

	<p>Assets, Regeneration and Growth Committee</p> <p>12th March 2018</p>
<p style="text-align: right;">Title</p>	<p>North Finchley Town Centre Development</p>
<p style="text-align: right;">Report of</p>	<p>Councillor Daniel Thomas</p>
<p style="text-align: right;">Wards</p>	<p>West Finchley, Woodhouse</p>
<p style="text-align: right;">Status</p>	<p>Public with an accompanying exempt report and appendix.</p>
<p style="text-align: right;">Urgent</p>	<p>No</p>
<p style="text-align: right;">Key</p>	<p>Yes</p>
<p style="text-align: right;">Enclosures</p>	<p>Appendix A: North Finchley map showing Council land ownership (seven sites approximately coloured pink).</p>
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Summary

North Finchley Town Centre is recognised as one of Barnet’s seven ‘main town centres’ denoting its economic importance to the Borough. As with high streets across the country, North Finchley faces a range of challenges. Indeed, it is the only town centre in Barnet to have seen a consistent increase in vacancy rates over the past 15 years.

In 2016, a proposal was put forward by local developer, Joseph Partners, for revitalising the town centre through stewardship of the retail offer and increased residential development. This proposal was largely in keeping with recommendations of the Council’s 2009 North Finchley Town Centre Planning Strategy.

To progress the redevelopment of North Finchley, Policy and Resources (P&R) Committee of 1st December 2016 approved recommendations to:

- Develop a Supplementary Planning Document (SPD) to provide a framework for the redevelopment of North Finchley Town Centre;
- Support site assembly to make development possible;

- Enter into an exclusivity agreement with Joseph Partners and not agree terms with any competing developer.

The Committee also delegated authority to the Deputy Chief Executive to negotiate and agree Heads of Terms and a Preliminary Agreement with a development partner.

Since the December 2016 P&R Committee decision:

- The Preliminary Agreement was finalised and signed on 24th April 2017.
- The North Finchley Town Centre Framework Supplementary Planning Document was finalised and approved by P&R Committee on 13th February 2018. This was a key dependency identified in the Preliminary Agreement.
- The draft Heads of Terms and Preliminary Agreement have progressed into a Site Assembly Agreement and Land Agreement for the redevelopment of North Finchley.

The final action required to progress the decisions made by P&R Committee of 1st December 2016 is for the Assets, Regeneration and Growth Committee to approve finalisation of the Site Assembly Agreement and Land Agreement.

The Site Assembly Agreement and Land Agreement are drafted in the spirit that all decisions taken by the developer and by the Council are to the benefit of achieving the overall regeneration plans (as set out in the SPD agreed by P&R Committee). In short:

- The Site Assembly Agreement provides a mechanism under which Joseph Partners would obtain satisfactory planning permission and thereby pave the way to commence site acquisition; and
- The Land Agreement allows for the Council to commit its landholdings as part of the development; either through sale to the developers, or through the developers developing the site on behalf of the Council for the Council's retention. The subject of the final form of development will be agreed prior to transfer, meaning that for any given parcel of land, the nature of the arrangement will be agreed before land is required for development. The Agreement also grants to the Council an option to reacquire its land (and other land) in certain circumstances. Finally, the Land Agreement provides an option for the Council to acquire residential units in the development at market value. The Land Agreement is conditional on certain matters such as the Developer obtaining satisfactory planning permission.

Recommendations

That the Committee:

- 1. delegate authority to the Deputy Chief Executive in consultation with the Chairman of this Committee to finalise and enter into a Site Assembly Agreement and Land Agreement with Joseph Partners in order to progress the redevelopment of North Finchley.**
- 2. delegate authority to the Deputy Chief Executive in consultation with the Chairman to appropriate the Council-owned land and/or land acquired from**

any third party, for planning purposes if required.

3. **note that the Site Assembly Agreement and Land Agreement require the Council to commit sites for development. Should this involve a recommendation to dispose of Council assets, this will be brought forward to a future Committee. Should there be a need to assign the agreements to a third party then a Committee decision will be sought.**

1. WHY THIS REPORT IS NEEDED

- 1.1 In accordance with decisions taken by the Policy and Resources Committee of 1st December 2016, this report seeks approval from the Assets, Regeneration and Growth Committee to finalise and agree a Site Assembly Agreement and Land Agreement with Joseph Partners, so as to progress the revitalisation of North Finchley Town Centre.
- 1.2 The North Finchley Town Centre Area Framework Supplementary Planning Document was adopted by Policy and Resources Committee of 13th February 2018. That Committee also agreed to establish a *North Finchley Partnership Board* to comprise representatives of local stakeholders including local councillors, traders, businesses, landlords, Barnet Homes, residents and community organisations, local schools, the artsdepot, faith organisations, the Council lead officer, and appropriate representative of the lead developer. This partnership board should help oversee, monitor, scrutinise and hold to account the management of the Town Centre, as well as implementation of the SPD.
- 1.3 Completion of an SPD was a key dependency set out in the Preliminary Agreement. As the dependency has now been met, the Site Assembly Agreement and Land Agreement can be duly progressed and agreed.

2. REASONS FOR RECOMMENDATIONS

- 2.1 North Finchley Town Centre is one of Barnet's seven 'main town centres' due to its size and economic importance to the Borough. In recent years, the town centre has been in decline, with retailers facing a range of challenges due to technological changes, macroeconomic forces and changes in consumer behaviour. Associated with this has been a decline in footfall and deterioration in the retail offer and quality of shop fronts. As such, although North Finchley is one of Barnet's largest town centres, it is the only one in the Borough to have seen a consistent increase in vacancy rates over the past 15 years. There is also a recognised need in North Finchley to rationalise transport and pedestrian access.
- 2.2 A local developer, Jonathan Joseph trading as Joseph Partners (who may contract through a special purpose vehicle, likely to be called Joseph Partners Limited), has come forward with an innovative approach to town centre regeneration through curated stewardship of the retail offer and increased

residential dwellings. The proposal comprises a four-point action plan to address the key challenges facing high streets:

- Redefine the high street by researching, consulting and defining the sustainable core of the area;
- Establish a context for change, involving comprehensive regeneration either through acquisition, or by agreement with existing landowners;
- Curate the occupancy of the core high street over a minimum period of 3-5 years, bringing in desired and needed tenants, and utilising landlord control to incorporate flexible lease terms, so as to encourage attractive and sustainable occupancy;
- Intensify and repurpose the periphery of the town centre to provide additional housing adjacent to the town centre, integrating high-quality residential uses into the upper parts of retained shopping areas, and providing the ability to carry out significant public realm improvements.

2.3 The Preliminary Agreement signed with Joseph Partners (then signing in his personal capacity, as Jonathan Joseph) on 24th April 2017 incorporates an exclusivity period of two years for the disposal of land within North Finchley. This expires on 24th April 2019 although it can be extended by a further one year.

2.4 The Preliminary Agreement included a number of key conditions, including the following:

- Supplementary Planning Document required to be adopted as supplementary planning guidance; and
- Commitment in principle from a funder with suitable financial resources and experience, to back the development and sign the Site Assembly Agreement and Land Agreement.

2.5 Once the above conditions are either satisfied or waived, the Council and Joseph Partners must use reasonable endeavours to agree a Site Assembly Agreement and Land Agreement as soon as reasonably practicable. By entering into such agreements, the Council will be able to progress the regeneration of this important town centre.

2.6 **Site Assembly Agreement**

2.6.1 The Site Assembly Agreement covers the following:

- *Planning permission* – Joseph Partners (or another suitable developer backing Joseph Partners' obligations or replacing Joseph Partners) must submit a planning application for the development scheme, in an agreed timescale.
- *Land interests* – Once satisfactory planning permission is obtained, the Council and/or Joseph Partners (or other suitable developer as above) must try to acquire the land ownerships in the area. The Council will seek appropriate authorities to enable any necessary third party land purchase,

and, if necessary, will consider making a compulsory purchase order for any land interests Joseph Partners isn't able to acquire privately.

- *Land Assembly* – Following the developer's reasonable endeavours to acquire all land interested, the Council will consider using its compulsory purchase powers to complete land assembly (but it retains statutory discretion to make or refuse the CPO).
- *Indemnity* – As with any site assembly undertaken on behalf of a developer, Joseph Partners will indemnify the Council against costs associated with any possible future compulsory purchase order (CPO).
- *Assignment/other dealings* – Joseph Partners cannot assign or otherwise pass on the Site Assembly Agreement to another party, except an assignment to a development funder who also takes an assignment of the Land Agreement. The Council may agree in due course to include within the Agreement a third party (such as a Registered Provider, another developer and/or funder).
- *Council statutory authority functions* – The Site Assembly Agreement does not affect or fetter the Council in discharging its statutory responsibilities (e.g. as planning authority, highways authority, etc.).
- *Termination* – There are a number of circumstances where either party can terminate the Site Assembly Agreement, although if that happens, the Council still has security for CPO costs it has already incurred. If the Site Assembly Agreement ends, so does the Land Agreement.

2.7 Land Agreement

2.7.1 The Land Agreement covers the following main heads:

- *Pre-conditions* – the Council agrees to make available for development to Joseph Partners land within the development site in phases, subject to satisfying various pre-conditions (e.g. obtaining planning consents and vacant possession, development funding being available) within an agreed programme (if the programme for this isn't achieved, either party can end the Agreement).
- *Price, Valuation, Profit Share* – The Land Agreement will include the price of the Council's land in each phase, but will be reviewed annually by an independent surveyor to provide an upwards-only open market valuation. The Council also receives a profit share or overage once the development works have been, or are close to being, completed. At the time of writing this report the detail is still being finalised, but the agreement proposes a profit share after repayment of development costs and developer's agreed profit on cost. Alternatively, the Council might seek to retain an interest in the development, whereupon the developer might develop out the site on the Council's behalf, with the Council retaining a land interest and ongoing return.
- *Management pending Completion, Insurance* – the Council will continue managing and insuring the Council-owned property in each phase until completion of transfer/lease (for current Council-owned land, long lease) to Joseph Partners (or other suitable developer backing Joseph Partners' obligations or replacing Joseph Partners as developer). The Council will provide any services it is obliged to as landlord. There are restrictions on

the Council granting new occupational interests or varying current arrangements, intended to ensure vacant possession can be obtained in good time.

- *Development* – Joseph Partners does not have to begin development of the site, but if it does so, development can only be carried out in phases in accordance with the planning permission, necessary consents and usual development requirements. Joseph Partners must obtain the usual construction warranties for the Council.
- *Assignment/other dealings* – Joseph Partners cannot assign or otherwise pass on the Land Agreement, except to an approved funder as security for any debts, or a mortgage of the Land Agreement to a funder (although the Council might agree in due course to the Land Agreement being passed on to another suitable developer replacing Joseph Partners).
- *Termination* – the Council can terminate the Land Agreement and/or buy the land back (under a call option referred to in the next bullet point) in a number of circumstances where Joseph Partners breaches the Land Agreement (subject to giving "cure" rights to the developer's funder).
- *Call Option* – If the Land Agreement is terminated where development of the site/part of the development site is not completed, the Council has a call option entitling the Council to reacquire, at the lower of market value or the price Joseph Partners paid, the parts of the uncompleted Phase the Council previously owned, and (if the Council chooses to) the wider land (i.e. other than that originally owned by the Council) in the uncompleted Phase.
- *Residential Unit Option* – the Council can buy some or all of the residential units to be developed in a phase, at market value.
- *Governance* – Joseph Partners must establish a project board, to be responsible for public realm, public amenities, other elements of the town centre offering at North Finchley arising from the development, so that the Council retains significant influence over such matters.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The Council could choose to do nothing, and not consider ways of revitalising North Finchley. This is not recommended as it would result in the further decline of the town centre, affecting residents, businesses and visitors, and would also miss the opportunity to deliver new homes in the Borough. As stated in the P&R Committee report of December 2016, the current approach of working with Joseph Partners is being pursued due to the lack of demonstrable market interest from other parties.
- 3.2 The Council could progress "light touch" interventions such as business engagement and shop front improvements. Consideration was given to seeking funding and investment for capital improvements through the GLA's *Good Growth Fund*. However, this option was discarded as the Council was recently (in 2014) awarded a substantial grant, which saw the delivery of high street improvements. The GLA has indicated that it is unlikely to provide another round of funding for works in North Finchley.

- 3.3 The current proposed option includes the possibility of joint ventures with the developer should the Council consider these to be advantageous.
- 3.4 Having considered the alternatives, the proposed approach to comprehensively revitalising one of Barnet's most significant town centres can be considered a truly innovative project for Barnet.

4. POST-DECISION IMPLEMENTATION

4.1 Next steps are:

- Full officer Delegated Powers Report (DPR) to sign Site Assembly Agreement and Land Agreement;
- Further report to ARG on valuations ensuring best consideration and disposals, if necessary;
- Support Joseph Partners to establish a Project Board (with equal representation by/on behalf of the Council and Joseph Partners) which will be responsible for those elements of the development relating to public realm, public amenities and other elements of the town centre offering at North Finchley, with the intention that the Council will retain significant influence over such matters;
- Establish Partnership Board to manage wider town centre stakeholder consultation.

4.2 A detailed programme for delivery will be developed in line with the Site Assembly Agreement and Land Agreement.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The Council's Economic Development strategy, Entrepreneurial Barnet, outlines Barnet's approach to supporting the local economy to grow, and developing a successful, growing suburb in a successful, growing world city. It identifies North Finchley as a main town centre.

5.1.2 Within Entrepreneurial Barnet, the Town Centre offer specifically outlines the Council's commitment to providing additional support to actively market and promote opportunities to developers, when dealing with main Town Centres. The approach being progressed in North Finchley will provide clarity around the town centre proposition for development in the face of growing challenges for high streets.

5.1.3 Entrepreneurial Barnet directly supports delivery of the Corporate Plan 2015-20, particularly the following goals: promote responsible growth within the Borough, encouraging development and success, revitalising communities whilst protecting what residents love about the Borough.

5.1.4 The Housing Strategy 2015-25 highlights the role of purpose-built private rented sector housing located within or around town centres in addressing housing needs as well as supporting labour mobility.

5.2 **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 The adoption of the recommendations will result in no additional cost to the Council as the cost of additional resources are being recovered from Joseph Partners through a Planning Performance Agreement (PPA) and the Preliminary Agreement. Statutory planning functions will continue to be delivered through the business as usual Re contract. Additional staff costs in future will be recovered through the Site Assembly Agreement.

5.2.2 Progressing the Site Assembly Agreement and Land Agreement will clearly have implications for Council property but the agreements are intended to optimise value for money for the Council.

5.2.3 There are no anticipated implications in IT or sustainability in relation to the project.

5.3 **Social Value**

5.3.1 The Public Services (Social Value) Act 2012 requires people who commission public services to consider how they can also secure wider social, economic and environmental benefits.

5.3.2 The North Finchley SPD was subject to a Sustainability Appraisal which assessed the social, economic and environmental implications of the document.

5.3.3 Social benefits will principally be secured through opportunities to increase housing delivery (including affordable housing), widen the range of leisure and cultural activities as well as food and drink choices and improvements to the public realm. These activities will help to make North Finchley a more attractive destination which reflects its historic character.

5.3.4 Economic benefits will be delivered through inward investment in the development opportunities highlighted in the SPD, widening the daytime and evening economy and making the town centre more attractive to independent and national retailers as well as new residents.

5.3.5 Environmental benefits will be delivered through the re-allocation of road space, giving pedestrians and cyclists more priority, sensitive development which complements buildings of positive character, and an enhanced public realm with greater planting which softens the existing hard landscape and improves air quality.

5.4 Legal and Constitutional References

- 5.4.1 All proposals emerging from this report must be considered in terms of the Council's legal powers and obligations, including its overarching statutory duties such as the Public Sector Equality Duty.
- 5.4.2 The Council's Constitution, Article 7.5, Responsibility for Functions, states that the Assets, Regeneration and Growth Committee is responsible for asset management.
- 5.4.3 Council, Constitution, Article 10 Table A states that the Assets Regeneration and Growth Committee is responsible for authorising all acquisition of land for over £500,000.

5.5 Risk Management

- 5.5.1 The management of risk is undertaken on a continual basis and reported as part of the Council's Quarterly Performance regime and considered as part of the Performance and Contract Management Committee quarterly monitoring report. Risks are managed through the project boards and are reviewed and revised at board meetings.
- 5.5.2 A risk is that the SPD might be challenged following adoption by the Council. This has been mitigated by ensuring that the SPD is fully compliant with Regulations 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012, a comprehensive six weeks of consultation, and by ensuring that all the consultation responses have been carefully considered and taken into account.
- 5.5.3 There is a risk that Joseph Partners may be unable to secure adequate funding to progress the scheme. Joseph Partners are currently engaged with a number of potential developers, with Council officers having met with at least one of those parties as part of a due diligence process. Current evidence suggests good market interest and that a suitable investor will be forthcoming. The Land Agreement requires Joseph Partners to demonstrate that they have sufficient funding, so if funding is not forthcoming the Council can terminate the Agreement.
- 5.5.4 There is a risk that satisfactory planning permission may not be obtained. This is mitigated by the extensive consultations with the planning authority which the developer has conducted and continues to conduct.
- 5.5.5 Underpinning a number of the risks identified above is a more generalised risk of resistance to any proposed development by traders, local community members and others. The creation of the SPD provided an opportunity for all affected parties to fully engage with the process and the Council went above and beyond statutory consultation requirements to maximise engagement. The SPD has received strong support. Furthermore, as noted in paragraph 1.2 above, a Partnership Board will be established to ensure that there is an on-going means of engaging community members and that their voices will be

heard throughout any future development.

5.6 Equalities and Diversity

5.6.1 The general duty on public bodies is set out in section 149 of the Equality Act 2010.

5.6.2 A public authority must, in the exercise of its functions, 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; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.6.3 Relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

5.6.4 As part of the development of the Entrepreneurial Barnet strategy, a full Equalities Impact Assessment (EqIA) was undertaken which informed the Town Centre offering.

5.6.5 Additionally, the North Finchley SPD was subject to an EqIA which considered the impact on the groups identified above. It highlighted how the SPD helps to address issues such as the relocation of the weekly market from Lodge Lane market to a more prominent town centre location. The EqIA was updated following the public consultation to make more specific reference to the impact of the SPD on groups with the relevant protected characteristics with regard to housing and access to services in North Finchley.

5.7 Corporate Parenting

5.7.1 Town Centre facilities benefit all residents and opportunities to work in partnership with different service areas will be explored throughout the project.

5.8 Consultation and Engagement

5.8.1 In accordance with the Statement of Community Involvement (SCI) a period of formal consultation on the draft North Finchley SPD was undertaken over a six-week period from 16th October 2017 until 27th November 2017. Consultation went beyond the benchmarks set out in the SCI most notably in terms of the 12,000 leaflets distributed to households in the N12 postal district. All comments, whether completed questionnaires or written responses, were considered with equal weight.

5.9 Insight

5.9.1 The designation of North Finchley as a main town centre was made using

data on scale, population size, and growth potential. All subsequent support for the town centre – including development of this proposal – has been made on this basis.

- 5.9.2 The SPD consultation process provided a rich source of data and insight on North Finchley specifically.
- 5.9.3 Going forward, Re is continuing to work with the Capita Insight Team to inform the development of town centre strategies.

6. BACKGROUND PAPERS

- 6.1 North Finchley Town Centre Framework Supplementary Planning Document (SPD), February 2018, Policy and Resources Paper
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=692&MId=8742&Ver=4>
- 6.2 North Finchley Town Centre SPD, December 2016, Policy and Resources Paper
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=692&MId=8731&Ver=4>
- 6.3 Barnet Housing Strategy 2015-25
<https://barnet.moderngov.co.uk/ieDecisionDetails.aspx?Id=5524>
- 6.4 Entrepreneurial Barnet 2015-20
<https://barnet.moderngov.co.uk/ieDecisionDetails.aspx?Id=5385>