



Housing and Growth Committee

27 January 2020

Title	Disposal of Land adjacent to Broadfields School, at Hartland Drive, Edgware HA8 8JP (“the Site”)
Report of	Chairman of Housing & Growth Committee
Wards	Edgware
Status	Public with accompanying exempt report (Not for publication by virtue of paragraphs 3 and 5 of Part 1 of Schedule12A of the Local Government Act 1972 as amended as this relates to information of a financial nature and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings).
Urgent	No
Key	Yes
Enclosures	Appendix A -Site Plan
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Summary	

On 17 September 2018, the former Assets Regeneration and Growth (ARG) Committee approved recommendations in a report which outlined a revised approach to the development of specific council-owned sites identified for the provision of mixed tenure housing. The recommendation gave in principle approval to dispose of land at Hartland Drive Edgware HA8 8JP, known as land adjacent to Broadfields School ("the Site"), at full market value.

Two unsolicited bids to purchase and develop the Site were received in 2019 from Fairview and Industrial Dwellings Societies (IDS). This report together with the Exempt report summarises both the bids and the Exempt Report attaches technical and assessment reports to assist Members to make comparisons required to underpin the recommendation in this report which is to approve the disposal of the Site to Fairview at full market value in accordance with the requirements of s123 of the Local Government Act 1972.

Officers Recommendations

Committee are asked to: -

- 1. Note the report**
- 2. Approve disposal of the Council's freehold Interest in the land at Hartland Drive known as land adjacent to Broadfields School ("the Site") to Fairview Limited as set out in their Offer letter as attached to the Exempt Report.**
- 3. Delegate authority to the Deputy Chief Executive following consultation and agreement with the Chairman of the Housing and Growth Committee to sign/authorise the execution of any documentation required to give effect to and conclude the sale of the Site in accordance with the recommendation referred to above such documentation otherwise to incorporate provisions negotiated in the best interests of the Council.**

1. WHY THIS REPORT IS NEEDED

- 1.1 The Council has been exploring alternative delivery options for its development pipeline sites. In September 2018 the case was made for appointing the Barnet Group as its development partner, exploring options through Opendoor Homes and utilising other delivery models. In relation to the site known as land adjacent to Broadfields Avenue ("the Site") it was agreed to dispose of the Site for best value consideration and at full market value and bids were invited on that basis by the Council.
- 1.2 Following the decision by the former Assets Regeneration and Growth ("ARG") Committee to dispose of the Site on the 17 September 2018 it was agreed to report the terms back to committee in November 2018. The Council initially had contact with Beis Chinurch School in March 2017 thereafter periodic contact has been maintained with a representative of the school, CSG and various Councillors. Fairview submitted an unsolicited bid directly to the Council on the 18th July 2019, not subject to planning and increased their offer on the 16 August 2019. On the 18 October a bid was received from Industrial Dwelling Society (IDS) (a collaboration between Beis Chinurch School and IDS).

- 1.3 Following a review of the offers, it became clear that further clarity was required from IDS. A clarifications meeting was held at the Council's offices on the 29 October 2019. At that meeting it was clarified that this was a best value disposal. In the absence of a formal marketing campaign, bidders were advised that an independent assessment would be undertaken prior to the sale to provide the Council with an assessment of the market value. Having taken into consideration this independent assessment as attached to the Exempt Report both bidders were requested to come forward with Best and Final Offers by the 11 December 2019. The highest bid was a straightforward, unconditional offer to provide a policy compliant mixed housing scheme in accordance with the Site definition agreed by the Capital Strategy Board, the agreed governance route for council sites allocated for mixed housing use. and fulfilling one of the Council's key priorities. The IDS offer remained as a conditional offer for a scheme to provide housing and a faith based school as set out below in paragraph 1.11. Full details of the respective best and final offers are attached to the Exempt Report.

Background (paragraphs 1.3 - 1.29)

- 1.4 Site surplus to educational requirements: The Site, which sits next to Broadfields Primary School, was identified as surplus to educational requirements when the school was re-developed as part of the Council's Primary Schools Capital Investment Programme several years ago (2006). In 2012 the Site was re-marketed unconditionally (i.e. on a non-binding basis) having previously been marketed on a closed bid basis which was deemed not to have been optimum from a capital receipt point of view and thereby not to have achieved best value. 3 tenders were then received but only one, from Fairview, was unconditional but was considered below best value and the council resolved to continue to hold the Site until the market recovered. The Committee is referred to the Exempt report for details. Relevant consents were obtained from the Secretary of State for Education as required under the relevant legislation (Schedule 35a of the Education Act 1996) to take the land out of education use and permit disposal as a residential development. Part of the Site is subject to an overage agreement with Camden Council dating back to 2008 whereby any relevant disposal would trigger an overage payment.
- 1.5 Planning status In May 2015 full planning permission was sought to re-develop the Site for residential use comprising of 112 new self-contained dwellings (18 x one-bed flats, 42 x two-bed flats, 24 x two-bed houses, 21 x three bed houses and 7 x four-bed houses) of which 29% of units would be affordable. This permission has now expired.
- 1.8 Committee Approval Following the September 2018 ARG Committee agreement in principle to dispose of the Site at market value, detailed proposals were to be worked up and the terms of the disposal reported back to committee.
- 1.9 Site Disposal Authority Local authorities are given powers under the Local Government Act 1972 ("the 1972 Act") to dispose of land in any manner they wish, including the sale of their freehold interest, granting a lease or a reversionary interest, subject to an existing lease to a third-party. The only constraint is that a disposal must be for the best consideration reasonably obtainable. Certain General Consents apply to allow for a disposal at an undervalue which also outlines the circumstances in which the Secretary of State's consent to such an undervalue transaction is explicitly required

1.10 Invitation to bid The normal process for disposal of a development site would be by an informal tender to a select number of developers with a known track record for delivery and a funding facility, by advertising either in the Estates Gazette and/or the local press. Bids would be invited on an unconditional basis, with information such as the approach to a scheme and proof of funding as a requirement. By accepting the best or only bid is by definition a confirmation that the disposal has achieved the market value and meets the requirements of best value as required of local authorities under S123 Local Government Act 1972.

1.11 Expression of Interests Fairview submitted a bid on 18 July 2019 and increased their offer on the 16 August 2019. The latter bid was made on an **unconditional basis** i.e. not subject to planning or any other conditions and exchange with a 4-week completion. Confirmation of Fairview's ability to finance the purchase was provided (see Exempt Report for further details) so their ability to raise the finance would not be in question. After a number of extensions being granted, on the 18 October two structured offers were received from IDS not Beis Chinuch School, as previously anticipated. Details of these are set out in the Exempt Report.

Offer 1) as set out in the Exempt Report with a greater number of rented tenure and;
Offer 2) as set out in the Exempt Report for a higher proportion of homes for Shared Ownership or sale

The IDS offer was **conditional upon**:

- a) IDS board approval;
- b) Good Title of the Site;
- c) The terms of the contract for sale;
- d) Independent Red book valuation;
- e) Receipt of a satisfactory planning permission capable of implementation and free of any onerous conditions;
- f) The outcome of any necessary soil or geotechnical surveys

1.12 Overage payment In August 2019, the council undertook a due diligence exercise to explore the terms and expectations of the Overage Agreement with Camden Council in parallel to the above discussions being undertaken by the Council. The overage payment in favour of Camden is 25% of the enhanced value, with the benefit of a planning permission, or a disposal, less allowable costs. The council has the responsibility to discharge this payment which will be negotiated with Camden following agreement to the terms of the disposal.

1.13 Review of the bids The Council held a clarification meeting to review and assess the variations and material differences between the Fairview and IDS bids on 29 October 2019. Details are set out in the Exempt Report attached.

1.14 Independent Newsteer Assessment Report- As mentioned above the land had not been formally marketed, bidders were advised that an independent assessment would be commissioned prior to the sale to provide the Council with an idea of the best consideration obtainable for the Site. Following this Best and Final Offers were requested from both bidders. A copy of the Newsteer Assessment Report is attached to the Exempt Report.

- 1.15 Report Summary - Newsteer carried out an Assessment Report which summarised the range of possible residual land values based on varying sensitivity scenarios. The Assessment Report is attached to the Exempt Report as stated above.
- 1.16 'Best and Final Offer' Based upon the above scenarios a BAFO from both bidders in excess of the maximum residual land value figure as set out in the Newsteer Assessment Report was sought on the 4 December 2019. Revised bids were received on the 11 December 2019 with both bidders confirming their continued interest in the Site. Full details are set out in the Exempt Report.

Best & Final Offer- Analysis: A comparison of the two best and final offers was carried out and it was evident that there were far more contingencies and conditions in respect of the IDS bid than that of Fairview. The results are summarised in the Exempt Report.

- 1.17 Time Value of Money Fairview's receipt was expected to be paid to the Council in Q4, 2019/20. There was a possibility that IDS's receipt will not be received until Year 2 (Q4 2021/22) as it was conditional, in which case the bid was discounted to reflect the effect of the deferment. Full details are set out in the Exempt Report.

- 1.18 Risks The principal risks identified with the IDS's bid were as follows;

- 1) No details of the available funding to finance the purchase were supplied;
- 2) The offer was conditional and subject to "satisfactory" planning being obtained. The level of uncertainty surrounding this aspect of the conditionality is something that the Council must properly consider;
- 3) There was a strong possibility that the IDS would have to re-negotiate the price at a later stage or upon planning being granted given the bid was subject to valuation and the differential between the level of the bid and the value of the IDS scheme as set out in the independent valuation was significant;
- 4) As the offer from IDS was conditional and payment of the purchase price was to be deferred, there would be a cost to the Council in terms of the cost of borrowing as the financing of the Council's indebtedness is £50k per annum per £1m borrowing;
- 5) Limited experience of delivering projects of this scale;
- 6) IDS had confirmed that they were not able for constitutional reasons to bid on an unconditional basis.

- 1.19 Officers commissioned an independent valuation report in order to satisfy S123 of the 1972 Act which is attached to the Exempt Report.
- 1.20 Transaction principles within the bids or required by LBB to proceed with the land disposal were established and these are set out in the Exempt Report.
- 1.21 Conclusion- Having proper regard to both offers, Fairview's bid fulfilled the Council's obligations in terms of compliance with its statutory duty for the purposes of S123 of the 1972 Act. In evaluating whether this duty can be fulfilled the Council must not only have regard to the price but also to normal commercially prudent practices such as whether there is a realistic prospect of the scheme being delivered which raised serious concerns as far as the IDS bid was concerned and in consequence the Council being able to ultimately dispose of the Site.

2. REASONS FOR RECOMMENDATIONS

- 2.1 In 2006 as part of the primary school investment programme this Site was to be sold for residential development to fund the rebuilding of the Broadfields school. Agreed governance process requires housing sites to be defined and agreed by Capital Strategy Board having been considered to be best suited to the delivery of housing or housing led mixed use schemes. Capital Strategy Board agreed to the disposal of the Broadfields Avenue site and made a recommendation to ARG committee on 27 September 2018. The proposal was to sell the Site at best value.
- 2.2 The two bids were received. One was conditional and one unconditional (See Exempt report). The Fairview bid fully complies with best value and s123 of the 1972 Act. The Committee is being asked to authorise the sale of the Site to Fairview on the basis of the Fairview bid details of which are set out in the Exempt Report.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Retain the Site - the Council continues to hold the Site thereby not delivering its corporate priorities with potential costs of security and risks of unlawful occupation.
- 3.2 Transfer to Open Door Homes to enable Barnet Homes as the Council's preferred delivery partner submit a proposal to build out the site for affordable housing. This would not deliver a capital receipt for the council as required by the original decision.
- 3.3 Transfer the Site at an undervalue to IDS. The Council is not fettered in its ability to change any decision that it has made provided that it has a lawful basis for doing so. In the light of this the IDS bid was fully considered notwithstanding the lower quantum of the bid but necessarily having regard to the risks as referred to above and later in this report (see section 5.4). In the light of those risks, the statutory duties that the Council has (see section 5.4 below), the level of the undervalue as stated in the Independent Valuation (see Exempt Report) carried out by Newsteer and having sought and obtained advice of Leading Counsel which is attached to the Exempt Report this course of action is not recommended.

4. POST DECISION IMPLEMENTATION

- 4.1 To complete the disposal of the land to Fairview as outlined in this report and in accordance with the terms of their bid.

5. IMPLICATIONS OF DECISION

- 5.1 **Corporate Priorities and Performance**

- 5.1.1 The Corporate Plan 2019-2024 sets out the aim to ensure Barnet is a pleasant, well maintained borough that is protected and invested in by:
- Ensuring decent quality housing that buyers and renters can afford, prioritising Barnet residents that will be delivered by increasing supply to ensure greater housing choice for residents and delivering new affordable housing, including new homes, on Council owned land.
 - Investing in community facilities to support a growing population, such as schools and leisure centres that will be delivered by investing in community facilities such as enhancing our indoor and outdoor sporting facilities and maintaining our 21st century libraries.
- 5.1.2 The current London Plan and Barnet's Local Plan recognise the need for more homes setting a minimum annual target for Barnet of 2,439 homes. The new Council's Housing Strategy 2019-2024 continues to emphasise that delivering more homes that people can afford is a key priority.
- 5.1.3 The Council's Housing Strategy, agreed in 2019 has the overarching objective of providing housing choices that meet the needs and aspirations of Barnet residents and sets out how the Council will deal with a number of challenges including high prices, a shortage of affordable housing and the potential threats to the qualities that make the Borough attractive.
- 5.1.4 The draft London Plan recognises the need for more homes in the capital. Managing housing growth and the provision of new homes is the first objective set out in Barnet's Core Strategy. The London Plan and Core Strategy set challenging targets for the delivery of new housing, with the former having increased the minimum annual target for Barnet to 3,134 homes per annum.
- 5.1.5 The highest priority of the Council's Housing Strategy is increasing the supply of housing with the population of Barnet forecast to increase by 19% over the next 25 years.
- 5.1.6 Barnet's Health and Wellbeing Strategy recognises the importance of access to good quality housing in maintaining Well-Being in the Community.
- 5.1.7 Lack of affordable housing is highlighted in Barnet's Joint Strategic Needs Assessment (JSNA) as one of the top three concerns identified in the Residents Perception Survey.
- 5.1.8 The Corporate Plan further sets out how the Council will deliver these ambitions within financial constraints by ensuring that taxpayers money goes as far as it can through adhering to the following key principles:
- A fair deal - by delivering the services that matter most and making decisions to prioritise our limited resources alongside providing value for money for the taxpayer by ensuring we are transparent in how we operate.
 - Maximising opportunity - by taking a commercial approach to generating income, and looking for new opportunities to generate revenue from our estate, alongside capitalising on opportunities from responsible growth and development to boost the local economy

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

Finance and value for money

- 5.2.1 This scheme will be brought forward by the developer following disposal of the Site.
- 5.2.2 It is important that the LB Barnet protects itself from financial risk and ensures value for money. When disposing of a capital asset the resulting capital receipt can be used to, subject to accounting regulations, and any other statutory constraints, fund additional capital projects. If the Council was to dispose of an asset in advance of the receipt of funds, a deferred capital receipt would be established and would only be realised as an actual capital receipts when the settlements were received in subsequent periods.
- 5.2.3 From a finance perspective, receipt of funds in full on disposal secures the funds for use immediately and exposes the Council to less financial risk.

Staffing

- 5.2.4 There are no staffing considerations in relation the council staff resources

Property

- 5.2.5 The overarching aim of the mixed tenure housing programme is to achieve the best outcomes in relation council assets. In accordance with the 2018 ARG committee decision a bid for the Site in accordance with S123 has been received which complies with the Council's duties and as a best value authority it is required to comply with the requirements of s 123 of the 1972 Act. This capital receipt will be used to fund the council's corporate objectives.

5.3 Social Value

- 5.3.1 As a result of implementing this decision, the Council will achieve additional benefits for residents which provide a mixed housing scheme in the area. The Public Services (Social Value) Act 2012 requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits.

5.4 Legal and Constitutional References

- 5.4.1 The Council's Constitution - Article 7.5 - the Housing and Growth (H&G) Committee has responsibility for housing matters, including housing strategy, homelessness, social housing and housing grants; commissioning of environmental health functions for private sector housing; regeneration strategy and major regeneration schemes; asset management; employment strategy; and business support and engagement. The H&G Committee has assumed the functions of its predecessor the Assets Regeneration and Growth (ARG) Committee.
- 5.4.2 Article 10 of the Constitution - Decision Making - Table A states that the Housing and Growth Committee is responsible for authorising all disposals and acquisitions of land for over £500k.

- 5.4.3 The 1972 Act s 123 (1) permits the Council to dispose of land held by them in any manner they wish subject to the constraints set out in the following provisions of that section.
- 5.4.4 The Council has a fiduciary duty to its council tax payers which is reinforced by its statutory duty pursuant to s 123 (2) of the 1972 Act, which prohibits a Council, except with the consent of the Secretary of State, from disposing of land otherwise than by way of a short tenancy, for a consideration less than best that can be reasonably obtained. The obligation to secure best value is a continuous one.
- 5.4.5 Where a Council wishes to dispose of land for less than best consideration, that is at an “undervalue” and seeks to depart from the requirements of s 123 referred to above, the Council is required to have regard to the provisions of the Local Government Act 1972: General Disposal Consent (England) 2003 (“the GDC”) and the Government Circular (“the Circular”) attached to the same, which sets out the circumstances which must be met and the process which must be adopted to lawfully sell the land having regard to the overriding and mandatory obligations set out at s 123.
- 5.4.6 The Council must in its decision to sell any land at an undervalue be able to satisfy itself that there are circumstances which provide the basis for such a decision and that certain objectives can be achieved by such, namely that the proposed undervalue sale is likely to contribute to either the social, economic or environmental improvement of the area or any part of the area or the residents in the same. Where the amount of the undervalue exceeds £2 million the express written consent of the Secretary of State is required as well.
- 5.4.7 The amount of the undervalue is the figure which represents the difference between the “unrestricted “value and the “restricted value. The Technical Appendix attached to the Circular sets out the basis of determining these two figures and the independent valuation report prepared by Newsteer confirms that the valuer has had regard to the General Disposal Consent and Circular referred to above in the methodology employed in arriving at his valuation.
- 5.4.8 To ascertain whether the Market Value of the Property for the purposes of determining whether the proposed land disposal under the terms of the 1972 Act (S123), falls within the provisions of the GDC the Council instructed an independent valuation from Newsteer Real Estate Advisers , such valuation being carried out by a MRICS Chartered Surveyor and Registered Valuer who has and has confirmed as having sufficient current local, national and knowledge of the residential development market, and the skills and understanding to undertake the valuation competently.
- 5.4.9 The Valuer was instructed to determine the amount of the undervalue by reference to the difference between the “Unrestricted Value” in line with the GDC (Technical Appendix) which sets this out as being the best price reasonably obtainable for the property, and the “Restricted Value “also defined in the GDC Technical Appendix as being the market value of the property “having regards to the terms of the proposed transaction”.
- 5.4.10 The Valuer was instructed to make the following assumptions / special assumptions regarding his valuation:

- (a) With respect to establishing the Market Value on an Unrestricted Basis, to adopt the 112 units scheme, previously consented to by the Council, as the basis of his appraisal, but then to assume that there is potential to enhance the density of a development up to 135 units. Reasonable assumptions in respect of grant funding were made based upon the affordable mix adopted;
- (b) With respect to establishing the Market Value on a Restricted Basis, in line with the preferred bidder's (IDS) proposal to assume, the scheme details of which are set out in the Exempt Report as outlined in their bid. The offer includes a 10% deposit and is conditional on planning and therefore, the value of the receipt to the Council assumes 90% is deferred 15 months at 5%.

5.4.11 In terms of assessing the Fairview and the IDS bid the amount of the undervalue which exceeds by some margin the de minimis £2 million threshold which would require Secretary of State Consent together with those other factors outlined at paragraph 1.19 above and as otherwise set out in this report, support the recommendation to the Committee for a disposal to Fairview which would be the commercially prudent thing to do.

5.4.13 State Aid- Article 107(1) of the Treaty on the Functioning of the EU (TFEU) states that:

"Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the Common Market."

In other words, if the Council as a public body provides a subsidy or benefit (aid), selectively to an organisation and that aid has the potential to distort competition or the State gives an unfair advantage this amounts to State Aid. An undervalue transaction immediately raises concerns in respect of whether State Aid issues have arisen.

5.4.14 There are 4 limbs to State Aid, all of which need to be present: -

- (i) It is granted through state resources;
- (ii) It favours selected undertakings/organisations;
- (iii) it distorts competition (or threatens to do so); and
- (iv) it affects trade between Member States.

5.4.15 State Aid rules can (among other things) apply to the use or sale of a state asset for free or at less than market price, to grants and loans. In addition, the State Aid rules can apply to funding given to public authorities and other non-profit making bodies where they are involved in commercial activities.

5.4.16 Based on the facts, it is likely that State Aid will apply if the Council accept the IDS bid. This is because

- (i) The benefit (the undervalue) is being granted via a state resource;
- (ii) A procurement was undertaken and the Council is favouring the bidder of the lower offer;

(iii) The Council, by seeking to accept the lower offer will be distorting competition. Not only on the basis that they have not accepted the higher offer, but also on the basis that had the Council made clear their intentions to accept lower bids due to other policy considerations (provision of the school), other interested parties may have bid; and

(iv) Commercial interest in land development has got a cross boundary interest and not limited. State Aid in this case can therefore affect trade between Member States.

5.4.17 The land was advertised in 2012 and multiple bids were received. This demonstrates the potential value of the Council's asset in this case and supports the potential existence of State Aid if the lower offer is accepted.

5.4.18 Exemptions to State Aid - There are however a number of exemptions which may be applicable:

(i) General Block Exemption Regulation (GBER)- The General Block Exemption Regulation (GBER) provides a simple way of providing assistance for a range of aid measures considered not to unduly distort competition. Economic activity means putting goods or services on a market. It is not necessary to make a profit to be engaged in economic activity: if others in the market offer the same good or service, it is an economic activity. The GBER can authorise aid for "Local Infrastructure". It does not appear likely that these provisions will apply here although the Council may wish to take further Counsel's opinion on whether the GBER applies.

If the Council wishes to rely on this GBER exemption then it will need to comply with the relevant procedures including notify the Commission using the online system (SANI) within 20 working days of giving aid and the management authority will need to inform the BIS State Aid team to be able to use SANI. (A standard notification takes at least 9-12 months to be approved, but this takes longer if they are contentious or do not fall under existing guidelines.)

- (ii) Services of General Interest (SGI)/Services of General Economic Interest (SGEI): These types of services have not been defined, but have been left to the individual member states to define. SGEI is roughly defined as follows: "Public services (such as gas, electricity, postal services, public service broadcasting and lifeline public transport links) that the market does not provide or does not provide to the extent or at the quality which the state requires AND is a service in the general and not the particular interest, that means that the service should be opened to the public." The service has to be economic and there has to be an entrustment of the provision of this service to an undertaking". This exemption is unlikely to apply either.
- (iii) De Minimis aid- This applies to support/aid of up to €200k (or €500k depending on the nature of the benefit) over any three-year period. The De Minimis exemption will not apply either given the amount of the undervalue.

5.4.19 Secretary of State for Education consent- The Council applied to the Secretary of State on the 14 November 2011 for permission under Schedule 35a of the Education Act 1996 to dispose of the land for residential use following receipt of prior Secretary of State approval in 2007 under s 77 of the Schools Standards & Framework Act 1998 (as amended) on the basis that the Site was surplus to the Council's educational requirements the Council having provided an alternative school playing field .

5.4.20 If the Council decides to depart from the recommendation, then there is also a risk that an approach to the Secretary of State for Education may be required again to authorise the sale as part of the land would be used other than for residential purposes as outlined in the IDS bid. Moreover, as the Council stated in its letter of application in 2011 that no approach had been made for the use of the Site by any other educational institution such as an Academy, Free School or Technical College the Council would need to be able to re-confirm that this is the case and increases the Council's risk. Under the provisions of the Education Act 2011 Schedule 11 paragraph 2 where a local authority considers that a new school is required in its area they must seek proposals for the establishment of an academy in preference to anything else and confirm this has been done to the Secretary of State for Education. The Secretary of State may impose conditions for the provision of his/her consent which can include conditions as to how the proceeds of any sale should be used.

5.4.21 Overage Agreement- If the IDS bid is pursued there are adverse impacts to be considered details of which are set out in the Exempt Report.

5.4.22 The Council as noted above obtained full external specialist legal advice in relation to legal risks which is attached to the Exempt Report.

5.5 Risk Management

5.5.1 The recommended bid from Fairview is importantly an unconditional one. This means that the sale can proceed without any planning permission being required by Fairview with Fairview accepting entire risk on this. The risk of not completing is very low, however, if Fairview fail to complete the transaction on the basis of their bid, the Site will be marketed. Fairview have confirmed that they will exchange contracts within 28 days from acceptance of full papers and draft contract.

5.5.2 The Council has obtained both an independent valuation report as well as Counsel's advice to ensure that it has fully complied with its obligations, acted properly and in consequence reduced the risk and prospect of challenge.

5.6 Equalities and Diversity

5.6.1 A full equalities impact assessment was completed for The Housing Strategy 2015-2025 which identified that the Strategy would have a positive impact on all sections of Barnet's Community.

5.6.2 The proposals in this report do not raise any negative impacts for equalities and anticipate a positive impact for residents because they:

- Underline the Council's aim that all residents from our diverse communities – the young, old, disabled people and those on low incomes – benefit from the opportunities of growth.
- Contribute to Barnet's commitment to fairness - to be mindful of the concept of fairness and in particular of disadvantaged communities - which was adopted at Policy and Resources Committee in June 2014.
- Form part of Barnet's Housing Strategy 2015-2025 which includes the objective to deliver homes that people can afford.
- Provide homes for people who are homeless and may be currently disadvantaged.

5.7 Corporate Parenting

5.7.1 None in the context of this report

5.8 Consultation and Engagement

- 5.8.1 Ward councillors, residents and communities local to each site will be Consulted prior to the planning applications being submitted. Public resident consultation meetings will be held and individual consultations will be undertaken with other residents as requested.
- 5.8.2 A statutory consultation exercise will also be undertaken as part of the planning process for each scheme.
- 5.8.3 If the IDS scheme were to be pursued a full Equalities Impact Assessment will be required to be carried out and any decision would need to take its findings into account.

5.9 Insight

5.91 None in the context of this report.

6. BACKGROUND PAPERS

- 6.1 Cabinet Resources Committee, 24 June 2013, 'Local Authority New Housing Programme' <https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=151&MId=7457&Ver=4>
- 6.2 Assets Regeneration and Growth Committee, 15 December 2014, Strategic Asset Management Plan
<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=696&MId=7886&Ver=4>
- 6.3 Assets Regeneration and Growth Committee. 17 September 2018, Mixed Tenure housing
<https://barnet.moderngov.co.uk/documents/g9764/Public%20reports%20pack%2017th-Sep-2018%2019.00%20Housing%20and%20Growth%20Committee.pdf?T=10>