

AGENDA ITEM: 3

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Meeting	Special Cabinet Resources Committee
Date	28 July 2005
Subject	Reconsideration of a report on the Acquisition of a leasehold interest in land at Spur Road, Edgware
Report of	Leader of the Council
Summary	To again consider this item and the recommendation which was referred back by the Overview and Scrutiny Committee

Officer Contributors	Dave Stephens, Chief Valuer Jon Lloyd-Owen, Regeneration Manager
Status (public or exempt)	Public
Wards affected	Edgware
Enclosures	Reports to Cabinet Resources Committee on 16 June 2005
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	N/A

Contact for further information: Jon Lloyd-Owen, Regeneration Manager, x7126

1. RECOMMENDATIONS

- 1.1 To confirm the previous decision of the committee as set out in the attached report.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 On 23 September 2004 Cabinet Resources Committee approved the principle of acquiring the All Souls Land for the use of the London Academy, Edgware.
- 2.2 On 16 June 2005 Cabinet Resources Committee approved the acquisition of land for use by the London Academy as playing fields.
- 2.3 On 14 July 2005 Cabinet Overview and Scrutiny Committee referred this item back for consideration by the Cabinet Resources Committee.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The relevant corporate priorities are set out in the original report.

4. RISK MANAGEMENT ISSUES

- 4.1 The main risks are set out in the original report.
- 4.2 Plots E and F are currently school playing fields and there is therefore a presumption against the land being used for development. However, by a letter dated 11 August 2004 the DfES has confirmed *“that, the relevant conditions having been met, the Department is satisfied that the London Borough of Barnet has a general consent under paragraph 6 of the Schedule to The School Playing Fields General Disposal and Change of Use Consent (No.2) 2001, to exchange 33,994 sq m of existing school playing field at the Barnet City Academy for either 46,800 sq m or 49,000 sq m of newly created playing field, and the prior consent of the Secretary of State under Section 77 of the School Standards and Framework Act 1998 is not required. The area to which this general consent applies is shown on the plan ... namely areas E, F and G ...”* The consequence of this is that plots E, F and G, when released, will be available for redevelopment subject to planning.
- 4.3 Acquisition of the All Souls Land will secure for the council the release of an asset of approximately 10 acres that is, subject to planning, suitable for development. It is envisaged that the Council will in due time market these sites for redevelopment, separately, or together with other land assets held for housing purposes on the adjoining estate.
- 4.4 The Council has obtained an independent valuation of these lands that confirms the market value of these assets to be considerably in excess of the acquisition costs of the All Soul's land and the balancing payment that may fall due to the DfES on release of the Academy lands to the Council. Details of the independent valuation were provided in the original exempt report.
- 4.5 The realisation of the land value of plots E, F and G is dependent on obtaining a suitable planning consent. The Council's Planning & Environment Committee has previously, on the basis of current planning policy, resolved in September 2004 to grant outline planning consent for a residential development that includes the development of these lands (and the same planning policy considerations would apply

should, for instance, any varied application be made that related to these sites). It is therefore considered that there is a minimal risk of planning permission not being granted for some form of residential development on these lands and which refusal would thereby prevent the Council from recovering in full, from a land sale, the costs outlaid for the All Souls land and payment to the DfES.

- 4.6 Failure to acquire the All Souls Land for use by the Academy will prevent the current plans for the regeneration of Stonegrove/Spur Road estates from proceeding. The loss of the opportunity represented by the lands' release is almost certain to make any scheme for the estates' redevelopment unviable without considerable additional financial assistance. The unfunded liability to meet the Decent Homes standard would remain and the Council's wider objective to address the problems of this failing estate would be at serious risk of going unmet.
- 4.7 The council has long undertaken to endeavour to secure the All Souls Land for use by the Academy. Failure to now do so would mean that the Academy's design and facilities could not be fully realised and the surrounding lands would have to be reconfigured to provide inherently less satisfactory facilities.
- 4.8 The Academy has advised that it may incur additional construction costs if confirmation of the acquisition of the All Souls land is further delayed.
- 4.9 Under the terms of the land transfer, and the associated lease, the surrounding lands (Sites E, F and G) will only revert to the council if by December 2005 the All Souls Land has been secured for the Academy's use.

5. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

- 5.1 Financial matters are as set out in the original report, and in 4 above.

6. LEGAL ISSUES

- 6.1 Relevant legal matters are addressed in the original report.

7. CONSTITUTIONAL POWERS

- 7.1 Constitution, Part 4 – Overview and Scrutiny Procedure Rules, Section 16(e) – If, having considered a decision on its agenda, the Cabinet Overview and Scrutiny Committee is concerned about it, then it may refer it back to the decision making body or person for reconsideration, setting out the nature of its concerns....”

8 BACKGROUND INFORMATION

- 8.1 On 16 June 2005 Cabinet Resources Committee approved terms for the acquisition of the All Souls Land in order to provide playing fields for the London Academy, and to facilitate the subsequent release of lands currently used by the Academy, which will then be surplus and available to the Council for development.
- 8.2 This decision of Cabinet Resources Committee was called-in and reviewed by Cabinet Overview and Scrutiny Committee at their meeting on 14 July. Members of Overview and Scrutiny Committee expressed concern at the potential financial risk to the

Council in the event that the costs of the acquisition of the All Souls Land, and the payment due to the DfES on release of the Academy Lands, were not recovered through the subsequent development of the lands released.

- 8.3 In order to recover these costs the released lands must be suitable for a sufficient degree of residential development. This depends on there being no restriction on some of the lands arising from their former user as school playing fields, and the relevant planning policies and considerations that would determine whether planning approval was given for such a development.
- 8.4 Satisfaction of the position with regard to consent to development of these lands, and a consideration of the planning context are described in 4. above. It is concluded that there is a minimal risk to the council's prospects of recovering the costs outlaid.
- 8.5 The lands to be released are essential and integral to the Council's plans for the regeneration of Stonegrove and Spur Road estates, and to the provision of high quality playing field provision for the Academy. In a report to Cabinet on 29 March a staged approach to the regeneration project was envisaged in order to provide the council with greater flexibility in the timing of disposals, including the disposal of these lands, so as to maximise value and their benefit to the regeneration project.

9 LIST OF BACKGROUND PAPERS

- 9.1 Reports to Cabinet Resources Committee – 16 June 2005: Acquisition of a leasehold interest in land at Spur Road, Edgware; Public and Exempt.

BS: JEL
BT: CM

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Meeting Cabinet Resources Committee

Date 16 June 2005

Subject **Acquisition of a leasehold interest in land at Spur Road, Edgware**

Report of Cabinet Members for Resources and Cabinet Member for Policy and Performance

Summary To report the variations to the previously agreed terms for the acquisition of a land at Spur Road, Edgware from All Souls College to facilitate both the development of the Barnet City Academy and the Stonegrove and Spur Road housing estates regeneration scheme.

Officer Contributors David Stephens, Chief Valuer
Siobhan O'Donoghue, Principal Valuer,

Status (public or exempt) Public (with separate exempt section)

Wards affected Edgware

Enclosures N/A

For decision by Cabinet Resources Committee

Function of Executive

Reason for urgency / exemption from call-in (if appropriate) *Pursuant to an Agreement between the Barnet City Academy and the Council, the Barnet City Academy requires the lease of the All Souls land to be completed by 21 June. The proposals set out in this report do not alter the objectives originally approved by the Cabinet and the Cabinet Resources Committee, just the method and process for delivery.*

Contact for further information: Siobhan O'Donoghue, Property Services and Valuation – 020 8359 7359

1. RECOMMENDATIONS

- 1.1 That the securing of a grant of a long lease of the All Soul's College land in Spur Road, Edgware (Sites A and B shown on the attached Plan No.1) in favour of the Barnet City Academy upon the basis as set out in the report be approved and the appropriate Chief Officers be instructed to complete the transaction.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet 29 March 2005 agreed that subject to the outcome of Section 10a consultation, consent from ODPM and achieving best consideration for the site, the Council agreed to the disposal of part of the island site on the Stonegrove/Spur Road estate to Family Housing Association to provide affordable housing with the remainder of the island site being offered to the open market for a scheme of housing for private sale.
- 2.2 Cabinet Resources 23 September 2004 agenda item 7 agreed for officers to acquire a 99 year lease of the All Souls land at Spur Road, Edgware subject to the college confirming they were willing to proceed, and agreement being reached with DfES and Family/Unitary regarding the Council's retained land, plots E, F and G and the external auditors being consulted on the financial arrangements.
- 2.2 Cabinet 22 March 2004 noted that the use of Edgwarebury Park land as alternative playing fields was no longer an option.
- 2.3 Cabinet 10 February 2004, agenda item 4. The Council authorised the transfer of the freehold interest of Edgware School to the Academy Trust, the grant of a temporary licence to occupy adjoining land which is retained by the Council, an in principle agreement to grant a long lease to the Academy Trust of alternative playing fields and the transfer of the remainder of the existing Edgware School to the Trust in the event of the Council being unable to secure alternative playing fields.
- 2.4 Cabinet 10 December 2001. The Cabinet agreed the appointment of Family Housing Association and Unitary as the preferred partner consortium for the development of the Spur Road/Stonegrove Estates regeneration scheme.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Corporate Plan 2004/5 – 2007/8 priorities include a commitment to improving the suitability of the learning environment for all children.
- 3.2 The corporate Plan commits the Council to 'plan and manage land use and development in Barnet enhance quality of life and provide tangible benefits for the community.' The proposal in this report will achieve this by assisting with the implementation of the Spur Road/Stonegrove Housing Estates regeneration scheme.

- 3.3 Providing good homes in balanced communities by reducing the number of properties not meeting Decent Homes Standard and regenerating priority estates.

4. RISK MANAGEMENT ISSUES

- 4.1 The existing agreement between the Council and the Barnet City Academy Trust and the Department for Education and Skills (DfES) provides that if the Council cannot secure alternative playing fields for the Academy by 31 December 2005, then the remaining school lands (marked E, F and G on the attached Plan No.1) will be transferred to the Trust. If this happens then the intended regeneration scheme for Stonegrove/Spur Road as currently planned will be undeliverable.
- 4.2 The Council are now out of time in terms of acquiring the All Souls land through a Compulsory Purchase Order (CPO). If they were to pursue acquisition under this process it is unlikely that they would meet the deadline of 31 December 2005.
- 4.2 It is intended that the Council's retained land, plots E, F and G will be used to assist in securing the regeneration of the Spur Road and Stonegrove housing estates.
- 4.3 There is currently no marketing strategy for Site E, F and G although it is unlikely that the sites will be available until September 2006, when the new Academy buildings will be completed.

5. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

- 5.1 All Souls have agreed for the Council to acquire Sites A and B for the sum set out in the exempt report. The Council have also agreed to meet the associated fees and costs in relation to this transaction.
- 5.2 It was originally proposed that the cost of the lease would be met from a capital sum received from the 'partner' organisation carrying out the regeneration of the adjacent housing estates. Whilst the arrangements for the regeneration scheme are under review the cost of securing the grant of the lease will be met by prudential borrowing. However, it is still anticipated that the regeneration proposals will still generate capital receipts from developing part of the lands for private sale housing and part of these receipts will be used to re-pay the prudential borrowing. There is a provision in the budget for the revenue costs of the prudential borrowing needed to fund the acquisition for 2004/05 only. This will increase pressure to the budget for this financial year, 2005/06.
- 5.3 It was originally intended that the sum received from the regeneration 'partner' for Sites E, F and G would meet the cost of the All Souls purchase with the balancing sum being paid to DfES. No formal arrangement was ever made between the Council and DfES on this matter. It is still the intention of the Council to make this payment, although detailed discussions will need to be held with DfES to formalise the matter. This will be reported to the Committee at later date once discussions have been concluded.

5.4 There are no staffing or ICT implications.

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.

7.2 Section 16(1) of the Overview and Scrutiny Rules in the Council's Constitution provides that the call-in procedure is not to apply where a decision being taken by the Executive is urgent, that is if any delay caused by the process would seriously prejudice the Council's or the public interest. The Chairman of the Cabinet and Overview and Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency.

8. BACKGROUND INFORMATION

8.1 At its meeting on 23 September 2004, the Council considered the acquisition of land at Spur Road, Edgware, to facilitate the development of the Barnet City Academy and the Stonegrove and Spur Road housing regeneration. It was agreed that subject to All Souls College confirming that they were willing to proceed and the Council reaching an agreement with DfES and Family/Unitary regarding payment for plots E, F and G the acquisition of Sites A and B (as shown on the attached plan) could proceed.

8.2 Since then, there have been a number of changes in the proposals for the Stonegrove/Spur Road regeneration and the Council agreed at its Cabinet meeting on 29 March 2005, that there would now be a staged approach to the regeneration of the estate through the initial disposal of discrete sites for new affordable and private housing. The recommendation retains the Council's future control of the project and further disposals.

8.3 Although the Council is still committed to the overall regeneration of the estate, this Cabinet decision changes the implementation of the original proposal.

8.4 It was previously intended that Sites E, F and G, the former Edgware school, would be transferred to the Greengrove Partnership once the new City Academy was completed and a lease of Sites A and B had been acquired from All Souls College, Oxford for the purpose of providing playing fields. Greengrove would make a sum payment for the E, F and G sites and the land would form part of the housing regeneration scheme.

- 8.5 The sum payment would have been used to fund the acquisition of a lease of the All Souls land with the remaining money being paid to DfES to defray the Academy costs. This however is no longer the case as there is currently only authority for the Council to proceed with Phase 1 of the Stonegrove/Spur Road regeneration, which does not include Sites E, F and G.
- 8.6 It is essential that the Council proceed with the acquisition of the All Souls land, as the release of Sites E, F and G for development is conditional on this land being purchased for playing fields. All Souls have agreed to proceed with the grant of a long lease of Sites A & B in favour of the Barnet City Academy. The Council will finance the capital premium payment through prudential borrowing – these figures are set out in the exempt report.
- 8.7 As part of the acquisition of All Souls the Council have agreed to pay all associated fees and costs, which are set out in the exempt report. The costs do not include stamp duty as it is intended that the lease will go direct to the Academy Trust. As a charitable organisation they are probably exempt from this tax, therefore relieving the Council from this liability. Acting cautiously until the Stamp Duty Land Tax position is certain, the Academy Trust have requested that the Council provide an indemnity in respect of any stamp duty which may become payable. This is not considered to be a real risk and by providing this comfort the Council is not in any worse position than if it were to take the lease from All Souls in the first instance.
- 8.8 It is intended that Sites E, F and G will still be used for the housing estates regeneration proposals and will generate some capital receipts. This will be the subject of further reports to future meetings of the committee.
- 8.9 Because of the need to first lay out the All Souls land as playing fields, the Council is unlikely to secure possession of any of sites E, F and G until the latter part of the year when it is intended that the new Academy buildings will be complete. The Academy does however hold a lease for these sites until December 2007. Once the lease of the playing fields has been granted it is thought that it will take approximately 1 year for them to be laid out, to ensure they are available for use simultaneously to when the new Academy buildings are open.
- 8.10 The estimated value undertaken by Donaldson's of sites E, F and G for the housing estates regeneration project (i.e. what they will contribute in cross-subsidy benefit to the scheme) is set out in the exempt report.
- 8.11 Under the negotiated terms of the proposed lease of the playing fields land the Academy is required to seek consent from All Souls College should they wish to assign the lease. The Council have requested that a pre-emption be put in place in its favour to ensure that should the Academy Trust decide that it no longer requires the land the lease should be assigned to the Council or the appropriate Local Education Authority for the time being. This is the subject of on-going negotiations and there are to be discussions with the Department for Education and Skills. The final arrangement will be a variation on what has been proposed but still providing the general assurance to the Council that the Academy cannot 'profit' from the Council's expenditure.

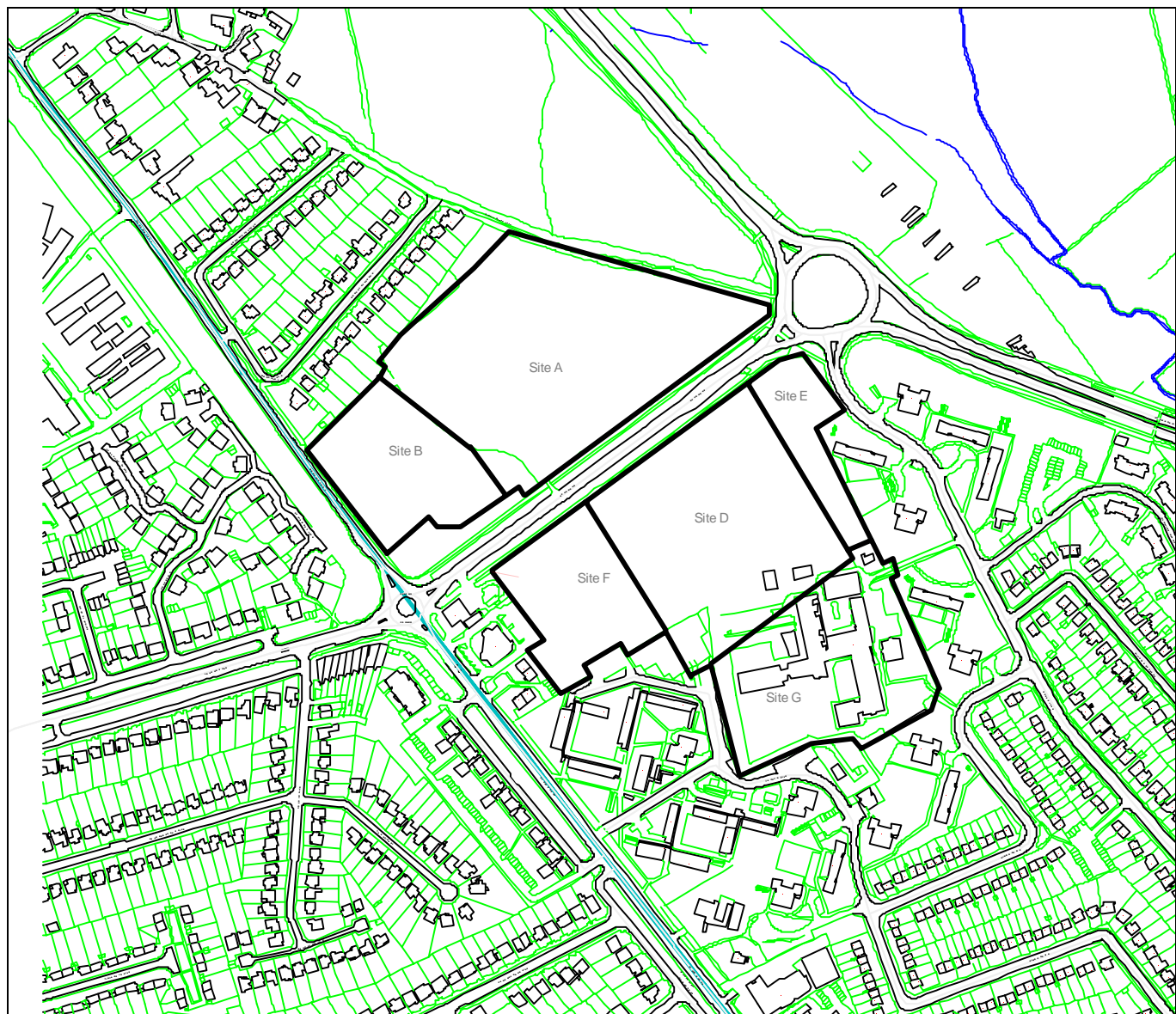
9. LIST OF BACKGROUND PAPERS

9.1 None.

MO:

BT:

**PLAN NO.1 STONEGROVE / SPUR ROAD HOUSING ESTATE & EDGWARE
SCHOOL, SPUR ROAD, EDGWARE**



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