoria Avenue. The impact of a long lease being granted on this land should be minimal on the overall value of the property. The existing garden (without the land and garages) measures approximately 20 metres in length and 10 metres in width. There is, however, an element of risk that in the event of any future disposal of 7 Victoria Avenue the value achievable in the open market could be affected.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Pursuant to the Equality Act 2010, the council and all other organisations exercising public functions on its behalf must have due regard to the need to: eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; advance equality of opportunity between those with a protected characteristic and those without; promote good relations between those with a protected

characteristic and those without. The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; Sexual orientation. It also covers marriage and civil partnership with regard to eliminating discrimination.

- 5.2 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. By granting this 99 year lease to a nursery, the borough will benefit from having an expanded pre-school education facility.
- 5.3 It is not considered that the proposal will give rise to any issues under the council's Equalities policies and does not compromise the council in meeting its statutory equalities duties.

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

- 6.1 There are no procurement, performance and value for money, staffing, IT or sustainability implications. The property implications are set out in paragraph 9 below.
- 6.2 The financial implications are considered in the exempt report.

7. LEGAL ISSUES

- 7.1 The London Borough of Barnet holds the freehold title of 7 Victoria Avenue which is registered in the council's ownership under title MX304647. Section 123 of the Local Government Act 1972 allows the council to dispose of land in any manner it wishes. However, the ability to dispose of land is not unfettered. Section 123 of the 1972 Act requires the council to dispose of land at the best price reasonably obtainable. This is with the exception of gaining consent of the Secretary of State under the Local Government Act 1972 general disposal consent (England) 2003.
- 7.2 The site is held for housing purposes under Part II of the Housing Act 1985. Section 32 of the 1985 Act provides that a local authority may dispose of land held by them for the purposes of Part II in any manner, but only with the consent of the Secretary of State.
- 7.3 The General Consent for the Disposal of Part II Land 2005 provides local authorities with scope for flexibility without the need to obtain the Secretary of State's specific consent under Section 32 of that Act.
- 7.4 The Legal Department will be instructed to prepare the lease in accordance with signed heads of terms agreed between the parties.

8. CONSTITUTIONAL POWERS

- 8.1 Constitution – Part 3 Responsibility for Functions – Section 3.6 Functions of the Cabinet Resources Committee – All matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.
- 8.2 Constitution, Part 4, 'Management of Real Estate, Property and Land' - Rule 1 - The 'Property Review Process' requires properties to be considered in the context of the

Corporate Plan and Service Key Priorities and their ability to deliver continuing value for money for the council.

- 8.3 Constitution, Part 4, 'Management of Real Estate, Property and Land' - Rule 2 - Provides that where property is no longer required by the Council then the procedures set out in the remainder of the Rules will be followed for the disposal of the property.
- 8.4 Constitution, Part 4, 'Management of Real Estate, Property and Land' - Rule 18 - Provides that upon a disposal by private treaty the Director or designated officer shall be responsible for:-
- (i) Taking all necessary steps to determine the level of potential interest from prospective purchasers and to identify any parties who might wish to purchase the property.
 - (ii) Determining how the negotiations for each potential disposal by private treaty are to be conducted and setting the process out in writing.
 - (iii) Ensuring that full and reasonably contemporaneous records are made of all negotiations and that those records are appropriately stored either by hard copy or electronic means.
 - (iv) Upon the conclusion of negotiations reporting the results to the relevant body or Cabinet Member for consideration or where it is appropriate to do so for consultation with the Cabinet Member
 - (v) Ensuring that full enquiry is made as to the identity of the recommended purchaser and that the relevant information is clearly set out in the report referred to in (iv) above.

9. BACKGROUND INFORMATION

- 9.1 The London Borough of Barnet holds the registered freehold title in the site including the hostel building at 7 Victoria Avenue. There are no legal restrictions affecting the disposal of the leasehold interest in the land. A right of way is reserved in the title of 7 Victoria Avenue to pass and re-pass between 1 Victoria Avenue and 3 Victoria Avenue along a passageway which leads directly to the site. This provides vehicles with a means to access the site directly.
- 9.2 The site measures a total of 150 square metres. On the site are two garages- a single garage (3.5 x 6 metres) and a double garage (4.5 x 6 metres). The garages had previously been licensed to an individual in the 1990s on an annual rolling agreement. For over ten years they have remained unmaintained with no formal agreement regulating their use. Two disused cars were present in the garages for a number of years; however, these were removed in early 2010. This prompted a review of the use of these garages.
- 9.3 Following consideration on future options for the garages and the site, it was decided to pursue the possibility of a short term letting to generate some income. In January 2011 expressions of interest were invited for leasing the garages for up to 10 years. The rental being sought was £1000 per annum for the larger garage and £800 per annum for the smaller garage. Any agreement was to factor in lessee costs of refurbishment (door replacement, making the property wind and water tight and clearance/fumigation). It was anticipated that a large rent free period would need to be offered in order to justify these costs. This period was estimated to be around 5 years (half the length of the lease on offer).

- 9.4 The period of marketing generated a small degree of interest. However, enquiries as to the freehold sale of the site were far more common than those relating to the letting. Following advice from the council's Asset Management team that the garages should be demolished given the risk that they posed from a health and safety perspective, marketing for a lease of the garages was put on hold in March 2011.
- 9.5 Following legal confirmation that there were no other rights affecting the land, it was decided that the site should be marketed for a freehold sale. A sale would remove the council's management obligations and provide financial support for the HRA capital programme. Having contacted a number of prospective purchasers who had previously made contact over the possibility of a sale, freehold bids were submitted for the site. The uses that were being proposed were varied and, following a further meeting between Property Services, Housing and Regeneration, it was decided that a 99 year lease should be offered to ensure that a greater degree of control would be maintained over the site instead of an outright sale of the freehold interest.
- 9.6 The council's website was updated to reflect the fact that offers for a 99 year lease were now being considered. In addition, the property was marketed in 2 local newspapers as well as the details being sent out to the contacts on the Property services enquiry database. Therefore a full marketing exercise has taken place over a period of more than 2 months.
- 9.7 The Rocking Horse Nursery submitted their bid of £50,000 for the 99 year lease within this marketing period. They are the occupiers of 5 Victoria Avenue which is the adjacent property. They propose to demolish the garages and build an additional classroom on the site which will have access from the rear of their garden. The Planning department has indicated that planning consent is likely to be granted for the proposed use. The strength of the Rocking Horse Nursery bid is that they have offered the highest amount of money and will not require the use of the access road to the rear as their only means of accessing the site. This will also minimise disturbance to local residents whose properties adjoin this route. Based on the aforementioned factors, I am recommending that authority is sought to proceed with this bid.
- 9.8 Details of the offers received are detailed in the accompanying exempt report.

10. LIST OF BACKGROUND PAPERS


10.1 None

Cleared by Finance (Officer's initials)	JH
Cleared by Legal (Officer's initials)	JK

Plan



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Prepared by A.W.	SCHEME: GARAGES AT VICTORIA AVENUE FINCHLEY, N3	Craig Cooper, Commercial Director.	
Drawn by K.E.B.	TITLE:	London Borough of Barnet, North London Business Park, Oakleigh Road South, New Southgate, London, N11 1NF. Tel. 020 8309 2000	DRAWING No.
Checked by A.W. Date 08/11/10	LOCATION PLAN Scale 1:1250		24208