	Housing and Growth Committee **14 June 2021**
Title	**Watling Car Park Proposed Approach to Site Disposal**
Report of	Chairman of the Housing & Growth Committee - Councillor Richard Cornelius
Wards	Burnt Oak
Status	Public with accompanying Exempt Report (not for publication by virtue of paragraph 3 of Schedule 12a of the Local Government Act 1972 as amended as this relates to information of a financial or business nature)
Urgent	No
Key	Yes
Enclosures	None
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Summary

This report sets out the proposal for the Council to enter into a commercial arrangement with a developer/annuity funder that delivers the social and environmental regeneration to meet the future housing demand and support the economic prosperity of the borough. The creation of an income generating asset will also help reduce the Council's budget gap and generate both a Capital receipt and additional Council tax revenue. This asset will be a Build to Rent ("BtR") product, consisting of a minimum of 300 residential units of which 50% are affordable.

The proposed transaction is a sale and leaseback arrangement whereby the Council grants the annuity funder at the direction of the developer a major interest in the land i.e. a 125-year lease (Council retains the freehold) and out of that interest the annuity funder grants a

lease for 40-years back to the Council. There are no upfront costs to the Council, as the preferred developer (Linkcity) takes all design, planning and development risk.

Upon financial close i.e. conditions being satisfied, such as planning consent being granted, the developer will pay a lump sum (purchase price) to the Council for the value of the lease land, which will accord with the developer's bid to the Council, received during the competition process. At this point, the annuity funder will grant to the developer and its construction partner a building licence to deliver the construction of the project. Once practical completion takes place, the Council is under an obligation to take the 40-year lease and pay a guaranteed CPI indexed linked rent to the annuity funder for the proposed 40-year term, subject to a collar (0%) and cap (5%) arrangement. This is a mechanism used to set the minimum and maximum that the Council's rent can increase, regardless of market conditions. The figures outlined in the exempt report are indicative only and will be finalised prior to financial close. i.e. satisfaction of the conditions of the agreement for lease.

The full operating, maintenance, insurance and occupancy risk for the term will be managed by the Council, in collaboration with the developer, with day-to-day management outsourced to a management company who specialise in the BtR sector with all services that they provide being branded in the name of the management company i.e. white labelled.

At the expiry of the lease term the Council acquires the asset back for £1.00 and at that point the Council either continue to rent, refinance, or sell the assets benefiting from capital growth over the 40-year lease term

Recommendations

1. **That Committee notes progress to date in respect of the proposals for the development of the Watling Car Park ("the Site") delineated at Figure 1 paragraph 1. below.**

2. **That Committee approves the proposed sale and leaseback approach to the development of the Site.**

3. **That Committee approve BY Development Limited (trading as Linkcity) as the preferred developer for the delivery and sale and leaseback approach on this Watling Car Park site.**

4. **That Committee delegates authority to the Deputy Chief Executive acting in the best interests of the Council and in consultation with the Chairman of the Housing and Growth Committee to: -**

    - **agree the final terms for the proposed transaction**

- **negotiate finalise and complete the terms of the required documentation to be entered into with BY Development Limited and the annuity funder to give effect to the agreed final terms as referred to above**
- **to negotiate, approve, finalise, and complete such other documents as may be required to effect implement fund deliver and/or manage the scheme**
- **approve and conclude the exchange of an agreement for lease and Leaseback to be entered into with BY Development Limited subject to such agreement being compliant with the Council's statutory obligation to obtain the best price reasonably obtainable as evidenced by an independent valuation.**

5. **That subject to approval from the Policy and Resources Committee this Committee approves the creation of a management company (ManCo) by the Council for the ongoing management of the completed units at the Site and to enter into the proposed sub-underlease with the Council as outlined at paragraph 7.3.10.**

6. **The committee approves that, if planning permission is received for the development, the Deputy Chief Executive (acting in the best interests of the Council and in consultation with the Chairman of the Housing and Growth Committee) be authorised to approve the final red book valuation for the Site.**

7. **That the committee (i) approves the advertising as required to appropriate to the required use or to appropriate to planning purposes any part of the Site deemed or designated as Public Open Space in accordance with S122(2A) of the Local Government Act 1972 and (ii) delegates to the Deputy Chief Executive the consideration of any objections received following the conclusion of the above advertising process;**

8. **That the Committee delegates to the Deputy Chief Executive if appropriate following the conclusion of the consideration of any objections to advertise pursuant to s 123(2A) of the LGA 1972 or s 233 of the Town and Country Planning Act 1990 the disposal of any land referred to at 7 above which is to be comprised as part of the Site**

9. **That subject to paragraph 7 that the Committee delegates authority to the Deputy Chief Executive to authorise that the whole or any part of the Site as may be required be appropriated for planning purposes pursuant to s 122 of the LGA 1972 and to commence negotiations and settle any lawful claims asserted by third parties pursuant to ss 203 and ss 204 of the Housing and Planning Act 2016 .**

10. **That the Committee authorises that the Deputy Chief Executive may instruct as required the appropriate Council officers to make any applications to the Secretary of State for consent to enable the lawful disposal of the Site.**

11. That the committee delegates authority to the Deputy Chief Executive in consultation with the Chairman of this Committee to make any alterations to the extent of the Site with the above recommendations to apply to the Site as altered.

1. WHY THIS REPORT IS NEEDED

1.1 As reported to the Housing and Growth Committee on 9th July 2020, the Watling Car Park site is part of a programme of Council owned sites under investigation for development and disposal. The Site was identified as having potential to meet a number of the Council's housing delivery objectives and the potential of generating a return that is commensurate with the risk associated with any development.

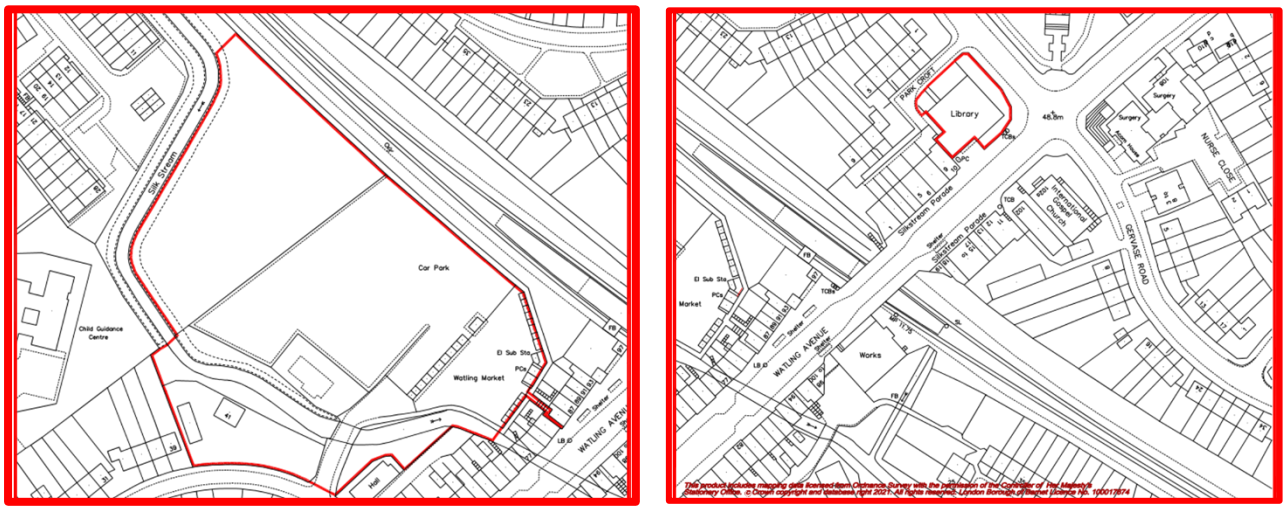
1.2 This report sets out the case for the preferred approach to deliver these objectives on the Watling Car Park site and seeks Committee approval for the project team's preferred approach to delivering these objectives on the Watling Car Park site.

The Watling Car Park Site

1.3 The Site is on land makes up the Watling Car Park, Former Market, Timber Yard in Barnfield Road, HA8 0AY and Burnt Oak Library in Watling Road, HA8 0UB and comprises of:

- Burnt Oak timber yard; 1,300 sq.m approx. (0.32 acres).
- Public Car Park, scrubland, and former market sites; total area of 1.33 Hectares (3.29acres).
- Burnt Oak Library and Resource Centre comprises of a 2-story concrete framed building of 764 sq m (8224 sq ft) and a site area of 0.1 hectares (0.246 acres).
- About 10 miles north of Central London.
- Burnt Oak Tube Station (Edgware branch of the Northern Line) is located to the front of the site.

Figure 1: The Watling Car Park Development Site



1.4 The disposal and future development of the Watling Car Park site provides an opportunity for the Council to contribute to private sector and affordable housing supply targets in several ways and to raise income from rents.

2. REASONS FOR RECOMMENDATIONS

2.1 The Barnet Plan 2021-2025 includes implementation of the Growth Strategy, which sets out how we will offer greater local opportunities, create better places, encourage more active lifestyles and over time increase the health and well-being of Barnet's residents. One of the key goals of the Growth Strategy is to deliver more homes that people can afford, ensuring that communities across the borough get a 'growth benefit' from investment. This proposal directly contributes to that aim.

2.2 The Watling Car Park site is part of a rolling programme of site disposals and developments that generate capital receipts and / or revenue, all of which are designed to help close the Council's forecasted budget gap.

2.3 The population in Barnet is expected to increase by 16% from 391,500 to 466,500 by 2041. The recent Strategic Housing Market Assessment shows that there is a need to provide up to 3,060 new homes a year to accommodate this growth.

2.4 Barnet faces significant challenges when providing a suitable mix of good quality housing in meeting the changing demographic and economic make-up of the Borough. Whilst the need to tackle these challenges is not new, it will become more apparent in the future as the population continues to rise and housing targets set by the GLA / Central Government increase. The development of this Site contributes to meeting this challenge.

2.5 The decline in the affordability of home ownership together with pressure on the social rented sector has prompted growth in the rented sector. Growth in the Build to Rent (BtR) sector is supported by a record level of investment of just under £3.5 billion in 2020. This has been followed up by a record-breaking £1.23 billion invested in the first quarter of 2021, signalling a fast start and continued confidence in the market (source: Savills BtR market update Q1 2021).

2.6 The Council has an important role to play in delivering Government targets for housing growth over the coming years. MHCLG published figures show that Barnet delivered just under 2,000 homes per annum in the three years to 2019, 82% of its current target of 2,364.

2.7 The proposed 300+ unit scheme for the Watling Car Park site contributes to these targets and requirements. The redevelopment of this brownfield site for

mixed use housing provides a long-term asset that will support future housing delivery objectives of the Council and create employment opportunities both during and after construction.

2.8 A key investment objective is to create stable and low risk long term returns to generate sustainable long-term returns to support the financial stability of the Council in line with its Capital Strategy.

2.9 Growth and Corporate Business Services has a set of priorities which cover the council, the Borough, Residents and Visitors. One of these priorities is: **Thriving**: A place fit for the future, where all residents, businesses and visitors benefit from improved sustainable infrastructure & opportunity which the scheme delivers against. The scheme will also deliver against the **Healthy** priority: a place with fantastic facilities for all ages, enabling people to live happy and healthy lives.

2.10 The scheme will also contribute to long term growth in the borough by being an anchor point for long term regeneration and placemaking.

3. BACKGROUND

3.1 The proposal is to develop a BtR product which consists of a minimum of 300 residential units on the Watling Car Park site. 50% of which will be at affordable rent levels. This will be a mix of either London Affordable Rent, London Living Rent and Discounted Market Rent.

3.2 BtR is a specific asset class designed, built & managed for the rental customer in mind. This is different from the existing Private Rented Sector (PRS) offer because it provides high-quality, purpose-built homes with professional management and longer tenancies for those who want them.

3.3 BtR can also increase the overall supply and accelerate the construction of new homes, as its model is to build and rent the homes straight away so that income can be generated. BtR delivers the following:

- Increases to the overall supply and acceleration of the construction of new homes.
- Greater choice for tenants in the rental market.
- A better quality of rental product that is professionally managed.
- An opportunity for the Council to generate a long-term income stream to invest in local priorities.

3.4 For the tenants, BtR provides an enhanced experience when compared to a normal PRS product, this may include the following:

- No deposits
- Longer term, family friendly tenancies
- Predictable rents
- Concierge
- Resident Lounges
- Gym
- Roof gardens
- Open space
- Tech-enabled management solution
- On-site staff and 24/7 security
- Superfast broadband
- Storage lockers
- Bike sheds

3.5 BtR attracts persons and families from various professions as can be seen in the illustration below. 25% are from Financial and insurance activities and 15% from IT/Information and communication, marketing and advertising. These sectors have been resilient through the current pandemic which led to continued rental revenue against such schemes during an otherwise difficult period.

Figure 2: Build to Rent occupants by employment sector.

Employment sector	Build-to-Rent
Accommodation and food service activities	4%
Administrative and support service activities	3%
Arts, entertainment and recreation	4%
Construction and Manufacturing	3%
Education	4%
Financial and insurance activities	25%
Health and social work activities	4%
IT/Information and communication, marketing and advertising	15%
Lawyer and legal professional	3%
Other service activities (e.g. recruitment consultants, photographers, journalist, fitness instructor)	20%
Public administration	1%
Real estate activities	3%
Transportation and storage	1%
Wholesale and retail trade; repair vehicles	3%
Not Working (stay at home parent, student, unemployed, retired)	6%

3.6 The current proposed transaction for the Site is a sale and lease back between a developer/annuity funder and the Council as the best commercial structure. To note this is not a procurement of a development partner with enforceable development obligations, but primarily a land asset disposal that must satisfy best consideration. A large number of local authorities are looking to fund projects in a more flexible way, and in doing so are looking to the external markets to source a wide range of debt products. Where there's income to support the debt, products are linked to annual increase (e.g. housing) then authorities are testing out index linked products to access the benefits of cheap early year payments; thereby increasing viability.

3.7 Under this structure the Council grants the annuity funder a major interest in the land i.e. a 125- year lease and retains the freehold, out of that interest the annuity funder grants back to the Council a lease for 40-years if and when practical completion is achieved. There are no upfront costs as the developer takes all design, planning and development risk. Upon financial close i.e. planning consent being granted, the developer will pay a lump sum (purchase price) to the Council for the land, which will accord with the developer's bid received during the competition process.

3.8 On financial close, the land will be disposed, and ownership will transfer to the annuity funder on an obligation to grant the Council to a 40-year lease on practical completion. During the period between financial close and practical completion, the funder will have ownership of the land with the Council awaiting practical completion for the lease agreement to be in place.

3.9 Once practical completion takes place, and following the grant of the underlease/leaseback to the Council, the Council is under an obligation to pay a guaranteed and indexed linked rent to the funder for the proposed 40-year term subject to a collar (0%) and cap (5%) arrangement (this is a mechanism used to set the minimum and maximum limits that the LBB rent can increase within).

3.10 The way the commercial structure works is the rent received from the Council's occupational tenants is greater than the rent payable by the Council to the annuity funder, which provides the Council with a profit rent, through the life of the development.

3.11 At the expiry of the lease term the Council acquires the asset back for £1.00 and can then either continue to rent, refinance, or sell the assets. Over the 40-year lease term, the assets are highly likely to increase in value due to capital growth, providing an additional return on the investment, over and above the annual revenues.

3.12 This is the optimal structure as it enables the Council (acting via a wholly owned Management Company) to create Assured/Assured Shorthold Tenancies (AST), which do not give rise to secure tenancies and, in turn, avoids the potential of any Right to Buy (RTB) interest being created. AST tenancies are commonly used by Registered Providers (RPs) but cannot be granted directly by local authorities. Managing the assets via a wholly owned Management Company enables the Council to do so. The Council will therefore grant an underlease of 40 years less 3 days to its wholly owned Management Company, which in turn will grant occupational tenancies to individual occupiers. The proposed structure has been reviewed by KPMG from a tax and VAT liability perspective and found to be compliant and tax efficient.

4. SITE PROPOSAL

4.1 There are 22,457 dwellings within Burnt Oak. 37.2% of properties are flats with houses making up 62.8%. 51.3% households own their properties while 23.3% live in the Private Rented Sector (PRS).

4.2 The proposal is a ‘mid-level’ BtR scheme and will be inclusive of amenity including concierge, parcel storage facility, coworking space, communal lounges, adaptable leisure space/ Gym, free Wi-Fi, Library etc.

4.3 The Watling Car Park Site very much fits the profile of a target BtR development, a few of the key factors that the site brings are highlighted below:

- **Excellent connectivity** – proximity to public transport has been a cornerstone of BtR development over the years and is normally the first aspect an annuity funder or operator will look at. The Watling Avenue site excels in this respect, with Burnt Oak underground station and bus stops withing a few minutes’ walk from the site. The Site is expected to perform well in attracting the renters who value connectivity.

- **Access to Amenity and Highstreet** – Easy access to amenities is key for successful BtR schemes, and the inclusion of the Burnt Oak Library hub and a nursery will greatly enhance amenity for both the local community and the residents of the new development. With increasing flexibility in remote working, renters value the access to amenity and flexible spaces like this in addition to the dedicated resident’s spaces. The highstreets of Watling Avenue and Burnt Oak Broadway with their retail, food, and leisure facilities.

- **Capacity to meet operational efficiencies** – as funders look to build scale, the average size of BtR schemes is growing. According to Knight Frank’s Multihousing report, the average size of a completed scheme is now 212 units. This increases to 264 units for homes currently under construction and to 316 for schemes with planning granted. The Watling Avenue site has the capacity to accommodate 300+ units, hitting the scale required to meet the operational model and maintain the amenity offered to the residents as well as car parking.

- **Open Space** – immediate access to green open space can be difficult to achieve in many developments. Feedback from JLL indicates that BtR developments with immediate access to open space are proving particularly popular. The development will deliver a riverside park by the Silk Stream providing an immediate outlet for residents in the new development, there is also the onward connection to the upgraded Silk Stream Park a short walk from the site.

4.4 It is proposed that the Site will deliver a BtR product consisting of 300+ units with 50% affordable provisions being made.

4.5 With Burnt Oak Library being a part of the Site, the agreement will include a provision for the developer to build a new modern library on the site to act as a

replacement for the existing library. This will include space for BOOST who provide employment and financial support for the community.

4.6 In addition to the residential units the key components of delivery are:

- Fitness and Wellbeing Gym.
- Library.
- Nursery.
- 183 public car park spaces + 33 residential disabled car parks.
- Co-working space with additional terrace.
- Food Store with alfresco opportunities.
- New market square.
- Adequate low voltage lighting in entrances and common parts.
- Fob access with fixed furniture and minimal maintenance landscaping.
- Passive neighbourhood surveillance, CCTV, and adequate lighting design out any risk of crime and vandalism.

4.7 Private tenants will need to meet an eligibility criteria and household income must exceed a 30-x multiplier i.e. 1 bedroom rent @ £1,500 x 30 requires a household income of £45,000. This is the ratio of one month's rent x 30 being equal to the gross annual household income and is widely used as a metric across the country to provide assurances that rents are affordable. Prospective tenants are therefore expected to demonstrate this prior to entering a new lease. The typical length of a BtR tenancy is between 2-5 years in duration which provides the Council with a level of reassurance in terms of occupational rent income flow.

4.8 For the London Living Rent (LLR) units in the development, the most recent update was in 2020, for homes let this financial year. For these, there is an affordability safeguard which ensures that LLR units are 20% below market rent and LLR is therefore currently capped at £1400 a month for all homes, inclusive of service charge, for household income up to £60,000.

5. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED Whilst the Council has agreed in principle to this sale and leaseback approach to the development of the Watling Car Park site, several other options were considered by the project team, they are shown with their pros and cons in figure**Figure 3: Other options considered.**

Delivery Option	Pros	Cons
Do Nothing	• Path of least resistance and change	• Does not make best use of the site • Doesn't provide significant level of income & return for LBB

	• No long-term risk associated with underoccupancy	
Traditional Disposal	• More straightforward delivery option for LBB • No long-term risk associated with underoccupancy	• Less LBB influence on use of the site • Provides lower level of income & return for LBB than other options
LBB PWLB funded development	• LBB retains full control over scheme design and configuration • LBB retains site and all asset ownership	• There is a risk new prudential code guidance doesn't allow PWLB borrowing for this scheme where one of its objectives is income generation • LBB required to manage the development and associated risks. • Requires LBB to establish delivery structures and various partners. • All risk of under occupancy on future revenue streams remains with LBB. • PWLB interest payments reduce contribution to LBB General Fund to 25% of what a sale and leaseback could deliver over 40-years for same scheme

5.2 The sale and leaseback commitment and lease-back delivery solution was judged by the project team to be the preferred option for the development of the Watling Car Park site and is reflective of a best consideration disposal. satisfying Section 123 of the Local Government Act 1972.

6. POST DECISION IMPLEMENTATION

6.1 The following table in figure 4 sets out the key next steps to ensure successful project delivery in a robust and timely manner:

Figure 4: Project delivery and next steps

No.	Step	Explanation	Timing
1	Agree agreement for lease with LinkCity	Develop the detailed structure of deal and enter into a conditional agreement for lease with LinkCity	6-8 weeks
2	Establish Internal Project Governance Board	Project monitoring	12 weeks
3	LinkCity Mobilisation	Appointment of Link city's multi-disciplinary team	Linkcity will start a 'soft' mobilisation now by appointing the architects to refresh their scheme design, then ramp up the full team to work on a planning application immediately after HAG approval.
4.	Submission of Planning Application	RIBA stage 3	Q4 2021

5.	Start on site	RIBA stage 4- 5	Q3 2022

7 IMPLICATIONS OF DECISION

7.1 Corporate Priorities and Performance

7.1.1 The Council's corporate plan sets out the aim to ensure Barnet is a pleasant, well maintained borough that is protected and invested in by:

a) Ensuring decent quality housing that buyers and renters can afford, prioritising Barnet residents by increasing supply, ensuring greater housing choice for residents, and delivering new affordable housing, including new homes, on Council-owned land.

b) 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.

c) Responsible delivery of our major regeneration schemes to create better places to live and work, whilst protecting and enhancing the borough.

7.1.2 The Growth and Corporate Services Business Plan has a set of priorities which cover the Council, the Borough, residents, and visitors. One of these priorities is: Thriving: A place fit for the future, where all residents, businesses and visitors benefit from improved sustainable infrastructure & opportunity.

The scheme will deliver against this priority in the following sub-priorities:

a) Delivering the borough's approach to economic growth and development

b) Developing the Council's estate to deliver new homes, jobs, and sustainable council finances.

c) To enable town centres and our regeneration areas to thrive

7.1.3 The scheme will also deliver against the Healthy priority: a place with fantastic facilities for all ages, enabling people to live happy and healthy lives.

The scheme will deliver against this priority in the following sub-priorities:

a) Develop the built environment improving the health of the whole community.

b) Delivering projects to improve parks, open spaces, and leisure facilities.

7.1.4 The draft London Plan and draft Local Plan recognise the need to deliver more housing in the Borough. The council's Growth Strategy continues to emphasise that delivering more homes that people can afford is a key priority 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.

7.1.5 The Council has a forecasted budget gap over the Medium Term Financial Strategy (MTFS), and it is estimated that the Watling Car Park site could contribute c.£700k pa towards closing this gap. This will continue to be kept under review as the delivery of this scheme progresses.

7.2 Benefits

7.2.1 The table below shows the main benefits of the proposed sale and leaseback delivery solution with Linkcity as the preferred partner:

Figure 5: Sale and leaseback benefits:

Benefit	Description
Lower risk for LBB	• LBB would not have to contribute any financing to the project. • Turnkey development solution under a single management structure, no development or construction risks for LBB
Contribution to housing targets	• Scheme provides 300 new homes as minimum, with the ability to increase density subject to planning permission. • 50% of these will be affordable homes. • Creates a variety of housing tenures.

Income for LBB	• Proposal generates income for LBB General Fund of over 40-years, this includes:
	  ○ Initial lump sum payment.
	  ○ Regular revenue income.
	  ○ Additional Council Tax revenues for LBB.
	  ○ New Homes Bonus income.
	  ○ Increased Section 106 and CIL income for LBB.

Additional benefits for LBB	• Creation of employment and training opportunities throughout the build phase. • Improved use of the site and estate environment that will be secured by design. • Improved quality of accommodation including new communal facilities, e.g., gardens, café etc. • Facilitates a new Build to Rent development in Barnet. • Improved public realm within Barnet with quality architecture. • Contribution towards improved health and wellbeing.

7.3 Resources (Value for Money and Procurement, Property, Finance)

Value for Money and Procurement

7.3.1 The Council placed an advert in the Estate Gazette for a period of four weeks seeking expressions of interest from potential private sector partners to deliver the Watling Car Park development. Bids that allowed the best possible assessment of delivery and financing options were invited. This marketing process confirmed that the sale and leaseback approach to the delivery of the site is the preferred option.

7.3.2 The Council received ten expressions of interest from a range of organisations by the advert deadline of 21 May 2020. The evaluation and moderation process was as follows:

- Identification of ten organisations who could meet the Council's objectives for the site.

- Initial evaluation and moderation reduced the shortlist to five potential bidders taken forward to stage 2 of the evaluation.

- These five organisations were invited to submit their design and innovation proposals for the site along with their financial models.

- The Council issued a financial model proforma based on the delivery of 300 units on the site, for completion by the bidders, to enable a direct and fair comparison of the bids.

- The five bids were individually evaluated, followed by a moderation scoring exercise to confirm the top three ranking bids who were shortlisted and taken forward to the interview stage. This included post tender clarifications and due diligence work that included company health check reports, ratio analysis and stress testing.

7.3.3 The Linkcity proposal meets the best consideration test from a s123 perspective and delivers the greatest positive impact for the LBB general fund, the greatest contribution to the Council's housing targets and was the best conceptually designed scheme. The proposal scored 92 out of a possible 100, higher than the other bidders. Further analysis is in the exempt report.

7.3.4 Financial due diligence was applied to all shortlisted bidders. Linkcity did not score the highest financially, as their delivery proposal scored the highest and met the council's objectives, a parent company guarantee (PCG) was requested. This will be provided by Linkcity's ultimate parent Bouygues Bâtiment International. The Council undertook further financial due diligence against the parent, which provides assurance in relation to the guarantee. Further details are included in the exempt report.

7.3.5 The primary purpose of the transaction is a land transaction as such it falls outside of the Public Contracts Regulations 2015.

Property

7.3.6 The Site development will be delivered by Linkcity. Once the 125-year lease has been granted to Linkcity's annuity funder, that funder will grant to Linkcity and its construction partner a building licence to deliver the project. Linkcity will appoint tits sister company Bouygues UK or another Bouygues company with suitable covenant strength as the Design and Build Contractor.

7.3.7 Currently on the Site there is a library (Burnt Oak Library) on Watling Avenue which is shown on the site plan. As a part of the agreement a replacement library must be incorporated as a part of the design and build and be accessible to the whole community.

7.3.8 The agreement for lease which is tri-partite is conditional on the following conditions precedent being satisfied:

- Grant of satisfactory planning permission and signature of any planning agreement (free of challenge via judicial review).
- Vacant possession of the entire site including satisfactory access.
- Satisfactory funding agreement secured by Linkcity with its funder (including satisfactory leaseback terms to the Council).
- Acceptable site conditions with no major abnormal costs identified through initial surveys.

Once these conditions are satisfied, Linkcity will construct the housing development at the Site.

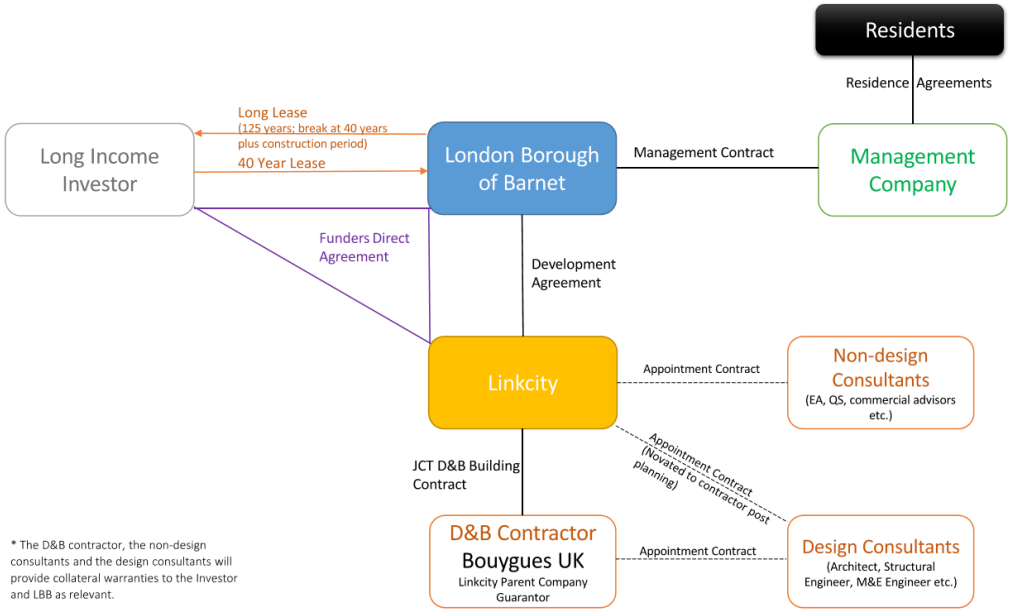
7.3.9 Upon practical completion of the development the annuity funder will grant to the Council a lease back of the entire site. The funder will have enforceable rights to secure the performance of the developer's build obligations. The form of lease will be appended to the agreement for lease and will include the following key terms:

- Minimum 40-year lease term with option for the Council to buy back the entire site for £1.00 at end of the term.
- An annual rental payment to be fixed at Financial Close (unconditionality / start on Site) at approximately 80% of the Council's projected annual income, with CPI linked annual uplift and a collar of 0% and a cap to uplifts at 5%. An independent valuation will be commissioned to calculate the market rent from which the Council's rental commitment will be calculated.
- London Borough of Barnet covenant in place for the duration of the 40-year term. Note that the lease is not assignable (except to statutory successors).

7.3.10 The Council will also appoint an external management company through a management contract to deliver the sites day-to-day management service. That company will also take an underlease of the whole site from the Council for a term of 40 years less 3 days]. Residents will subsequently enter into residential tenancy agreements with the management company.

The following illustration sets out the delivery and management structure:

Figure 6: Linkcity delivery and management structure



7.3.11 Linkcity along with Bouygues UK colleagues have suggested taking a 'soft landing' approach to site delivery. they will also ensure the buildings are handed over in-line with the 'soft landings' principles. soft landings is not just a handover protocol – it provides an essential link between initial briefing, design, construction and occupation as well as longer term monitoring, as described below.

7.3.12 Main objectives of soft landings:

- Early engagement with client and management team during the design and construction process.
- Preparation of a central, accurate, data rich resource to feed into client computer-aided facility management (CAFM) system.
- Structured and informative lead-in period prior to practical completion.
- Continued commitment to aftercare post-handover.
- Post occupancy evaluation and feedback.

7.3.13 **Pre-construction stage (RIBA Stages 1-4)**

7.3.13.1 Linkcity will appoint a dedicated soft landings champion to ensure Soft Landings is implemented and embedded throughout the design, construction aftercare and post completion phases of the Watling Car Park site.

7.3.13.2 The handover process will be considered early on and reviewed at agreed stages, so every detail is planned prior to completion. Full demonstration of the building management systems ahead of occupation will ensure that management personnel are able to operate them appropriately and efficiently.

7.3.14 **Construction (RIBA Stage 5)**

7.3.14.1 This will be undertaken under agreement by Linkcity's sister company Bouygues UK who will build and deliver the scheme in accordance with approved drawings.

7.3.15 **Handover (RIBA Stage 6)**

7.3.15.1.1 The handover process ensures a smooth transfer of the buildings into operational use for the occupants. Working with Linkcity's client care team they will plan the logistics around moving residents into earlier phases to ensure safe access. This considers issues such as the access and location of moving vans while customers are moving into their new homes with the minimum disruption.

7.3.16 **Post Completion (defects liability)**

7.3.16.1.1 Nominated members of the Site team will remain on site to support from the day of handover to ensure there is a smooth transition into the building. This team will remain on site for a pre-agreed period from the first day of occupation to provide on-site, continuous support in this period after completion. Bouygues also have a dedicated customer care team available 24 hours a day, 365 days a year.

7.3.17 For the development each party's role and responsibility within this structure can be summarised as follows:

Development Party: **Linkcity**

- Manage key stakeholder relationships.
- Appoint and manage consultant team.
- Manage planning application.
- Finalise partnering agreements with all funders.
- Overall responsibility for delivery.
- Appoint Bouygues UK on an arm's length building contract.

Construction Partner: **Bouygues UK**

- Enter into building contract with Linkcity.

Consultant Team: **Architect**

- Produce feasibility studies and initial project designs.
- Prepare the planning application.
- Prepare working drawings and provide architectural services throughout construction process.

7.3.18 Linkcity believe an integrated management structure will offer the opportunity to drive the income delivered by the asset. A single management company overseeing the delivery of services across the tenures will also allow for unencumbered decision making and greater freedom to adapt and innovate, immediately and in the long term. At this stage there will be a separate management company assigned by the Council.

7.3.19 This management company will be a wholly owned company (WOC) of the Council with its own financial statements i.e., profit and loss. This is the optimal structure as it enables the Council (acting via that company) to create AST tenancies (Assured Shorthold or Assured Tenancies) which do not give rise to secure tenancies which in turn avoids the potential of any RTB interest being created. AST tenancies are commonly used by registered providers but cannot be granted directly by local authorities, the management company enables us to do so. The proposed structure has been reviewed by KPMG from a tax and VAT liability perspective.

Finance

7.3.20 The structure will allow for the grant of a 125-year lease to the annuity funder upon the agreement for lease becoming unconditional ('Financial Close'). At this point, the annuity funder will grant to the developer and its construction partner a building licence to deliver the construction of the project. The developer will draw down the funding from the annuity funder, to cover all development and construction costs and fees, and will pay a coupon to the annuity funder during the construction phase. Under this arrangement Linkcity will set an agreement that its ultimate parent company, Bouygue Batiment International, will provide the Council with a guarantee. The guarantee is provided by a contractor's parent company in connection with the contractor's obligations under a building or engineering contract. If the contractor should default on its obligations, as per the guarantee, liabilities can fall on the parent company to complete the contracted obligations of the subsidiary.

7.3.21 The Council takes no design, planning or delivery risk. However, following practical completion of the works, the Council will take a 40-year lease from the annuity funder. Under that lease, the Council will be obliged to pay an annual rental payment to be fixed at financial close, with CPI linked annual uplift with a collar of 0% and a cap to uplifts at 5%. An independent valuation will be commissioned to calculate the market rent from which the Landowner's rental commitment will be calculated. At the end of the 40-year lease the Council acquires the revisionary interest back for £1.00 and can continue to rent the properties, sale or refinance with a significantly enhanced asset value.

7.3.22 In addition, the ability to redevelop the site for mixed use housing provides a long-term asset that would support future housing delivery objectives of the Council.

7.3.23 The 40-year leaseback with the annuity funder will be deemed a finance lease as all the risks and rewards associated with the asset are passing to the Council.This will result in the asset being recognised on the balance sheet with

an equivalent liability recognising the payments to be made to the funder over the lease term.

7.3.24 Upon financial close a lump sum will be payable to the Council. This is subject to the assumptions set out in the tender evaluation form. The lump sum will be held in the revenue account as a reserve to cover any future shortfall in lease payments.

7.3.25 It is estimated for each affordable housing offered at the site; this would lead to a £3,400 per unit indirect saving to the Council's temporary housing budget.

7.3.26 The proposal from Linkcity includes the reprovision of c.180 parking spaces to be determined through the planning process. Any loss of parking revenue during the build process will be compensated through the future revenue generated from the assets.

7.3.27 For illustration purposes, the Linkcity model was recalculated based on CPI being at the Bank of England target of 2.0%. This equated to a total inflation applied to revenue and lease payments at 3.0%. Further details are included in the exempt report.

7.3.28 An assessment was undertaken comparing the option of the Council self-delivering the scheme through Public Works Loan Board (PWLB) borrowing and the sale and leaseback proposal to justify the approach recommended for the Site. This is analysed in detail in the exempt report.

This exercise was undertaken for Northway/Fairway where Kuropatwa are the preferred bidder. This example has been used to demonstrate the comparison of both approaches.

The financial outputs outlined below are indicative only and will be reviewed and finalised prior to financial close.

Amendments to paragraph 45 of the prudential code state that borrowing for debt-for-yield investment is prohibited unless incidental to the main function e.g. regeneration. There is a risk, therefore, that PWLB cannot be used for this scheme and until further case studies are available. PWLB borrowing was only used as a comparator from a value for money perspective for completeness, the modelling took into account the option for the council to borrow the development costs from PWLB at 2.42% over 40-years.

Key points to note are:

- The model was run based on 3 scenarios:
    - CPI at 0.6% (as per developers' submission).
    - CPI at 2.0% (as per Bank of England current target).
    - CPI at 3.0% (contacted cap).

- With the above scenarios, CPI at 0.6% and 2.0%, sale and lease produced a greater return than PWLB borrowing when discounted to Net Present Value (NPV). When taking into consideration the lump sum with the 3.0% modelling, sale and lease produced the greater monetary return overall, when discounted.

- The above exercise provided the Council justification on the preferred sale and leaseback approach due to the delivery timings being similar for the Watling Car Park Site.

  Combined with other risk factors of a self-build option and PWLB borrowing, this makes the Linkcity sale and leaseback model the preferred option for the development of the Watling Car Park site, when comparing to PWLB and accounting for Net Present Value (NPV).

7.3.29 Further modelling was undertaken by an independent consultant, 31ten Consulting to determine the value for money for sale and leaseback against PWLB borrowing (both annuity and maturity loans) and self-build on a like for like basis. This modelling was based on Monte Carlo simulations which involves undertaking 1000 simulations linked to inflationary history with trends and patterns applied a set of base assumptions. The key outputs from the model are:

  - 99% of the simulations showed sale and leaseback as the financially favourable delivery model.
  - 1% of the simulations showed PWLB annuity as the favourable delivery route.
  - PWLB maturity did not show as favourable in any of the scenarios.
  - A risk adjusted position was calculate by applying the result at the lowest possible output (when discounting outliers). This showed the sale and leaseback model to be financially favourable by an NPV of £6.7m.

  With the similar nature of the Watling Car Park site, this exercise provides further justification for the sale and leaseback model of delivery.

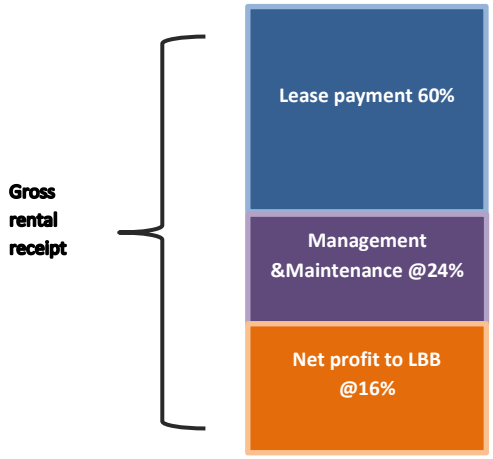
7.3.30 The Linkcity proposal and financial model has been thoroughly tested and analysed by the Council. The developer analysis assumed a 2.63% rate of voids and bad debts throughout the 40-year life of the proposed scheme.

7.3.31 Key points to note on this sensitivity analysis, carried out by the LBB project team, are:

- A drop in revenue of 20% still produces an income to the Council, but at a lower level (reduced by 59%).
- Voids and bad debts would have to increase to 28.48% of the estate total for the scheme to not produce any return for the Council.
- Similarly, revenue would need to drop by 34% to not give the Council a return. This would equate to an average of 100 (out of 300) units being unoccupied.

- An increase of 5% per year on the lease payment (cap) will increase the total payment by 117%.
- A detail red book valuation of rental values will be undertaken upon planning.
- As per the financial modelling the expected split of gross rent revenues would be, c.56% income to an institutional funder (annuity funder), c.24% to cover maintenance and estate running costs and c.20% to the Council. Figure 7illustrates a typical gross rental revenue split under the sale and leaseback model.

Figure 7: Indicative gross rental receipt splits



7.3.32 An exercise was undertaken to determine the average minimum rental inflation needed for the scheme to break even. It was discovered that at 3% (2% CPI + 1%) the minimum average annual rental increase will be 1.581%. At 4% (3% CPI + 1%) this would be 2.432% per annum. At 5% (3% CPI + 1%) this would be 3.495% per annum.

7.3.33 As a part of the financial exercise, the Council played out several scenarios which put forward prudent and worse case scenarios to identify the impact to the general fund. The following scenarios were modelled as a part of this exercise and average general fund impacts identified:

Original Bid

Scenario 1 = Linkcity bid. This provides the council an average general fund return of £2.0m per annum

Breakeven Case:

Scenario 2 = a 34% reduction in revenue to achieve cost neutral position to when making lease payments to the annuity funder based upon the original model

Worse Case

Scenario 3 = a 5% indexation (maximum possible because of the cap) on the lease payment year on year. i.e. lease payment increases with revenue inflation remaining as per the original bid (1.6%) results in a c.£3.5m loss per annum

Scenario 4 = Indexation of 5% (maximum possible because of the cap) on the lease payment, plus a 34% revenue reduction results in a £5.5m loss per annum. Rent increase remain as per original bid (1.6%)

- If the 34% of the units were converted to temporary accommodation, this would reduce the average loss to £4.2m per annum.

  Scenario 5 = Indexation of 5% (maximum possible because of the cap) on the lease payment, plus a 20% revenue reduction results in a £4.7m loss per annum. Rent increase remains as per original bid (1.6%)

- If the 20% of the units were converted to temporary accommodation, this would reduce the average loss to £3.9m per annum.

  Scenario 6 = If zero properties were let, based on the bidder model, this will result in an average negative impact of £4.8m

- If used as temporary accommodation, the general fund impact would be a loss of c.£0.9 per annum.

  Scenario 7 = As above plus 4% (maximum possible because of the cap) lease payment would result in a loss of £10.3m per annum

- If used as temporary accommodation, the general fund impact would be a loss of c.£6.5 per annum.

Further details are in the exempt report.

7.3.34 Market intelligence was sought due to the current economic uncertainty. Upon discussions with the market it was discovered that area rents may decrease by 10% and management costs are expected to be 27%. This was modelled further to understand the impact to the bidders modelling.

Key points to note are from the above:

- Overall income decreases by 9%.
- Expenditure reduces by 1.5%.
- General fund impact reduces from £81.159 to £53.646m, which equates to a reduction of £27,513m.

Further details are in the exempt report.

7.3.35 On-going to market to obtain an annuity funder, the market may demand a higher yield which can adversely affect Council income. During this time Red Book valuations by external advisors and further modelling take place to identify any risks.

8 Social Value

8.1 Increasing the utility of existing assets through mixed use redevelopment will enable the Council's portfolio of assets to go further towards supporting local needs by helping to provide new opportunities for housing, (in particular, affordable housing) and new, improved community facilities.

8.2 Any contractors or development partners will be encouraged to provide opportunities for employment, training and apprenticeships for local people and use local suppliers where appropriate.

9 Legal and Constitutional References

9.1 The financials are included in the exempt section as it contains commercially confidential information (relevant legislation -paragraph 3 of part 1 of schedule 12 A of the Local Government Act 1972 (as amended) and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

9.2 The Council's Constitution, Article 7 – Committees, Forums, Working Groups and Partnerships sets out the responsibilities of all council committees. The H&G Committee includes 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 overseeing major regeneration schemes, asset management, employment strategy, business support and engagement.

9.3 Council, Constitution, Article 10 Table A states that the Housing & Growth Committee is responsible for authorising all disposals of land for over £500k and any disposal which is not for best consideration.

9.4 Council Constitution- Article 7- Committees Forums Working Groups and Partnerships- Policy and Resources Committee- the remit of this Committee includes responsibility for Strategic policy, finance and corporate risk management including Capital and Revenue Budget, Medium Term Financial Strategy and Corporate Plan to Full Council and to be responsible for those matters not specifically allocated to any other committee affecting the affairs of the Council.

9.5 Specific legal /title matters for the Site will be explored as part of the process to identify any legal risks or constraints.

9.6 Where land is subject to third party rights it may be prudent to appropriate the land for planning purposes to extinguish third party rights thereby engaging sections 203 and 204 of the Housing and Planning Act 2016

("HPA 2016"). Section 122 of the Local Government Act 1972 ("LGA 1972") empowers a local authority to appropriate land held by it from one statutory purpose to another if it considers the land is no longer required for the purpose for which it is currently held and an appropriation is in the public interest. Such matters will be explored through the process of Site and legal review. The Council in contemplation of the justification of its use of planning appropriation powers will need to satisfy the same criteria as those set out for the use of its compulsory purchase powers, that is that the use of these powers is necessary to promote the social economic or environmental wellbeing of all or any or all resident persons in its area. There are particular considerations relating to the appropriation of public open space land which must be adhered to by the Council in reliance on section 122(2A) of the LGA 1972 and appropriate recommendations are contained in this Report.

9.7 The two parcels of land comprising the Site are listed for development are held in the General Fund. Local authorities are given powers under Section 123(1) of the Local Government Act 1972 (as amended) to dispose of land held by them in any manner they wish but the disposition must be for not less than best price that can be reasonably obtained as assessed by a valuer. Any disposal at less than best price that can be reasonably obtained requires the express consent of the Secretary of State unless there is a general consent available on which the Council can rely. The general consent (Circular 06/03: Local Government Act general disposal consent (England) 2003) will apply where the Council considers the disposal of the Site will contribute to the achieving or securing the promotion or improvement of the economic, social or environmental well-being of its area and the difference between the restricted and unrestricted value does not exceed £2,000,000, in which case no specific Secretary of State consent is required.

9.8 Where any of the Site comprises public open space the advertising requirements for the disposal of open space pursuant to S.123 (2A) of the Local Government Act 1972 apply. The proposed disposal must be advertised for two consecutive weeks in a newspaper circulating in the area in which the land is situated, with any objections to the proposed disposal being considered by the Council during such time as specified in the notice. Any objections made to the disposal will have to be considered before the disposal proceeds.

9.9 The disposal of land which has been used as school playing fields is regulated by the Schools Standards and Framework Act 1998 ("the SSFA") and any disposal or change of use of qualifying land which is used or has been used as a school playing field in conjunction with a maintained school in the last ten years will pursuant to s 77 of the SSFA require before it can lawfully be disposed of, the prior consent of the Secretary of State.

9.10 Section 1(1) of the Localism Act 2011 bestows a general power of competence on local authorities which permits them to do anything that private individuals generally may do, but this is subject to the general principles of public law. The Council will need to have regard to the account in which any housing stock is ultimately to be held and the provisions of s 74

of the Local Government and Housing Act 1989 including any financial adjustments between the Councils General Fund and Housing Revenue Accounts which may be required to be made.

9.11 Section 4 of the Localism Act 2011 enables the Council to do for a commercial purpose anything that it is empowered to do under section 1 of the 2011 Act, provided that they do so through a company.

9.12 Section 95 of the Local Government Act allows a local authority to do for a commercial purpose anything which they are authorised to do for carrying on any of their ordinary functions.

9.13 The stock that is to be held by the Council will be mixed tenure. Any stock that is intended to be let as social rent housing, will be held for the purpose of Part II of the Housing Act 1985 and accounted for through the Housing Revenue Account as mentioned above with the required accounting adjustments to reflect the appropriate consideration/value of the land being transferred from General Fund to the HRA. In relation to other stock, where the Council is acting for a commercial purpose then as set out above it should do so through a company. Therefore, the Council intends to either incorporate a new company, or utilise an existing wholly owned company, to let and manage any non-social-rented stock within the scheme

10 Risk Management

10.1 Transactions of this nature carry a range of risks which are effectively detailed below. A number of risk factors, including planning, title investigations, commercial terms, warrant early due diligence. For example, if planning permission regulating the development in terms of scale, nature/use class and restrictions do not materially align with the annuity funders pitch or value assumptions, the associated risk may impact on usage of the completed development and consequential income.

10.2 The covenant strength of the developer has been considered by the Council by obtaining company health check reports and parent company guarantees will be put in place.

10.3 As the Council has no direct funding obligations, upon practical completion the Council will enter the lease structure with the annuity funder. The Council will retain step in rights as a part of the agreement for lease arrangements. The funder has every incentive to enforce the build obligations against the developer in the agreement for lease to arrive at the point where practical completion is achieved and it can require the Council to take the 40 year lease back and obtain the income that flows from that.

10.4 Inflation was stripped from all the bidder’s financial models to establish a baseline position and compare all bidders on a like for like basis. Financial sensitivity analysis has also been undertaken to understand at what thresholds the Council are exposed to any losses.

10.5 On-going to market to obtain an annuity funder, the market may demand a higher yield then what has been modelled by the developer. Thus, reducing the possible modelled rental income to the Council. Red Book valuations will be undertaken to mitigate this risk.

10.6 Although there is no borrowing required to enter into this deal, the Council will be assuming obligations under the 40-year lease with an obligation to pay an index linked rent for the lease term, the rental modelling demonstrates this. The 40-year lease is not assignable, so the Council remains liable to pay the index linked rent throughout the term regardless of the rental income it itself is achieving from occupiers.

10.7 There are options to mitigate the rental risk in the event of market downturn for example an option could be to use the units as temporary accommodation or to convert any vacant private units to affordable.

10.8 Planning risk can either add or remove value however this is borne by the developer.

10.9 Construction risk- All development and construction risk are borne by the developer.

10.10 Market risk- External agency reports have been produced a detailed report included valuation will be commissioned prior to entering into an agreement to lease.

10.11 Operator default- This will be managed and operated by a wholly owned company who will commission an operator to manage day to day activities.

10.12 Funding Risk- No direct funding obligations, the Council only enters the under lease at practical completion i.e. once the units are built.

10.13 Contractual issues- The Council will be obligated to pay guaranteed rent on a non- assignable basis (this means we cannot transfer the lease to a third party). Prior to planning consent being granted the Council will negotiate with the annuity funder the option to convert the units for alternative use should this ever be required – This will require a capital sum as planning consent would be required.

10.14 Financial risks- Payments to the annuity funder will be fixed with annual indexation. The model shows a c.20-25% rent profit that can be held in a reserve to offset any shortfall in rent, this will provide security; the current model assumes 3.5% void rate.

10.15 The lease from the annuity funder will be deemed a finance lease all risk and reward with the asset sits with the authority from practical completion.

10.16 The table at Figure 8 outlines key risks at this stage of the project, gives an assessment of their severity and details proposed mitigating actions:

Figure 8: Risk analysis, impact and mitigating actions:

Risk	Impact	Mitigation
Development risk	**None** – Due to the developer taking on all development risk	Mitigated through Sale and Leaseback as developer is burdened with the entire development risk (both financial and delivery)
Developer default/failure	**Low** – Parent Company Guarantee in place. Step in provisions in place from the annuity funder to find alternative contractor. Council not committed until practical completion therefore can appoint own contractor.	Financial due diligence taken place with Parent Company Guarantees to be in place
Reduced profits due to lease inflation outstripping market rent inflation	**Medium** – Allocated council savings will need to be met by reserves or other means.	Change tenure from London Living and London Affordable Rental units to Discounted Rental units to increase revenue
Inflation linked lease payments outstrips rental affordability leading to a reduction in profits	**Medium** – Allocated council savings will need to be met by reserves or other means.	Profits held in reserve to top up any shortfall to the lease payment. Collar & Cap arrangement in place at 1:4% to ensure protection against hyper-inflation
Under occupancy	**Medium** - Empty units with zero income which will impact council savings targets.	Adjust rents to compete with market and adjust again with upturns – current modelling assumes 3.5% voids and bad debt.
40-year non assignable lease	**Low/Medium** - No break clause 'on the hook for 40-years.	To ensure the product remains attractive in the marketplace and offers consumer choice maintaining high occupancy over the long term.
Asset falls into disrepair	**Low** - Possible additional costs and reduced profits due to poor operational and management	Management and operational costs to include reserve to manage any repairs and large maintenance issues. KPI's to be

		in place with operator and reviewed monthly. Council to appoint Asset manager.

11 Equalities and Diversity

11.1 The 2010 Equality Act outlines the provisions of the Public-Sector Equalities Duty which requires Public Bodies to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010.
- Advance equality of opportunity between people from different groups and foster good relations between people from different groups.

11.2 Any Equalities Impact Assessments will be undertaken on individual schemes as they are brought forward and the proposals outlined will give appropriate consideration and where required consider any matters raised in these assessments. However, the proposals in this report are not considered at this stage to raise any negative impacts for equalities and demonstrate that the Council has paid due regard to equalities as required by section 147 of the Equality Act 2010.

12 Consultation and Engagement

12.1 Consultation and Engagement plans will be developed for sites that are deemed suitable for development and stakeholder engagement undertaken as the designs progress.

13 Insight

13.1 The Council's Housing Strategy and emerging Local Plan respond to evidence such as the Strategic Housing Market Assessment and other needs assessments that have identified a need for increased housing delivery.

14 BACKGROUND PAPERS

14.1 Development Portfolio Programme.pdf (moderngov.co.uk) Agenda for Housing and0020Growth Committee on Monday 6th July, 2020, 7.00 pm (moderngov.co.uk)