

	<h2 style="margin: 0;">ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER</h2>
<p style="text-align: right;">Title</p>	<p>Acquisition of 21 Prince Of Wales Close, Hendon, NW4 4JT, for Hendon Hub Redevelopment as one of the 3rd party owned properties within the red line of the development.</p>
<p style="text-align: right;">Report of</p>	<p>Deputy Chief Executive in consultation with the chair of the P& R Committee</p>
<p style="text-align: right;">Wards</p>	<p>Hendon</p>
<p style="text-align: right;">Status</p>	<p>Public</p>
<p style="text-align: right;">Enclosures</p>	<p>None</p>
<p style="text-align: right;">Officer Contact Details</p>	<p>Michael Bennett 21/03/2022 Head of Strategic Asset Management michael.bennett@capita.com</p>

Summary

This report sets out proposals to acquire flat 21 Prince Of Wales Close, Hendon for the Hendon Hub redevelopment as part of the land assembly of the privately owned land within the red line of the proposed development.

The proposed acquisition is a one-bedroom flat held leasehold with circa 97 years remaining, where LBB are the freeholder. The flat is currently occupied under a 12-month fixed term assured shorthold tenancy expiring in September 2022. The property will be purchased with vacant possessions.

The current owner is keen to complete the sale as she has found an alternative property and is in a chain, where other parties are looking to complete in May 2022. We are therefore seeking to instruct solicitors as soon as possible so not to lose the opportunity to

purchase this flat via private agreement. The agreed/target simultaneous exchange/completion date is to be 20th May 2022 or sooner if possible.

Decisions

1. **Authorise the purchase of the freehold interest in flat 21 Prince Of Wales Close, Hendon, NW4 4JT, at the proposed total acquisition cost utilising funds from the Hendon Hub Acquisitions Budget as agreed by Full Council on 3rd March 2020.**
2. **Authority to place guardians in the property during the time it is vacant following acquisition of the property or use the property for another temporary use as appropriate to mitigate outgoings and deliver on Council objectives.**
3. **Note that pursuant to sections 203 and 204 of the Housing and Planning Act 2016, land acquired under sections 226 or 227 of the Town and Country Planning Act 1990 may then be developed and used in accordance with planning permission for the Hendon Hub scheme notwithstanding any interference with any subsisting interests, rights or restrictions (subject to the payment of compensation calculated in accordance with sections 7 and 10 of the Compulsory Purchase Act 1965).**

1. WHY THIS REPORT IS NEEDED

- 1.1 As part of the delegations agreed at Policy & Resources Committee on 8th December 2020 where the Committee resolved to: *Delegate negotiation and completion of legal agreements to the Deputy Chief Executive in consultation with the chair of P & R Committee...b) The approval of third-party acquisitions, by private treaty*

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Hendon Hub project team are assembling the development site by seeking to purchase the third party owned properties within the red line development area by private agreements and avoiding the use of council CPO powers where possible. This will ultimately benefit the project programme.
- 2.2 The owners of 21 Prince Of Wales Close, Hendon have identified a new property to purchase and this can be facilitated by a council purchase of the existing property.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 **Do not buy the property in early** – this is not recommended as it will cause uncertainty for the project programme and disregards the needs of a member of the public who is directly affected by the development proposals.
- 3.2 **Buy the property in later in the process** – this is not recommended due to the owner finding an alternative property they are happy to progress with. In addition, it is likely that the property will increase in value

4. POST DECISION IMPLEMENTATION

- 4.1 Instruct HBPL to complete the conveyancing process.

5. Once the purchase has completed, secure the premises and place guardians into the

property for the interim period, until vacant possession is required for the development phase. LBB may also wish to use the property as temporary accommodation for which additional monies may be necessary to bring the property into a public housing compliant condition. Any additional monies necessary to make the property for temporary accommodation will be requested separately.

6. IMPLICATIONS OF DECISION

6.1 Corporate Priorities and Performance

6.2 The Hendon Hub redevelopment is currently a key project for the council and assembling all the third-party land is vital to enabling the development to proceed.

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

5.3.2 The market value of 21 Prince of Wales Close was assessed on 20th January 2022 by Copping Joyce Surveyors. This delta can be explained by inherent valuation uncertainty in estimating property prices of c. +/- 10% and the need to pay slightly above market value in order to secure purchase of the property ahead of the redevelopment scheme. Government guidance acknowledges that acquiring authorities can pay above market value to secure purchase by agreement:

“When offering financial compensation for land in advance of a compulsory purchase order, public sector organisations should, as is the norm, consider value for money in terms of the Exchequer as a whole in order to avoid any repercussive cost impacts or pressures on both the scheme in question and other publicly-funded schemes. Acquiring authorities can consider all of the costs involved in the compulsory purchase process when assessing the appropriate payments for purchase of land in advance of compulsory purchase. For instance, the early acquisition may avoid some of the following costs being incurred:

- *legal fees (both for the order making process as a whole and for dealing with individual objectors within a wider order, including compensation claims)*
 - *wider compulsory purchase order process costs (for example, staff resources)*
 - *the overall cost of project delay (for example, caused by delay in gaining entry to the land)*
 - *any other reasonable linked costs (for example, potential for objectors to create further costs through satellite litigation on planning permissions and other orders)*
- In order to reach early settlements, public sector organisations should make reasonable initial offers, and be prepared to engage constructively with claimants about relocation issues and mitigation and accommodation works where relevant.”¹*

¹ DLUHC “Guidance on Compulsory Purchase Process and The Crichton Down Rules” (July 2019) Paragraph 3, p.7

6.3.1 In addition to the total acquisition cost paid to the seller there will be Stamp Duty Land Tax costs for the acquisition for LBB. The Stamp Duty Land Tax Calculation has been undertaken by HB Public Law Solicitors and can be provided in detail if required. The SDLT calculation may be revised at the time exchange/completion occurs and the sum may change slightly in accordance with tax rules at the time.

6.3.2 Early Redemption Mortgage Penalty. Whilst some mortgage providers may waive a fee, others will not and certainly it is not unusual for a fee to be applied, particularly where it is a buy to let mortgage. Confirmation and evidence has been obtained from the sellers that an early redemption fee is payable.

6.4 **Social Value**

6.4.1 Assisting residents affected by the proposed Hendon Hub redevelopment, to enable relocation to a new home.

6.5 **Legal and Constitutional References**

6.5.1 The delegations given at Policy & Resources Committee on 8 December 2020 included the following: delegates negotiation and completion of legal agreements to the Deputy Chief Executive: b) The approval of third-party acquisitions, by private treaty. This report is in exercise of such delegation.

6.5.2 The Council has a range of powers including the general power of competence under Section 1 of the Localism Act 2011 to do anything that individuals can do subject to any specific restrictions contained in legislation and Section 111 of the Local Government Act 1972 which provides that a local authority has power to do anything which is calculated to facilitate, or is conducive or is incidental to, the discharge of its functions.

6.5.3 Section 120 of the Local Government Act 1972 provides that a local authority may acquire by agreement any land, whether situated inside or outside their area, for the purposes of any of their functions under any enactment.

6.5.4 Section 227 of the Town and Country Planning Act 1990 provides that a Council may acquire, by agreement, any land which they require for any purpose for which a local authority may be authorised to acquire land compulsorily under section 226. Officers consider that 21 Prince of Wales should be held by the Council for planning purposes, consistent with the purposes for which the land would be held by the Council were the land to be acquired compulsorily pursuant to section 226. As such, once acquired for planning purposes, the land will benefit from the operation of Section 203 of the Housing and Planning Act 2016, which (subject to the payment of compensation) extinguishes all existing third party rights that could prevent the development or use of the land from proceeding. The costs of compensation will therefore be limited to the statutory basis as provided by section 204 of the 2016 Act.

6.5.5 Article 10.4 of the Council's Constitution states "Decision making by Chief Officers jointly with Theme Committee Chairmen: Chief Officers in consultation with Theme Committee Chairmen ... have delegated authority to make decisions which are not key decisions, and which have a value between £189,330 and £500,000. A written report will be prepared for every decision.").

6.5.6 Table A in Article 10 of the Council’s Constitution sets out that the authorisation level for Acquisitions between £189,330 to £500,000 is via a “Full DPR – Deputy Chief Executive in consultation with Theme Committee Chair”, the relevant Committee being Housing & Growth Committee.

6.6 Risk Management

6.6.1 Should the development not proceed, 21 Prince of Wales can either be resold on the open market or utilised by Barnet Homes as an addition to HRA housing or for temporary homeless accommodation. However, there would almost certainly be a loss to the Council if it were re-sold, given that the council is having to pay the compensation and disturbance costs in addition to market value, which it would not get back if the property were resold.

6.6.2 During the time between purchase and beginning construction, 21 Prince of Wales can be occupied by guardians or other alternative use who will keep the property secure, whilst also possibly providing some income to the council.

6.7 Equalities and Diversity

5.6.1 There are no issues to report

6.8 Corporate Parenting

5.7.1 There are no issues to report.

6.9 Consultation and Engagement

6.9.1 The current owners of 21 Prince of Wales were included within The Hendon Hub public consultations; and, we have consulted with the owners privately, via ongoing engagement, and have reported each step to the Project Review Board.

5.9 Insight

5.9.1 There are no issues to report

7. BACKGROUND PAPERS

7.1 Budget for acquisitions approved by P&R committee on 19 February 2020, and subsequently full Council 3 March 2020

[Agenda for Policy and Resources Committee on Wednesday 19th February, 2020, 7.00 pm | Barnet Council \(moderngov.co.uk\)](#) and

[Agenda for Council on Tuesday 3rd March, 2020, 7.00 pm | Barnet Council \(moderngov.co.uk\)](#)

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. The decision is compliant with the principles of decision making in Article 10 of the constitution.*

Chief Officer: Cath Shaw

Signed: 

Dated: 16/06/2022

In Consultation with the Cllr Ross Houston - Portfolio Holder Housing & Growth

Signed: Cllr Ross Houston

Dated: 16/06/2022
