

**AGENDA ITEM: 8**

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Meeting	Cabinet Resources Committee
Date	21 July 2005
<b>Subject</b>	<b>Former Friern Barnet sewage works site, N10</b>
Report of	Cabinet Member for Resources Cabinet Member for Policy and Performance
Summary	To consider recently arising issues affecting the development potential of the site, and to approve a variation of the terms of the contract to be entered into with B&Q plc.

Officer Contributors	David Stephens, Chief Valuer and Development Manager
Status (public or exempt)	Public with a separate exempt section
Wards affected	Out of Borough
Enclosures	Plans Nos. 1, 2 and 3. Appendices A and B
For decision by	The Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	N/A

Contact for further information: Dave Stephens, Chief Valuer and Development Manager.

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## **1. RECOMMENDATIONS**

- 1.1 That the freehold sale of part of the former Friern Barnet sewage works site proceed as previously approved by this Committee on 28 July 2004, but subject to the variation as set out in paragraph 8.8 of this report.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Cabinet Resources – 20.2.03 – considered a revised acquisition offer from B&Q and approved the following:

That, the previous Cabinet decision be rescinded and approval be given to the freehold sale of approximately 11.2 acres of the [site] to B&Q (or a company within the same group) on the basis set out in the report.

That B&Q be granted licence to enter on to 5.1 acres approximately of the land to carry out decontamination and other site preparation works and that upon completion of these works the Head of Regeneration, working with B&Q, markets the land for freehold sale for B1 development, reporting the offers received to the Cabinet Member for Resources for approval.

That it be agreed that the Council should enter into any Section 106 Agreement required by the London Borough of Haringey in so far as it relates to the B1 or housing development lands subject to the terms being approved by the Cabinet Member for Resources and to the document being in a form approved by the Borough Solicitor.

- 2.2 Cabinet Resources Committee 28.7.04 agreed the following:

Subject to the independent valuer confirming that the offer represents best consideration and to the Cabinet Member for Resources giving final approval under delegated powers on the basis set out in paragraph 5.3 of the report, that the Council enters into a conditional contract with B&Q plc (or a company within the same group) upon the basis set out in the report

The relevant part of paragraph 5.3 said:

... if the independent valuer confirms that the offer does represent best consideration, the final approval to exchanging contracts with B&Q being given by the Cabinet Member for Resources under his delegated powers.

- 2.3 Delegated Powers report of the Director of Economic and Community Development 28.9.04 approved the appointment of Drivers Jonas to carry out the independent valuation.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 The corporate plan commits the council to improved asset and contract management. In line with this the proposals in this report will do this by achieving from the sale of land a capital receipt which can be used to assist in funding the capital programme.

#### **4. RISK MANAGEMENT ISSUES**

- 4.1 The identified risks and their management are set out in Appendix A to this report and in the exempt report.

#### **5. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS**

- 5.1 The previously reported and agreed financial terms are set out in the exempt report.
- 5.2 The Drivers Jonas valuation report confirms that the terms offered by B&Q represent best consideration for the purposes of Section 123 of the Local Government Act 1972. Relevant extracts from that report are set out in the exempt report.
- 5.3 The possibility of a traveller site being provided on land adjacent to the B&Q store will have an impact on the price to be paid for the land as set out in paragraph 8.7 below.
- 5.4 There are no ICT or staffing issues.

#### **6. LEGAL ISSUES**

- 6.1 None.

#### **7. CONSTITUTIONAL POWERS**

- 7.1 Constitution – Part3 Responsibility for Functions – Section 3.6 Functions delegated to 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. BACKGROUND INFORMATION**

##### INDEPENDENT VALUATION

- 8.1 Following the correct procedures, Driver Jonas were appointed to carry out a valuation of the land, an appraisal of the B&Q offer and to confirm whether or not the offer satisfied the requirements of Section 123 of the Local Government Act 1972 for the Council to achieve best consideration.
- 8.2 Drivers Jonas were provided with copies of all committee reports, documents relating to land title, the Bridge Agreement, site contamination data, B&Q offers and scheme costs, road widening plans and other site data. They have produced their report and relevant extracts are included in the exempt report. However, for the purpose for which they were appointed to advise upon, the relevant extract is as follows:

*In our opinion the offer made by B&Q compares favourably with the land deals achieved for out-of-town retail and with our residual value prior to the abnormal costs of site remediation and contribution to the road bridge.*

*Our appraisal based on the information provided .... shows a market value for the site that is in line with the offer of .... from B&Q plc. Therefore it is our opinion that*

*the offer from B&Q plc represents best consideration under section 123 of the Local Government Act 1972.*

## DRAFT CONTRACT

- 8.3 Since the decision of the Cabinet Resources Committee on 28 July 2004 the contract terms have been re-negotiated but matters have been on hold consequent upon the Haringey Unitary Development Plan issues (referred to below). The contract therefore remains in draft but the following are the significant issues:
- i. B&Q will acquire the lands shown blue hatched and blue zigzags on attached plan No.2. Access to this land is via the existing adopted highway (Orion Way) linking the bridge over the North Circular Road with Colney Hatch Lane). B&Q will have licence to go on the other lands shown on the plan remaining within the Council's ownership to carry out the decontamination and other works.
  - ii. The Council will have rights to connect to and maintain services supplies and drainage through the blue zigzag land on plan No.2 and have permanent access rights over it.
  - iii. B&Q will have rights to connect to and maintain services supplies and drainage through the black hatched and black zigzag lands on plan No.2.
  - iv. B&Q must submit a planning application within six months of the exchange of contracts. Completion will be 20 working days after the unconditional date (14 weeks after the grant of planning permission) or 10 days after the agreement of the price (any re-adjustment of the price as agreed subject to the capping limit referred to in the exempt report), whichever is the later.
  - v. The contract termination date is 24 months from the date of exchange unless a planning permission or appeal decision is awaited – but in any event the termination date will not exceed 36 months.
  - vi. If the planning permission is granted subject to unreasonable conditions (specified in the contract) the planning permission can be deemed to be unsatisfactory and the contract can be terminated.
  - vii. The works to the Council's retained lands (as shown on plan No.2) land will be carried out by B&Q, at their expense, in accordance with agreed specifications and within 18 months of the sale of the land shown blue hatched and blue zigzag on plan No.2 to B&Q.
  - viii. The financial terms are set out in the exempt report.

## HARINGEY UDP

- 8.4 The draft Unitary Development Plan (UDP) produced by Haringey originally designated the whole of the former Friern Barnet sewage works site for "Employment and/or a recycling centre or a traveller's site." It is also shown as "Defined Employment Area 6" – further sub-defined as an "Employment Location". Within the text of the UDP it says "The

DEAs (Employment Locations) are where land and buildings are predominantly used for commercial or business activities. Some of these activities fall outside the confines of the “B” class uses .... but nevertheless provide a source of employment and contribute to the local economy. Hence the on-going discussions between B&Q and Haringey planners.

- 8.5 Officers submitted an objection to the Haringey UDP proposals for a traveller’s site on the Friern Barnet sewage works site and in response Haringey removed the reference to the ‘recycling centre’ but not the traveller’s site. Officers maintained this Council’s objection. Haringey made a further variation – it identified only part of the site for a traveller’s site – the approximate position is shown edged red on attached plan No.3 – it has an approximate area of 2.248 acres and Haringey has suggested it could accommodate 24 pitches. It falls within the area of land required by B&Q for its new store.
- 8.6 Officers attended the Haringey UDP public inquiry and presented the objection case. The inspectors decision upon the matter is now awaited but this is unlikely to be available for several months.
- 8.7 Mention was made at the public inquiry of the requirement from Transport for London (TfL) for part of the Council’s land to be reserved for the future widening of the North Circular Road. The latest road proposals bring this into doubt and officers are pursuing this issue with TfL.

#### VARIATION TO THE B&Q OFFER

- 8.8 B&Q has confirmed that it still wishes to pursue the acquisition and development of part of the sewage works site. However, the possibility of a traveller site on part of the land adds a further risk to the proposal. Consequently B&Q wishes to vary the provisionally agreed disposal terms to make the sale conditional upon:
  - i. the proposed traveller site not being upon any part of the land being sold to B&Q; and
  - ii. if a traveller site is to be provided on any part of this Council’s adjoining land, the costs associated therewith (additional security measures or a Section 106 contribution towards its provision) will be deducted from the purchase price.
- 8.9 Of course, once contracts are exchanged B&Q will submit a planning application and will challenge Haringey further on the traveller site issue.

#### OPTIONS

- 8.10 The options available to the Council are set out in Appendix B. It is considered that the most appropriate option is to proceed with the B&Q transaction. If the committee agrees this course the a worst case programme scenario, assuming exchange of contracts on 1<sup>st</sup> September 05, could be as follows:

Sign contracts	1.9.05
Last date for submission of planning application	1.3.06
First termination date (applicable if planning refused and no appeal started or planning granted subject to unreasonable conditions)	1.9.07

Last termination date – applicable whatever happens	1.9.08
Assume acceptable planning permission granted	1.6.06
Agree the reduction in the purchase price – assume no referral to arbitration	1.8.06
Sale completion say	1.11.06
Completion of the works to the Council's retained land	1.5.08

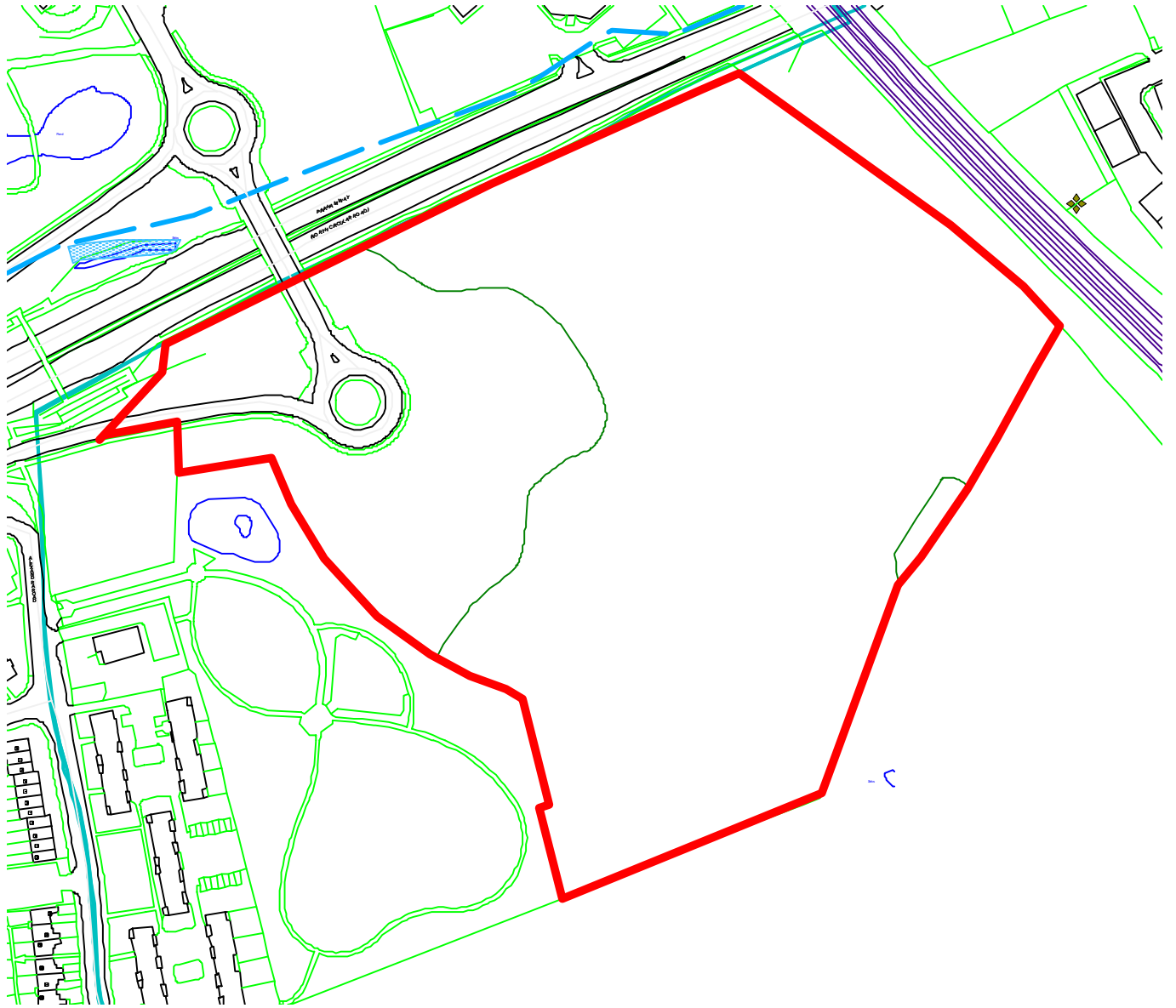
## **8. LIST OF BACKGROUND PAPERS**

8.1 None.

Legal: SWS

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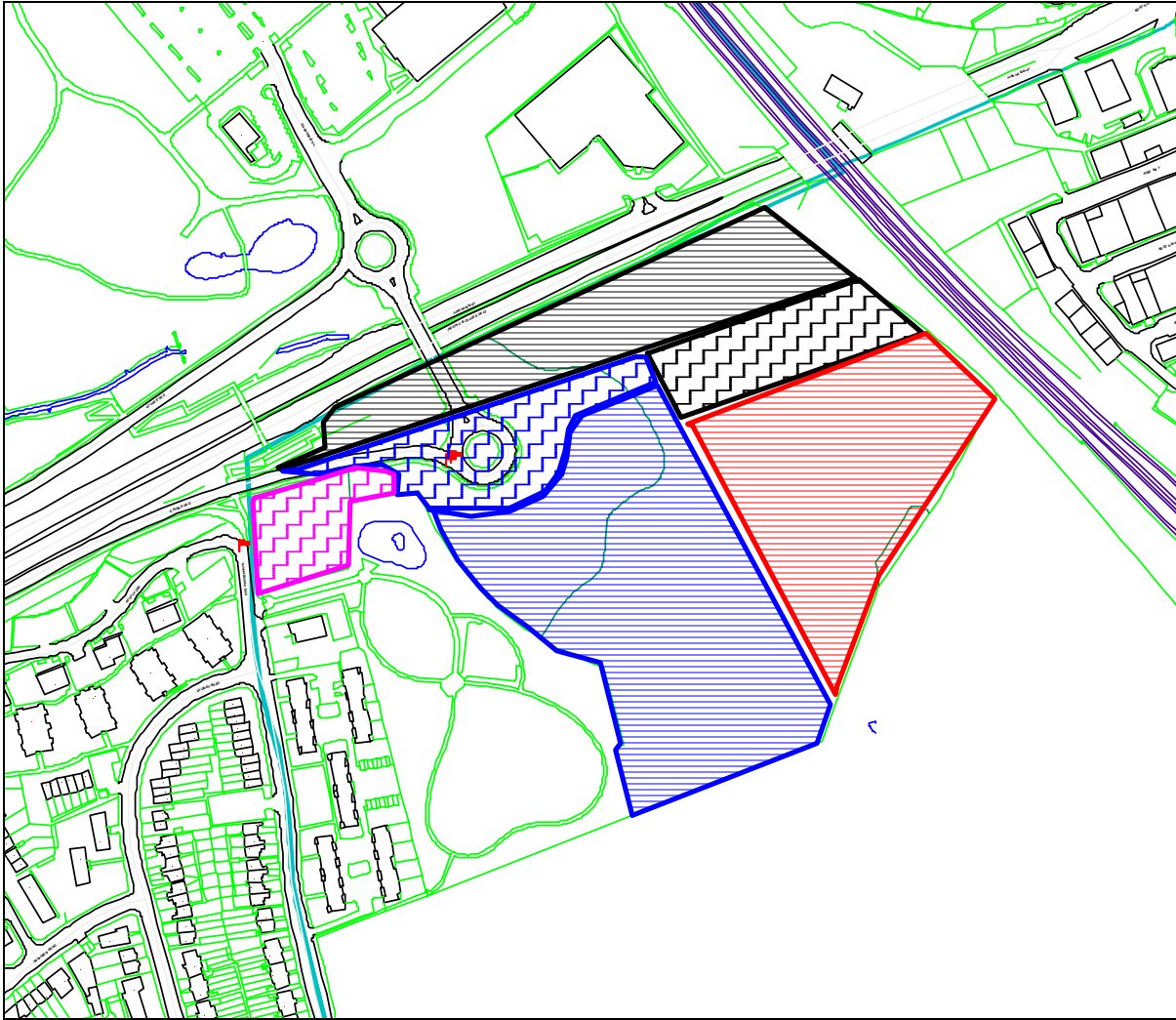
**PLAN No.1 - FRIERN BARNET SEWAGE WORKS SITE (APPROXIMATE BOUNDARIES)**



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NOT TO SCALE

**PLAN No.2 - APPROXIMATE LAND USE BOUNDARIES**



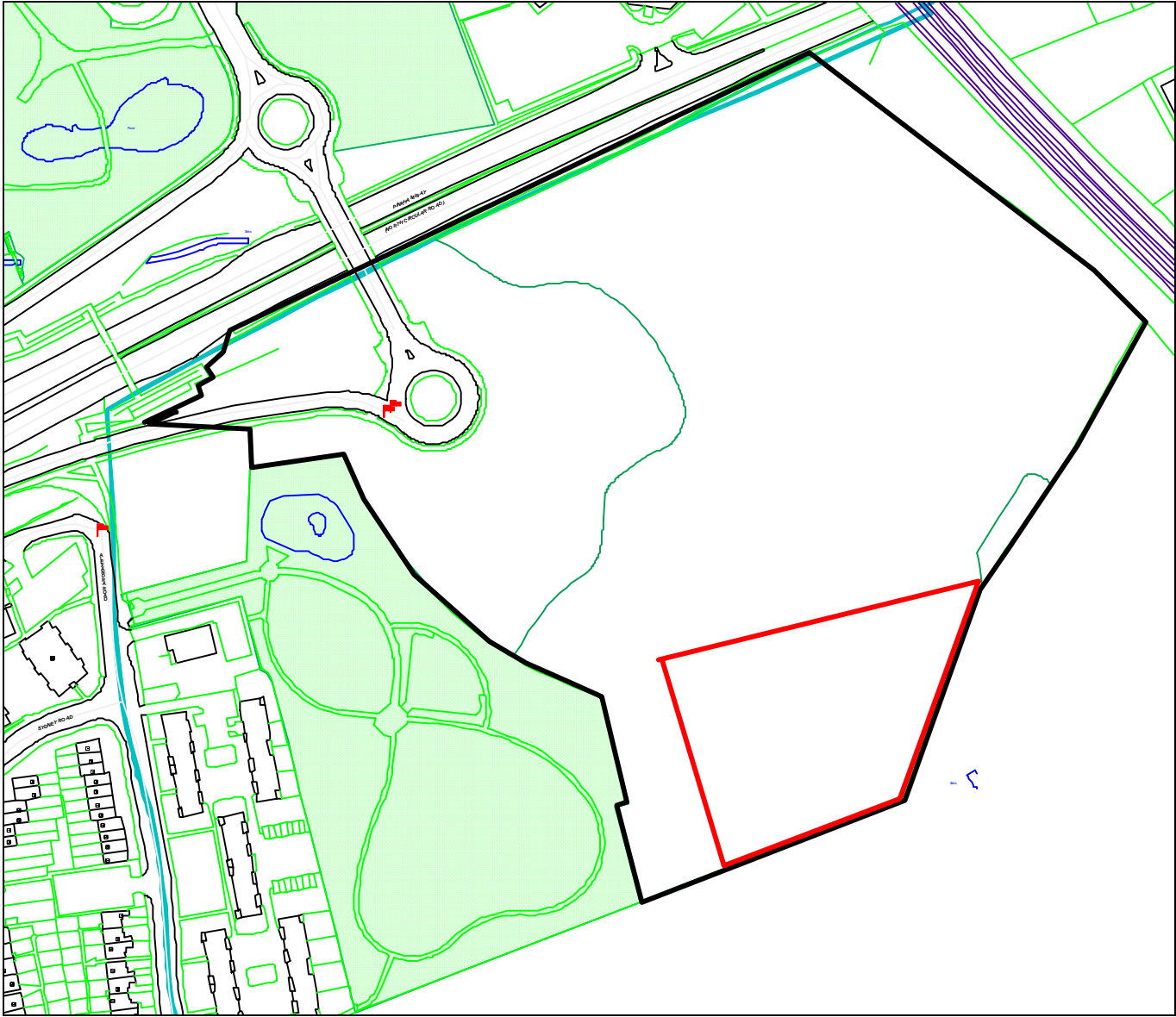
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**NOT TO SCALE**

<b>LAND USES</b>	<b>AREAS (approx)</b>
Total site area offered for development (Black, red, blue and part magenta)	16 acres
Land retained for possible park extension (part magenta)	0.7 acres
<b>TOTAL</b>	<b>16.7 acres</b>
B&Q store site (hatched blue)	7.8 acres
Other lands to be acquired by B&Q for roads and landscaping (zigzag blue)	0.3 acres
B1 development site (hatched red and zigzag black)	2.85 acres initially plus 1.49 acres later – total of 4.34 acres.
Hollickwood Park extension (zigzag magenta)	0.96 acres
Permanent TfL land-take (hatched black)	3.3 acres
<b>TOTAL</b>	<b>16.7 acres</b>



**PLAN No.3 - APPROXIMATE LOCATION OF TRAVELLER SITE PROPOSED BY HARINGEY**



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**NOT TO SCALE**

RISKS AND THEIR MANAGEMENT/MITIGATION

IDENTIFIED RISK	MANAGEMENT/MITIGATION
The B&Q scheme may not achieve a planning permission.	B&Q has been working with Haringey planners and is confident that it has an acceptable scheme. It would not commit funds to pursuing a planning application, including taking it to appeal, if it did not believe it had a reasonable chance of success. B&Q has also been in discussion with GLA officers. Once contracts are exchanged B&Q will bear all the costs of pursuing the planning application, including challenging the traveller site proposal.
It has not been possible to identify a single corporate approach to this proposal within Haringey (i.e. the views expressed by officers differ).	B&Q is still content to pursue a planning application. The application must be considered upon its planning merits and can be taken to appeal. Using a brown field site for development, carrying out extensive decontamination works and providing an employment generating end-user accords with Government policy and with Haringey's draft UDP.
If the matter goes to appeal, it may be up to two years before the outcome of the planning application is known.	The same would apply for any development of the land other than a straight-forward B1 scheme – but it is unlikely that the latter would generate sufficient land value to make any development financially viable – particularly in the light of the current traveller site proposal.
Whilst B&Q is seeking planning permission the site will be vulnerable to continued tipping and the spread of the colonies of knotweed and hogweed.	Tipping on the site has been a problem for many years. The situation will be monitored and action to repair fences and use mobile CCTV taken as necessary. B&Q now has licence to go onto the site to spray treat the weed – this will halt its spread and, over time, will eradicate it.
Haringey may still want the B1 land in connection with its Heartlands project	Subject to Barnet declaring the B1 land surplus to its own requirements, the land can be offered for sale (there is continuing unsolicited interest in the land from agents, developers and investors) – if Haringey offers market value there is no reason why it should not acquire the land.
The payment of compensation by TfL for the acquisition of part of the land and temporary use of part may not be realised for several years or at all.	The land is not blighted and therefore TfL cannot be forced to acquire the land now. It will not wish to purchase until it has a scheme, a programme and funding. However, it was noted by the Inspector at the Haringey UDP public inquiry that the road scheme is not shown on the proposals map. Also, recent announcements about the stretch of the North Circular Road from Bounds Green Road eastwards, tends to suggest that the dramatic land-take from the Council's site may not happen. Officers are in correspondence with TfL on this issue.

**OPTIONS**

<b>OPTION</b>	<b>PROS</b>	<b>CONS</b>
<p>1. Do nothing</p>	<p>The Council does not have to take any risk that the course of action it selects is wrong.</p>	<p>The site will remain contaminated and infested with hog-weed and knot-weed and subjected to fly-tipping. The opportunity of achieving a development of sufficient value to address all the site constraints and costs may be lost – the planning and other constraints do not make this an easy site to market or develop.</p>
<p>2. Wait for the outcome of the Haringey UDP public inquiry.</p>	<p>This would give certainty about the traveller site and the impact, one way or another, upon the development and site value.</p>	<p>The date of the publication of the inspectors decision is not known – it is suggested that it will be several months – it could be longer. Doing nothing during this period, if the decision in respect of the travellers site is favourable for this Council, means that time which could have been used to pursue a planning application has been lost. B&amp;Q will probably review whether it wants to continue with this project – a previous party, Costco, withdrew from a purchase.</p>
<p>3. Wait until TfL has clarified the issues of the widening of the North Circular Road</p>	<p>This would give certainty for the Council about how much of the remainder of the site will be available for sale for B1 development.</p>	<p>It has been well over 15 years since the Highways Agency first proposed a widening of the North Circular Road at this location. It is no nearer to making a final decision and it could take a further 15 years to reach that position. During that time the hog-weed and knot-weed colonies will become larger and the tipping will probably become a bigger problem. B&amp;Q would probably review whether it wants to continue with this project. The Bridge Agreement contribution will continue to increase adding to the development costs if this</p>

OPTION	PROS	CONS
<p>4. Proceed with the sale to B&amp;Q on a conditional contract basis.</p>	<p>The cost of pursuing the planning application will be borne by B&amp;Q. B&amp;Q will be providing access and service connections to the Council's retained land. There is already a lot of interest in acquiring this. To save time, whilst the planning process is being followed the Council can consider its options for this land – either to retain for its own purposes or market the land (only that part not required by TfL) for sale on the assumption of the decontamination and other works being carried out.</p>	<p>eventually happens.</p> <p>None of this will be possible if B&amp;Q does not achieve a planning permission.</p>
<p>5. Try to sell the site unconditionally.</p>	<p>There is continuing interest from agents, developers and investors in using the land for a B1 development or similar. It is likely that an unconditional sale could be achieved and therefore the Council would not have to wait for the outcome of the Haringey UDP inquiry or a decision on the North Circular Road widening.</p>	<p>None of those expressing interest in the land are aware of the site and cost constraints and thus the initial enthusiasm may not be matched by firm offers to buy. The site has previously been offered for sale unconditionally (with a claw-back provision) and the offers received were substantially below that currently on offer from B&amp;Q – even taking into account any claw-back.</p>