

AGENDA ITEM: 11

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Meeting	Cabinet Resources Committee
Date	30 March 2006
Subject	Long Lane Pasture, Rear of 256/280 Long Lane, Finchley
Report of	Cabinet Member For Resources
Summary	To consider property options including selling the freehold interest and creating a leasehold interest

Officer Contributors	Nick Walkley, Director of Resources Brian Smart, Assistant Chief Valuer
Status (public or exempt)	Public – with a separate exempt report
Wards affected	West Finchley
Enclosures	None
For decision by	The Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	N/A

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1. RECOMMENDATIONS

1.1 Having considered the issues set out in paragraph 8 of the report, the Committee recommend either:

- i. to reconfirm the decision to sell by tender the freehold interest in the property for residential use in accordance with S123 of the Local Government Act 1972.**

or

- ii. market the property for community use for rent at a peppercorn rate to be managed by a community group for a period of up to 7 years. Such a lease to be granted once the council is satisfied that the group have appropriate financial and constitutional arrangements in place to take on the management of the site on behalf of the community and in order to protect the Council's interest and manage risk, the lease be subject to:**

- the tenant having in place a biodiversity management plan which meets the requirements of the Council's Green Spaces team and would be in line with the new Sustainable Communities Strategy**
- the tenant being obliged to maintain all fences to a good standard**
- a mutual yearly break provision and clear provisions for termination in the event of the absence of sufficient funding to meet the tenant's obligations or breach thereof**
- an agreement that the provisions of sections 24 – 28 of the Landlord and Tenant Act 1954 are excluded**

1.2 That whilst the decisions at 1.1 are being implemented, a license be granted to the Long Lane Pasture Action Group to continue their work for a further 12 months.

1.3 That an independent valuation of the site be undertaken to be reported back to the Committee alongside the outcomes of decisions taken at 1.1.

2. RELEVANT PREVIOUS DECISIONS

2.1. On 8 November 2000, the Policy and Implementation Committee recommended (1) That the Council affirm the previous decision to dispose of the freehold of the land at the rear of 256/280 Long Lane, N3 (shown edged black on drawing No.21783/1) and (2) That, subject to (1) above, the conditional tender offer from Fairview New Homes (Long Lane) Limited be accepted and that the Borough Solicitor be instructed to complete the appropriate documentation in a form to his approval.

2.2. Cabinet Resources Committee, 10 February 2005, Property Disposals

2.3. Cabinet Resources Committee, 8 July 2004, Property Disposals

- 2.4. Delegated Powers Report, Val/DP/15/04, Land rear of 256/280 Long Lane, Finchley
- 2.5. Delegated Powers Report, Val/DP/36/03, Land rear of 256/280 Long Lane, Finchley

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1. The Corporate Plan commits the Council to “plan and manage land use and development in Barnet to enhance the quality of life and provide tangible benefits for the community”.

4. RISK MANAGEMENT ISSUES

- 4.1. Although the Council will define the tenant’s obligations and monitor performance there remains a risk of financial exposure of the Council should the tenant find itself in financial difficulty.
- 4.2. The Council will need to ensure that any tenant granted a lease has an appropriate constitution providing for public access to the site and access to the management of the group.
- 4.3. A continued lack of clarity about the future of the site means the Council will continue to receive criticism from people who want the land used as open leisure ground and delays a capital receipt should the land be sold for residential purposes.

5. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

- 5.1. There are no staffing or ICT issues. The property implications are set out below.
- 5.2. Disposal of the whole site was agreed in November 2000 and bids for the site were subsequently obtained, as set out in the exempt report.
- 5.3. Achieving a capital receipt would enable the council to reinvest the amount in council priorities and/or reduce the requirement for unsupported (prudential) borrowing and its impact on the council tax.
- 5.4. The Long Lane Pastures Action Group has expressed an interest in managing the site but has identified the need to secure funding to do so. There is the potential for additional costs to fall on the Council should the Group fail to raise adequate funds. There are no earmarked funds at present within the Council budget to meet such costs.

6. LEGAL ISSUES

- 6.1 Incorporated into the body of the report.

7. CONSTITUTIONAL POWERS

- 7.1 Constitution – Part 3 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

- 8.1 The property is a rectangular-shaped area of unused, undeveloped land of about 2.5 acres, located at the rear of 256/280 Long Lane and south of Kays Land Allotments, Squires Lane.
- 8.2 It has no direct road access and hence it is difficult to state an open market value.
- 8.3 Prior to the Council decision dated 8 November 2000 to sell the land, the Council advertised the proposal in accordance with Section 123 (3) of the Local Government Act 1972. Nineteen written representations were received; these were sent out in the pack for the Policy and Implementation Committee meeting of 9 November 2000 and are attached herewith. All objected to the proposal to develop the land with residential properties. A tender process was carried out to sell the land. The process referred to an Environmental Impact Assessment and measures for protecting and enhancing part of the existing wildlife habitat.
- 8.4 Because the land in question was laid out for open space purposes, a proposed disposal had to be advertised in accordance with section 123(2A) of the Local Government Act 1972. This requires local authorities intending to dispose of land acquired for or held for open space purposes to advertise the intention to dispose locally and to consider any representations received before proceeding further.
- 8.5 A conditional tender offer from Fairview Homes was accepted by the Council. Following the 2002 local election the new administration was in the process of reviewing the disposal when Fairview homes withdrew their offer. As a result the land has been retained by the Council but it remains Council policy to dispose of the site. This position has been reported to Cabinet Resources Committee as part of the updated disposal reports approved by Cabinet Resources Committee where the land remains listed as scheduled for disposal.
- 8.6 Fairview Homes have since disposed of the access land to the Long Lane site and the new owners have planning permission to erect flats. This leaves the Long Lane Pasture site effectively land locked and any future purchaser would need to secure alternative access to the site. This in turn could impact on the likely value of the site on the open market. To ensure Members have all the appropriate information to inform their decision it is proposed that an

independent valuation of the site, given the sale of the access site, be obtained and reported to the Committee.

- 8.7 In 2002, the Long Lane Pasture Action Group (LLPAG) was formed. The group's vision is "to maintain the Long Lane Pasture site as an informal open space that would be run by the community, and managed sympathetically to the wildlife habitats within the area".
- 8.8 A twelve month licence with effect from 21 May 2004, was granted by the Council to LLPAG to undertake a survey and gather wild-life information.
- 8.9 LLPAG have now made a request to lease the site to manage the area in line with the objectives set out at 8.7. Such a lease would need to be for a sufficient period to provide certainty to potential funders and a period of up to seven years is proposed. The LLPAG intend to establish the Long Lane Pastures Trust to manage the area.
- 8.10 It is worth noting that whilst the Long Lane Pasture Action Group have sought to establish the wild-life and natural importance of the site the Council has not received any formal assessment of the site from them. However recent material from them states that
- 8.11 "Since obtaining the licence, the Group has undertaken a risk assessment, kept the pathways around the site clear of brambles, repaired the boundary fences, cleared litter and rubbish, and recorded plants, birds, mammals, butterflies and moths considerably increasing the environmental knowledge of the land."
- 8.12 And that "a Plan, which details a future vision for the land, has been drawn up at the Group's request by Julie Toll, an internationally renowned wildlife landscape designer."
- 8.13 Officers have established that Long Lane Pasture Action Group is a group of local residents. At present LLPAG has no formal constitution although a draft copy has now been produced. Similarly the group have only limited finances at this stage. Documents circulated by the group indicate they have a small bank balance but intend to seek charitable status and commence fundraising once they have a lease. This does mean any lease would need to be at a peppercorn rate given the limited funds available.
- 8.14 A lease for a number of years would be a significant undertaking for any voluntary group. In discussions to date LLPAG have indicated they would like a lease in excess of 25 years. This would significantly limit the ability of the council to look at alternative uses for the site and tie up a potentially valuable site for many years hence without, at this stage firm evidence of the benefits which might accrue to the local community in amenity terms or the viability of any community group managing the area.
- 8.15 LLPAG have also identified the need for funding to secure the site perimeter and whilst the Council need not be the funder this highlights the possibility of

any community based leasehold arrangement creating future cost for the Council. The cost of such measures may be as high as £50,000.

- 8.16 Under the Local Government Act 1972, local authorities are given powers to dispose of land in any manner they wish (including the grant of a lease), the only constraint being that the disposal must be for the best consideration reasonably obtainable (except in the case of short tenancies, that is a tenancy granted for a term of 7 years or less) unless the Secretary of State consents to the disposal. Under the terms of the Local Government Act 1972: General Disposal Consent (England) 2003, specific consent is not required from the Secretary of State for the disposal of any interest in land which the authority considers will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area. In all such cases disposal at less than best consideration is subject to the condition that the difference between the unrestricted value of the interest to be disposed of and the consideration accepted is £2,000,000 or less.
- 8.17 The Local Government Act 2000 grants local authorities general community well being powers. These include the promotion of the social and environmental well-being of the area. The granting of a lease to manage a local amenity space to a community group would fall within these powers. However in the light of the limited evidence of the amenity value of the site Members may wish to consider if they wish to support a lease of the site on this basis.
- 8.18 Notwithstanding the above, Local Authorities need to ensure that they maximise the value of their assets and take appropriate decisions about their use. This would typically mean assessing the value to the local community in amenity terms of retaining a site against the benefits accruing to the Council and Barnet residents from a disposal.
- 8.19 A decision to lease rather than sell the site would provide minimal financial benefit to the authority and the site does not feature in existing corporate priorities. The Council does not have any formal assessment of the importance of the site in terms of either regular usage or ecology although it is worth noting that the site does not feature in the London Ecology Unit's most recent assessment of the Borough. Committee may therefore wish to consider a lease option of sufficient length for any Community Group to raise funds and demonstrate the amenity value of the site rather than a lease of any longer period.
- 8.20 The Committee is asked to decide between two options:
- To proceed with a sale likely to secure significant capital receipt which would be used to fund the Council's capital programme in line with the Council's corporate priorities.
 - To grant a lease to a community group. The lease to be for a period of 7 years, i.e. sufficient time for appropriate longer term funding arrangements

to be developed, with annual review arrangements to monitor the group, its financial viability and minimise the risk to the Council.

9 LIST OF BACKGROUND PAPERS

9.1 Nature Conservation in Barnet, Ecology Handbook 28, London Ecology Unit 1997.

9.2 "The Future of Long Lane Pasture". A Statement by the Long Lane Pasture Action Group

9.3 Anyone wishing to inspect the background papers should telephone 020 8359 7007.

Legal: RAB

CFO: