

	<h2>Cabinet</h2>
<p style="text-align: center;">Title</p>	<p>Land Exchange at Church Farm/Oak Hill School and provision of new workshop building</p>
<p style="text-align: center;">Date of Meeting</p>	<p>16th April 2024</p>
<p style="text-align: center;">Report of</p>	<p>Councillor Barry Rawlings – Leader of the Council and Cabinet Member for Resources & Effective Council</p>
<p style="text-align: center;">Wards</p>	<p>East Barnet</p>
<p style="text-align: center;">Status</p>	<p>Public</p>
<p style="text-align: center;">Key</p>	<p>Non-Key</p>
<p style="text-align: center;">Urgent</p>	<p>No</p>
<p style="text-align: center;">Appendices</p>	<p>Appendix A – Plan of land to be exchanged Appendix B – Plan and elevations of proposed workshop Appendix C – Workshop section</p>
<p style="text-align: center;">Officer Contact Details</p>	<p>Andrew Cadge, Estates Surveyor andrew.cadge@barnet.gov.uk</p>
<h3>Summary</h3>	
<p>The council is to swap a small parcel of land at Oak Hill School/Church Farm with Church Farm Barnet Ltd ('CFBL') for a consideration of £45,500 including covering the council's fees. The developer will be under an obligation to construct a new workshop building for the school to an agreed specification in advance of the land swap completing. The cost of this provision and any council fees paid for by CFBL will be deducted from the agreed price, with an expectation that there will be no balance payable upon completion.</p>	
<h3>Recommendations</h3>	
<ol style="list-style-type: none"> That Cabinet approves this land exchange with Church Farm Barnet Ltd and the provision of a workshop building for Oak Hill School; and approves the Council entering into an Agreement for sale, Land Transfer and any other relevant documentation on this transaction. 	

1. Reasons for the Recommendations

- 1.1 The council sold its freehold interest in land at Church Farm, Church Hill Road, EN4 8XE to Church Farm Barnet Ltd ('CFBL') in 2022. It previously operated as Church Farm Leisure Centre;
- 1.2 This land is adjacent to the council's freehold interest of Oak Hill School ("Academy"), Oak Hill Campus, Church Hill Road, EN4 8XE which is let to Oak Hill School (an Academy) on a tenancy at will. It is intended that a lease for 125 years is completed as expected where a school has converted to an academy;
- 1.3 Following completion of the purchase, CFBL submitted a planning application for the development of 9 houses (23/3951/FUL). Consent was granted in December 2023 subject to various conditions;
- 1.4 CFBL then proposed a land swap with the council which would straighten up the boundary and provide an improved layout to the 8th house. Blue land is school land to be taken by CFBL (44m²) and green land is to be taken by the council (6 m²), resulting in a net loss of 38m² to the council;



- 1.5 The new boundary would cut through an existing garage on the school grounds. As the blue land would form part of the development site, significant value for the CFBL, and hence the council, would be created by the proposed swap. Newsteer, chartered surveyors, have advised the council that the land swap is worth approximately £45,500 to CFBL and a price was agreed on that basis. This is considered to be above market value due to CFBL being considered a special purchaser and enabling residential value to be achieved on the swapped land;
- 1.6 The school's headmaster proposed that, in return for its approval to the swap, CFBL should provide a new workshop building (plus tools) to replace the garage so that the school and its pupils benefitted from the transaction;
- 1.7 Heads of Terms were then agreed in which CFBL is under an obligation to provide the new workshop building to an agreed specification. Once completed an insurance backed warranty will be provided by ICW (an independent national warranty provider) at the developer's cost. Solicitors will then complete the land swap thus ensuring that there is no risk that the school will not receive a good quality building;

- 1.8 The cost of the workshop building, provision of ICW warranty and all council fees covered by CFBL will be deducted from the purchase price. It is anticipated that there will not be a surplus payable to the council upon completion;
- 1.9 CFBL will cover:
- HBPL legal fees – capped at £6,500 + VAT;
 - Newsteer Advice and Valuation fee - £4,000 + VAT;
 - Halsteads Building Surveyor - £1,500 + VAT;
- 1.10 CFBL will tender to a minimum of 2 third party contractors to build the workshop to support best value being achieved. The planning application was amended to include plans for this Workshop building so consent has already been granted;
- 1.11 The design and specification has been approved by Halsteads Building Surveyors. Construction will be monitored by Building Control and practical completion will be signed off as part of the ICW Building Warranty approval process.
- 1.12 The council will not be liable if the build costs and fees exceed the purchase price, except where the Council’s legal fees are exceeded. These are currently anticipated to be £6,500.00, which is within/over the fee coverage agreed by CFBL;
- 1.13 The Secretary of State for Education (‘DfE’) will need to be notified of the disposal of the land that is passing to CFBL. Due to the size of the transaction, approval is probably not required, but if it is, it will be sought. The Headmaster of Oak Hill School has confirmed the Academy’s agreement to the transaction and this has been received in writing. This will be included in the submission to the DfE;
- 1.14 CFBL will be granted a licence to permit entry onto the Academy demise to construct the workshop and erect a boundary fence.

2. Alternative Options Considered and Not Recommended

- 2.1 Do nothing – the net loss of land (38m²) is not material to either the council or the Academy. Although the council is not anticipated to receive any funds upon completion, the Academy will benefit from a ‘fit for purpose’ workshop building to replace a dilapidated garage, thus improving the educational provision;
- 2.2 Agree terms but with the council to build the workshop building – this would require more council officer input to deliver the workshop, a procurement exercise and cost risk.

3. Post Decision Implementation

- 3.1 The agreement and Transfer Deed will be sealed and then exchanged by HBPL;
- 3.2 The Secretary of State for Education will be notified;
- 3.3 When all pre-conditions are satisfied, CFBL will construct workshop building to agreed specification;
- 3.4 Upon completion of the workshop building, it will be inspected and the ICW warranty will be provided. It will be handed over to the Academy along with the specified tools. Then solicitors can complete the transfers for the land swap and Land Registry notified.

4. Corporate Priorities, Performance and Other Considerations

Corporate Plan

- 4.1 The Council's Corporate Plan ("Caring for people, our places and the planet: our plan for Barnet 2023-2026") requires the council to become more financially self-sufficient. The proposed sale aligns with the ambitions of the plan by using the council's assets in a financially efficient manner.

Corporate Performance / Outcome Measures

- 4.2 Not applicable

Sustainability

- 4.3 The workshop building will be constructed to meet current building regulations including insulation/heat loss. Heating will be provided by an Infra-red heater, powered by electricity, which will warm the occupants not the air inside.

Corporate Parenting

- 4.4 Not applicable

Risk Management

- 4.5 This approach mitigates any cost risk to the council of constructing the workshop building;

Insight

- 4.6 Not applicable

Social Value

- 4.7 This workshop will be a new facility for the Academy which will benefit its pupils. The Academy also intends to hire it out to other schools to maximise its use.

5. Resource Implications (Finance and Value for Money, Procurement, Staffing, IT and Property)

- 5.1 The proceeds will exceed the 'market value' of the land in an undeveloped condition, as the parcels are otherwise land-locked and in school use. When this land is swapped and forms part of a residential development, then this additional value is created;
- 5.2 However as the beneficiary of the swap is the Academy, not the council per se, then it could be considered to be a disposal at less than best.
- 5.3 The council is to swap a small parcel of land at Oak Hill School/Church Farm with Church Farm Barnet Ltd ('CFBL') for a consideration of £45,500 including covering the council's fees.
- 5.4 The council's costs will be paid for by CFBL, except if legal fees exceed the £6,500 cap provided.

6. Legal Implications and Constitution References

- 6.1 Part 4B1 – Land and Property Transactions Authorisation and Delegated Powers, Table A sets out that Disposals of property for less than £213,477 require approval by an approved officer,

but disposal of land for less than the best consideration must be reported to and approved by Cabinet.

- 6.2 As to the proposed acquisition part of the swap, under section 120 of the Local Government Act 1972 the Council may acquire by agreement any land for the purposes of (a) any of their functions under the 1972 Act or any other enactment, or (b) the benefit, improvement or development of their area.
- 6.3 Under section 123 of the Local Government Act 1972 the Council may sell its land for the best consideration reasonably obtainable, or with the consent of the Secretary of State, the Council may sell its land for less. Caselaw indicates that in deciding what is best consideration, the only consideration that can be taken into account is that which has commercial or monetary value to the local authority. As the cost of the proposed works is to be deducted from the amount payable to the Council, the works will form part or more likely all of the consideration in this case. It is not clear that such works have commercial or monetary value for the Council, thus this decision is being taken to Cabinet for approval.
- 6.4 The express consent of the Secretary of State is not required where a disposal falls within the Local Government Act 1972: General Disposal Consent 2003, which applies where the Council is of the opinion that the disposal is for the social, economic or environmental wellbeing of the borough, and the value foregone is less than £2 million. It is considered that the Local Government Act 1972: General Disposal Consent 2003 can be relied on in this instance.

7. Consultation

- 7.1 None

8. Equalities and Diversity

- 8.1 Section 149 of the Equality Act 2010 requires that a public authority must, in the exercise of this function, have due regard to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it;
 - The relevant protected characteristics are: age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief sex; sex orientation;
 - The proposal in this case is not considered to have any adverse implications for the purpose of the section 149 duty.

9. Background Papers

- 9.1 None