

Summary Delegated Powers Report

TITLE	Disposal of land at West Farm Place garages, East Barnet, EN4 9TY by the London Borough of Barnet to TBG Open Door Limited.
DATE OF DECISION	
DECISION TAKER	Cath Shaw , Deputy Chief Executive.
SUMMARY OF DECISION	<p>Background</p> <p>On 20th October 2015 full Council approved the decision to create a new legal entity; TBG Open Door (hereinafter referred to as “ODH”) as a subsidiary of Barnet Homes within the Barnet Group.</p> <p>On 1st March 2016 the Council resolved to provide a loan to ODH, subject to gaining registered provider status, to build an initial 320 new homes for affordable rent (Tranche 3 of the development pipeline).</p> <p>On the 12th December 2016 ARG approved the full business case for the Tranche 3 Development Pipeline programme. As Westbrook Crescent garages was not in the original list of sites, in the report, to be dispose of to ODH; subsequently ARG approved the transfer of this site, in accordance with the parameters of the full business case, on 24th July 2017. The disposals are to be pursuant to the Development Agreement. Registered Provider status was confirmed to ODH on 7th March 2017.</p> <p>It was further resolved that all the Sites were surplus to requirements and available for disposal and appropriation (if necessary). It was confirmed that any of the Sites which may constitute Open Space, were surplus to requirements and approved by the Committee for disposal and/or appropriation, would be subject to statutory advertising and consultation process.</p> <p>Delegation of Authority</p> <p>Authority was delegated to Commissioning Director of Growth and Development ;</p> <ul style="list-style-type: none"> i) To procure any statutory consent required of the Sites or to use any general consents available to effect disposal of the sites. ii) To implement the statutory advertising/consultation procedure in respect of any site comprising open space and in consultation with the Chairman of Assets Regeneration and Growth to consider any objections received and if appropriate or suitable to appropriate such land to enable its disposal. iii) In some cases it may be recommended that sites are

appropriated (to extinguish third party rights), to enable disposal and also facilitate the building of new homes, as identified in the full business case.

- iv) To dispose of each parcel of land comprising the sites pursuant to the Development Agreement and subject to ODH becoming a Registered Provider through registration by the Homes and Communities Agency. To take all necessary steps that may be required, to dispose of the Sites to ODH, in accordance with the decision of the Committee.

Registration of ODH as a Registered Provider with the HCA, on 7th March 2017, and the Development Agreement was completed on 24th May 2017; the Council is in a position to dispose of this Site.

The Site

The land at West Farm Place garages, shown edged red on the plan attached, is one of the sites within Tranche 3. It comprises 12 garages and has a site area of approximately 0.12hectares (0.3acres). The garages are not within an Estate Plan, so general estate rights cannot be claimed by leaseholders. The garages were let on tenancies, preventing rights being established by third parties. All except one of the tenancies have been terminated, and the remaining tenancy will be terminated on or prior to the disposal of this site. The planning consent 16/4150/FUL, for the development of four houses was granted on 19th October 2016.

Consents required for disposal

West Farm Place is held in the Housing Revenue Account (HRA) and whilst disposal of land out of the HRA account requires consent of the Secretary of State, this site falls under Part A of the General Housing Consent 2013. Paragraph 3.2 permits local authorities to dispose of vacant land and assets that are not dwellings (e.g. garages, drying areas etc.), at any price determined by the local authority. Barnet Homes have verified that the council has vacant possession, all except one, of the garages, and at the point of disposal of this site will have vacant possession of the one remaining vacant garage. As a result, this Site falls under this general consent.

Appropriation

Legal advice has recommended appropriation for planning purposes to ameliorate any risk of third party rights. An assessment of risk has been carried out by Property Services, and in order to reduce the risk of challenge, two measures have been taken. First, because the resident of 18 Langford Road has a right over the common access way to the garage, at the side of his property, in common with the tenants of Walpole Court (4 car spaces), ODH has commissioned a 'swept path analysis' so their scheme does not interfere with the access. Also the Licence in respect of the one remaining occupied garage will be terminated at or prior to the disposal of the site, and ODH will enter into alternative arrangements with the licensee, which will not affect the scheme.

The garages had been let on weekly tenancies and no implied rights

	<p>had therefore been created. As there is no Estate Plan (the surrounding properties are houses, but do not include the garages), no rights over the site have been conveyed and no loss could be substantiated.</p> <p>It is therefore proposed to dispose of the site to ODH from the HRA without appropriation to Planning.</p> <p>If land is appropriated, this would require a transfer of debt to the value of the site from the General Fund to the HRA, which would require ODH to pay market value for the site. This would render the scheme unviable and has been avoided by the above measures.</p> <p>Valuation</p> <p>A desktop appraisal has been undertaken which shows a residual land value of £305,000, based on the planning consent.</p> <p>Notwithstanding the aforementioned residual land value, the ARG committee on 24th July 2017 authorised the disposal of the site on the terms of the Development Agreement and the parameters of the full business case which provides for the disposal of this site at a nominal value of £1 to ODH. This is based on the development of 100% affordable homes, for which the Council will be provided with 100% nomination rights, on all initial lettings and subsequent voids pursuant to the Development Agreement. Such rights are to be included in the transfer of the Site.</p> <p>Rights reserved and service charge</p> <p>There will be no rights reserved following the disposal of this site.</p> <p>Decision</p> <p>Authorise the disposal of the Site known as Westbrook garages to ODH for £1, in accordance with terms of the Development Agreement</p> <p>The nomination rights granted to the Council under the Development Agreement are to be included in the transfer/lease of the Site. These are to be protected by a Form N restriction in the transfer and the site is to be disposed of on the terms detailed in this report.</p> <p>Costs</p> <p>Each Party will bear their own costs</p>
<p>AUDIT TRAIL OF DECISION – RETAINED AND WHERE?</p>	<p>Documents stored on shared S Drive (Property Services), to be uploaded to Atrium.</p>

DECISION TAKER'S STATEMENT

I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations.

I authorise the above decision

Signed



Designation Deputy Chief Executive

Date 17th October 2017

SELF-ASSURANCE CHECKLIST

(Removed prior to publication and retained by Governance Service)

Not all partners listed in the table below will always need to be consulted; just the relevant partners - e.g. if the DPR is HR related, then HR Business Partner should be consulted.

AUTHOR TO COMPLETE TABLE BELOW:

Who	Clearance Date	Name
Governance Champion		
Director / AD / Lead Commissioner	17.10.17	Neil Taylor/Susan Curran
Enabling Board / Delivery Board		
Commissioning and Policy		
Equalities & Diversity		
HR Business Partner		
Strategic Procurement		
HB Public Law	16 .10.17	Huw Williams
Finance	12 .10.17	Catherine Peters
Governance		

