



CHIEF OFFICER IN CONSULTATION WITH COMMITTEE CHAIRMAN DELEGATED POWERS REPORT

Title	The freehold land and buildings known as 12-18 High Road, London N2 9PJ – Authority to Purchase via Auction
Report of	Cath Shaw Deputy Chief Executive
Wards	All
Status	Public
Enclosures	None
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Summary

This paper seeks authority to bid at auction to acquire an adjoining property to a Council owned asset in East Finchley. The Council's asset is currently occupied and operated as a children's nursery and as such the council would be a special purchaser as the asset has a special value. The site has been independently valued and authority is required to bid up to a maximum amount of £3.5m plus VAT for the freehold land and buildings known as 12-18 High Road, London N2 9PJ. Funding is available through the strategic opportunities fund.

Decisions

To give authority to bid up to £3.5M plus VAT for the freehold land and buildings known as 12-18 High Road, London N2 9PJ and if the bid is accepted, to purchase this property.

To authorise the Director of Growth to place a bid on the Council's behalf, via proxy, telephone or internet.

1. WHY THIS REPORT IS NEEDED

- 1.1 In 24th April 2017 Assets Regeneration and Growth Committee approved principles of the Strategic Opportunities Fund purchases of individual real estate in or within 5 miles of the borough of Barnet. Authority to be delegated to the Commissioning Director of Growth and Development, or the Section 151 officer, in consultation with the Chairman of Assets, Regeneration and Growth Committee. The Council's constitution has been revised since 2017 and there is not now a Commissioning Director of Growth and Development. The property functions of that office are now dealt with by the Deputy Chief Executive.
- 1.2 The freehold land and buildings known as 12-18 High Road, London N2 9PJ is due to be offered for sale at auction with the benefit of planning consent at a guide price of £4.75 million. LBB are intending to bid to purchase the site as it sits adjacent to a Council owned building, which is currently occupied and operated as a children's nursery. The Council is currently undertaking a feasibility on its own land and believes the two sites combined will not only contribute to 'place making' but creates a marriage value between the two sites.
- 1.4 An independent valuation of the site has been carried out.
- 1.5 The guiding principles underpinning any decision to acquire real estate using the strategic opportunities fund are:
- The real estate must be suitable for development in its own right or must add value to an adjacent development.
 - There must be a professional valuation justifying the purchase cost in line with the Council's strategic objectives set out in this report. The cost must be within the budget agreed in the Capital Programme.
 - There must be a business case that clearly sets out the financial rationale behind the purchase. This will describe the principles of the acquisition and the tangible benefits.
 - There needs to be a clear exit strategy for the fund. This means that once a scheme reaches the stage where approval is sought to enter in to construction contract, development funding would be sought and the value of acquisition costs expended would be returned to the strategic opportunities fund. Should a scheme not progress then the site can be resold on the open market.
 - Any acquisitions approved will be reported to the Housing and Growth Committee as part of a regular Assets, Land and Property Transactions report. Once a scheme has been developed, the outline business case will also be submitted to HAG Committee for consideration.

The following conditions apply to the auction, which should be understood:

- the Seller has elected to charge VAT on the purchase price, with the sale being a standard rated supply. The price is exclusive of VAT so that the Council will pay VAT on top of the purchase price.
- a unconditional deposit of 10% of the purchase price plus VAT will be payable when contracts are exchanged. The deposit will be held by the Seller's solicitor as stakeholder, and on completion of the purchase of the Property, it will be paid to the Seller;
- the Buyer must insure the Property from exchange of contracts;
- the Buyer must reimburse the Seller for the cost of all searches carried out by the Seller, including Land Registry titles. We do not currently have the cost of these;
- if the Buyer does not complete on the contractual completion date, it must pay the reasonable costs of the Seller's solicitors which will be a minimum sum of £500 plus VAT in addition to other costs to the Seller which might arise from this breach of contract.

1.3.1 Furthermore, the Extra Special Conditions of the sale state the following, which should also be understood:

- The Seller shall be entitled to complete a further Section 106 Agreement with the London Borough of Barnet in similar terms to that dated 6 October 2017 (discussed below in Section 5.1). These Extra Special Conditions state that if the S106 Agreement is already completed, the Buyer shall purchase the Property subject to it. HB Public Law are dealing with this draft S106 Agreement on behalf of Barnet Council as planning authority, which is still being negotiated. The Council as buyer requires this agreement to be completed so that planning consent is granted.
- The Seller will be entitled to determine the Design and Build Contract which the Seller entered into in 2018 with WS Building Contracts Limited. We understand Barnet will not want this in place in any event so, if Barnet enters into a separate Contract with the Seller, it will want to make the determination of this Design and Build Contract a condition of purchase. The Council will need to go through its usual procurement process to appoint a contractor.

2. REASONS FOR RECOMMENDATIONS

2.1 The acquisition of this land and property is only financially viable within the valuation cap and will add to the Councils development portfolio. To maintain a sustainable pipeline of regeneration activity and to support town center improvements it is necessary to acquire additional sites /properties. The acquisition of viable development sites is a competitive business. The Council needs to be in a position to make an offer in a much shorter timescale than normal governance processes would permit. Therefore, a fund of £20 million has been approved in the Capital Programme for the acquisition of key real estate to enable development. The fund will be 'revolving' in that spending power will be

returned to the fund once properties have been transferred into a development scheme. In the case of a site being transferred to an external developer, this will be at best value. Further information is available in the DPR Strategic Opportunities Fund report referred to in paragraph 6.1 below.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Do nothing option – If the Council do not bid for the site and the site is sold to a third party the Council will lose the opportunity of developing a more comprehensive mixed tenure housing scheme across both sites.

4. POST DECISION IMPLEMENTATION

- 4.1 Once the recommendation has been approved, HB Public Law will arrange the expedition of the appropriate documentation
- 4.2 Officers will register LBB's interest with the auctioneers and act on LBBs behalf having sought authority to bid.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Council's corporate plan published in spring 2019 sets out that one of the council's core purposes is to work together to ensure quality services. The corporate plan also includes a focus on ensuring services are delivered efficiently to get value for money for the taxpayer.
- 5.1.2 The Council's Corporate Plan also sets out how residents will see a responsible approach to regeneration, with new homes built and job opportunities created. The acquisition of key real estate will enable future development opportunities to support the delivery of Council functions as set out in the Corporate Plan, including the delivery of new homes that residents need, and increase revenue streams.
- 5.1.3 The Development Pipeline Programme sets out how the council will use its land holdings to deliver key priorities in the Housing Strategy 2015 - 2025, including. Increasing the housing supply- to provide more homes. In the February 2016 Residents Perception Survey access to affordable housing was found to be the issue that most residents are concerned about, demonstrating the importance of increasing the housing supply. Delivery of homes that people can afford- to provide more affordable homes for rent and sale. Providing housing related support to vulnerable people- for example housing suitable for older people suffering from Dementia. Improving quality, particularly in the private rented sector- by developing high quality bespoke purpose built private rented homes.
- 5.1.4 Barnet's Health and Wellbeing Strategy recognizes the importance of access to good quality housing in maintaining Well-Being in the Community.

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

5.2.1 Within the currently approved Capital Programme, there is a scheme for Development Pipeline Strategic Opportunities Fund, £20m.

5.3 **Social Value**

5.3.1 The premise behind acquiring this site for development is to provide homes and commercial space.

5.3.2 The Council will seek to provide employment opportunities for local people and opportunities for small and medium enterprises through the procurement of the construction contracts for the delivery of development pipeline schemes.

5.4 **Legal and Constitutional References**

5.4.1 Section 120 of the Local Government Act 1972 provides that a principal council can acquire land (whether situated in or outside their area) by agreement for the purposes of any of their functions or the benefit, improvement or development of their area. The decision must be made taking into account all relevant considerations including the price to be paid.

5.4.2 The Assets Regeneration & Growth Committee (predecessor of Housing & Growth Committee) on 24 April 2017 made the decision mentioned at paragraph 1.1 which gave delegated authority for this decision to be made if appropriate. The report to Assets Regeneration & Growth Committee said that the profile of the fund set up at the time had £2 million for 2019/20.

5.5 **Risk Management**

5.5.1 A desktop valuation and report on title has been undertaken. This has given an indication of cost implications and development parameters to ensure financial viability.

5.5.2 As the bidder, the Council is entering into obligations to the seller and the Auctioneer and should familiarise itself with the Auctions terms & conditions

5.5.3 We are aware of a Rights to Light reports and possible injuries to properties and compensation. These rights can be overcome through appropriating the land to planning, for which compensation would be payable if there is a valid claim from the property owners affected.

5.6 **Equalities and Diversity**

5.6.1 We have considered whether these proposals will give rise to any issues under the Council's Equalities or Diversity policies and do not consider that there are any such

concerns.

5.6.2 Pursuant to the Equality Act 2010, the council and all other organisations exercising public functions on its behalf must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act; advance equality of opportunity between those with a protected characteristic and those without; foster good relations between those with a protected characteristic and those without. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

5.7 Corporate Parenting

5.7.1 Corporate parenting is not relevant to this paper.

5.8 Consultation and Engagement

5.8.1 The report to Committee on 24 April 2017 said that consultation on all schemes proposed will be undertaken on an individual basis. This will include, but not be limited to, statutory consultation undertaken as part of the planning process. Each development project will be expected to produce a full consultation and engagement plan that will be used to demonstrate how the council has consulted with its citizens at various stages of the project life cycle. A library of evidence for the findings will be kept by the project team.

5.9 Insight

5.9.1 The Council's Housing Strategy, which identifies the need for new affordable homes, is supported by a comprehensive evidence base, including a Housing Needs Assessment and a study of affordability carried out by the Council's insight team.

6. BACKGROUND PAPERS

6.1 <https://barnet.moderngov.co.uk/documents/s39254/Strategic%20Opportunities%20Fund.pdf>

6.2 Appendix A - Desktop Valuation Report

6.3 Appendix B - Report on Title

7. DECISION TAKER'S STATEMENT

7.1 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

frameworks of the organisation which includes Constitution, scheme of Delegation, Budget and Policy Framework and Legal issues including Equality obligations. The decision is compliant with the principles of decision making in Article 10 of the constitution.

Chairman:

Has been consulted

Deputy Chief Executive:

Decision maker having taken into account the views of the Chairman

Dated: 24.03.20