



## Housing & Growth Committee

13 September 2021

<b>Title</b>	Authorisation to declare Land and premises known as 241 and 233 West Hendon Broadway, and Land adjoining 239 West Hendon Broadway (“the Site”) as a surplus asset
<b>Report of</b>	Chair of Housing and Growth Committee
<b>Wards</b>	West Hendon
<b>Status</b>	Public
<b>Urgent</b>	No
<b>Key</b>	No
<b>Enclosures</b>	Appendix 1: Lease Plan Appendix 2: (Compulsory Purchase Order) CPO Land plan
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### Summary

This report requests authority to declare the Council’s freehold interest in the property known as 241 and 233 West Hendon Broadway, and Land adjoining 239 West Hendon Broadway NW9 (“the Site”) as a surplus asset and for the Council to commence consideration and exploration of the various options available regarding the Site including but not limited to its sale or future development.

### Officers Recommendations

1. That the Committee declares that the freehold interest in the property known as 241 and 233 West Hendon Broadway, and Land adjoining 239 West Hendon Broadway NW9 (“the Site”) is a surplus Council asset and following the expiration of the occupational lease no longer required for its current use, and to authorise that the Council commences the consideration and exploration of options for the future use of the Site including but not limited to a potential sale or development of the same.

## **1. WHY THIS REPORT IS NEEDED**

- 1.1 This report is needed to enable the Council to declare its freehold interest in the property known as 241 and 233 West Hendon Broadway, and Land adjoining 239 West Hendon Broadway NW9 ("the Site") as surplus and following the expiration of the lease that it will no longer be required for its current use and in the light of such declaration that the Council should now commence looking at various options for the Site including its potential sale or development.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 The Site is held freehold. Part of the Site has been acquired for the West Hendon Regeneration Scheme and an indicative plan is attached showing the location of the Site (appendix 1).
- 2.2 The land cross hatched (appendix 1), part of which has been acquired by the Council pursuant to General Vesting Declaration CPO2a Number 5 being plots 3 and 5 on the plan attached at Appendix 2 is subject to a 10 year lease which is due to expire on the 10 May 2023, granted by the Council to Mechinah Golders Green Limited, at a current passing rent of £30,000 pa. The lease includes a rolling break clause, benefitting the Council, subject to 12 months' notice and is excluded from the security of tenure provisions of the 1954 Act. The break option may be used if the Council requires the whole or part of the land for a regeneration scheme which was included because of the then impending West Hendon Regeneration scheme. The Site is occupied and operates as Beis Madrash School, a private Jewish School. Following the acquisition of part of the site to enable the regeneration scheme to proceed it has been agreed with the tenant to reduce the passing rent effective from 1 February 2020. The adjacent land is privately owned but also forms part of and is occupied by the School.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 Given that the site is deemed surplus there are no other options available to the Council except to optimize the asset. The Council cannot, given the location of the Site, do nothing.

## **4. POST DECISION IMPLEMENTATION**

- 4.1 Officers will seek to evaluate the Site including assessing its viability for development and suitability and undertake a planning appraisal as required.

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

- 5.1.1 This report is aligned with the Council's 'Thriving' priority, where Barnet is 'a place fit for the future'. This is also aligned with managing 'assets effectively and utilise potential avenues for increased and diversified income streams', so that Council services can be invested in for the long term.

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

5.2.2 The Council will ensure that in terms of outcomes it evaluates the various possible options for the Site having regard to the requirements to achieve best consideration and its overall best value duties as imposed by s 123 of the Local Government Act 1972 and section 1 of the Local Government Act 1999 and the need to obtain and the likelihood of obtaining any required statutory consents

### 5.3 Legal and Constitutional References

5.3.1 The Council's Constitution, Article 7 – Committees, Forums, Working Groups and Partnerships sets out the responsibilities of all council committees. The H&G Committee's remit 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.

5.3.2 Article 10 of the Council's Constitution Table A, states that any acquisition or disposal with a value exceeding £500,000 shall be decided by the Housing and Growth committee and also includes any disposal for a consideration that is at less than best.

5.3.3 The Council has a right to dispose of land in any manner they wish pursuant to s 123(1) of the Local Government Act 1972, subject to the remaining conditions set out in that section.

5.3.4 S123(2) of the 1972 Act imposes on the Council a duty to dispose of land at not less than the best consideration that can reasonably be obtained. Any departure from this duty will require the consent of the Secretary of State unless such disposal falls within an exception as provided for in the 2003 General Disposal Consent. This permits the Council to dispose of land for less than best consideration without Secretary of State consent provided that the difference between the restricted and unrestricted value is not more than £2 million and the Council is satisfied and can demonstrate that the disposal is likely to achieve an improvement in the social economic environmental benefit for the area in which the said property is situate.

5.3.5 The Council in considering any disposal decision will have regard to the requirement for statutory compliance in terms of the above as well as adherence to any other requirements to obtain consent as may be required under s 122 or s 123 of the LGA 1972 before bringing any proposals forward.

5.3.6 The Academies Act 2010 Schedule 1 provides that where land has been used as a school or a 16-19 Academy at any time during the last eight years prior to a proposed disposal by way of freehold or lease, then the consent of the Secretary of State will be required. The SoS may also where such land is intended to be disposed of, elect to make a scheme for an academy school in accordance with the Act.

5.3.7 The School Standards and Framework Act 1998 requires that any land used by a maintained school as school playing fields which has been used as such in the last ten years prior to the intended disposal cannot be disposed of without the consent of the SoS. The definition of a playing field is interpreted widely being any land in the open air used for

the purposes of physical education or physical activity. If the Site comprises any such land then consent will be required under section 77.

5.3.8 Section 1(1) of the Localism Act 2011 confers a general power of competence on local authorities which permits them to do anything that private individuals may do but this is subject to the general principles of public law.

5.3.9 Section 95 of the Local Government Act 2003 allows a local authority to do for a commercial purpose anything that they are authorised to do for carrying on any of their ordinary functions.

### 5.3 **Insight**

5.3.1 There is a historic valuation report which will need to be refreshed so that the site is disposed to achieve value for money.

### 5.4 **Social Value**

5.4.1 Reviewing options of existing assets will enable the Council's portfolio of assets to go further towards supporting local needs by helping to provide new opportunities. 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.

### 5.5 **Risk Management**

5.5.1 As a responsible landlord, the Council has identified that this site is surplus to the Council's operational requirements. So that the site is made best use of, it is recommended to undertake a review to explore various options available with regard to the site.

### 5.6 **Equalities and Diversity**

5.6.1 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.

5.6.2 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 and the Council will adhere to and have regard to its duties as required the Equality Act 2010.

### 5.7 **Corporate Parenting**

5.7.1 There are not considered to be any arising from the proposed recommendations.

### 5.8 **Consultation and Engagement**

5.8.1 N/A

## **6. BACKGROUND PAPERS**

6.1 None.