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| | <p align="center">CHIEF OFFICER IN CONSULATION WITH COMMITTEE CHAIRMAN DELEGATED POWERS REPORT 1 September 2020</p> |
| <p align="center">Title</p> | <p align="center">Brent Cross Cricklewood – Claremont Way/Clinic – Option to Tax</p> |
| <p align="center">Report of</p> | <p>Director of Finance</p> |
| <p align="center">Wards</p> | <p>Childs Hill, Golders Green and West Hendon</p> |
| <p align="center">Status</p> | <p>Public</p> |
| <p align="center">Enclosures</p> | <p>Appendix 1 – Land Transfer Title Plans Appendix 2 – COD Claremont Clinic</p> |
| <p align="center">Officer Contact Details</p> | <p>Karen Mercer Karen.mercer@barnet.gov.uk</p> |

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| <h2>Summary</h2> |
| <p>The council and Brent Cross South (BXS) are in the process of securing the land needed to deliver the first phases of the BXS development. The council acquired Unit 1 Claremont Way and Claremont Clinic from Hammerson and Aberdeen Standard Investments (HASI) on 9 July 2020 as identified on the plan at Appendix 1 (“the Land”). The transaction was not a “transfer of going concern” (TOGC) and HASI had already opted to tax on the Land and as such the sale price for the Land was subject to VAT. The Council needs to Opt to Tax the Land to recover the VAT and ensure all future supplies made in relation to this interest will be standard rated. In addition, the Council would be able to recover any VAT incurred in making those supplies.</p> |

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| <h2>Decisions</h2> |
| <ol style="list-style-type: none"> To endorse approval to the in principle decision to opt to tax the land identified on Plan 1 annexed and to authorise officers to make the requisite application to HMRC. |

1. WHY THIS REPORT IS NEEDED

To confirm that a decision has been made to opt to tax the Council's land, being the land acquired from HASI known as Unit 1 Claremont Way and Claremont Clinic as indicated on Plan 1 annexed, and to mitigate the risk of the Council breaching the partial exemption threshold.

2. REASONS FOR DECISIONS

- 2.1 The comprehensive regeneration of Brent Cross is a long-standing objective of the council as set out in the quarterly updates to the Housing and Growth Committee.
- 2.2 In light of HASI's decision to have already opted to tax on the land transferred, the Council is required to protect its VAT recovery position. The Council has taken legal advice from its VAT advisor KPMG on the treatment of VAT to confirm that it is appropriate to opt to tax properties such as this within the Brent Cross regeneration area.
- 2.3 The decision to opt to tax was approved in principle internally on 1 July prior to the land transfer.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 3.1 Not opting to tax would increase the risk of the council exceeding the 5% partial exemption threshold for exempt supplies. This option was therefore excluded.

4. POST DECISION IMPLEMENTATION

- 4.1 An application will be made to HMRC to opt to tax the Land. Advice will be sought from KPMG on submission as required.
- 4.2 The option once confirmed by HMRC will be recorded with the council's VAT Accountant to enable the council's Opt to Tax register to be maintained.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 Previous reports describe in detail the ways in which the regeneration of Brent Cross Cricklewood supports the Council's Corporate Plan Barnet 2024.

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

- 5.2.1 A separate DPR was agreed to authorise the acquisition of the land from HASI and completion of the associated legal documentation. The £1.5m acquisition (plus VAT) was funded by Brent Cross South JVLP through the Project Agreement.

5.2.2 The land transfer was not a TOGC and VAT was therefore payable of £0.300m. Opting to tax ensures all future supplies made in relation to this interest will be standard rated. In addition, the Council would be able to recover any VAT incurred in making those supplies.

5.2.3 Opting to tax will reduce the risk of the Council exceeding the partial exemption as mentioned in the alternative options section.

5.2.4 The land subject to VAT and the Option to Tax is included in the attached appendices.

5.3 **Social Value**

5.3.1 As set out in the report to the Housing and Growth Committee on 6 July 2020. <https://barnet.moderngov.co.uk/documents/s59211/Brent%20Cross%20Cricklewood%20Report.pdf>

5.4 **Legal and Constitutional References**

5.4.1 As set out in the report to the Housing and Growth Committee on 6 July 2020. <https://barnet.moderngov.co.uk/documents/s59211/Brent%20Cross%20Cricklewood%20Report.pdf>

5.4.2 Constitution- Article 9.4- Administration of Financial Affairs- The Chief Finance Officer will have responsibility for the administration of the financial affairs of the council.

5.5 **Risk Management**

5.5.1 KPMG has previously advised the Council on VAT advice for a similar decision relating to the Brent Cross Cricklewood Regeneration Scheme.

5.5.2 That advice in conjunction with the recent tax advice obtained with regard to this specific proposed transaction can be taken to apply to this decision to opt to tax as well and as such the issues involved are unlikely to give rise to policy considerations or to significant levels of public concern.

5.6 **Equalities and Diversity**

5.6.1 None in the context of this report.

5.7 **Corporate Parenting**

5.7.1 None in the context of this report.

5.8 **Consultation and Engagement**

5.8.1 None in the context of this report.

6. BACKGROUND PAPERS

- 6.1 <https://barnet.moderngov.co.uk/documents/s48016/DPR%20-%20Exercise%20Land%20Options%20under%20the%20BXN%202018.pdf>
- 6.2 <https://barnet.moderngov.co.uk/documents/s48493/Brent%20Cross%20Cricklewood%20Update%20Report.pdf>
- 6.3 <https://barnet.moderngov.co.uk/documents/s59211/Brent%20Cross%20Cricklewood%20Report.pdf>

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 framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations.*

8. OFFICER'S DECISION

I authorise the following action

- 8.1 To endorse approval to the in principle decision to opt to tax the Land and to authorise officers to make the formal application to HMRC.

Signed Director of Finance and Section 151 Officer

Date 2 September 2020

Finance Officer- s 151 Officer