



## Cabinet

<b>Title</b>	Matters associated with the acquisition of properties at Colindale Gardens
<b>Date of meeting</b>	Monday 26 June 2023
<b>Report of</b>	Councillor Ross Houston, Deputy Leader and Portfolio Holder for Homes and Regeneration
<b>Wards</b>	Colindale South
<b>Status</b>	Public with accompanying exempt report - Exempt from publication in accordance with paragraphs 3 and 5 of Schedule 12A of the Local Government Act 1972 on account that it contains information relating to the financial or business affairs of any particular person including the authority holding the information, and information in respect of which professional legal privilege could be maintained in legal proceedings.
<b>Key</b>	Key
<b>Urgent</b>	Yes  There is a unique opportunity to acquire 249 homes in the latest phase of the Colindale Gardens development from the developer, Redrow. To secure the offer, contracts need to be exchanged by the end of June.
<b>Appendices</b>	Appendix A – Full Business Case Appendix B – Full Business Case (exempt) Appendix C – draft Heads of Terms (exempt)
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## Summary

This report seeks approval of the business case for the acquisition of 249 residential properties within the Colindale Gardens scheme through the Housing Revenue Account (HRA). The acquisition will enable more of the homes to be rented at lower rents than would otherwise come forward under the Section 106 agreement which directly supports the Quality, Affordable Homes priority within Our Plan for Barnet.

## Recommendations

- 1. That the Cabinet approves the business case for the acquisition of 249 residential properties at Colindale Gardens into the HRA, funded through HRA borrowing and grant, as outlined in Appendix A, subject to further legal and financial due diligence.**
- 2. That the Cabinet delegates authority to the Portfolio Holder for Homes and Regeneration, to have regard to further legal and financial due diligence and to approve and enter into the final transaction and related documents.**

### 1. Reasons for the Recommendations

- 1.1 A key priority within 'Our Plan for Barnet' is delivering quality, affordable homes, and in particular the ambition of delivering 1,000 homes at 50% of local market rent or lower.
- 1.2 There is an opportunity to acquire 249 flats on a long lease in the latest phase of the Colindale Gardens scheme to be let at London affordable rent level.
- 1.3 The flats are located across three cores within block C and are a mixture of studios, one, two, and three-bedroom properties. The current tenure of the homes is a mix of private sale, shared ownership and affordable rent.
- 1.4 There are 40 wheelchair adaptable units. The acquisition includes 41 parking spaces that are allocated to the wheelchair adaptable units.

#### Accommodation schedule

Core	Affordable rented	Shared ownership	Private sale	Total
C3		78	29	107
C4	56	9		65
C5	77			77
<b>Total</b>	<b>133</b>	<b>87</b>	<b>29</b>	<b>249</b>

<b>Bedrooms</b>	
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<b>Total</b>
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1-beds	14
2-beds	179
3-beds	48
Studios	8

- 1.5 Under the Section 106 agreement (which was agreed in 2015), the rent levels of the affordable rented units could be up to 80% of local market rent which would be likely to be unaffordable or unsuitable for many of Barnet's households in housing need.
- 1.6 The intention would be to 'flip' the 29 private sale and 87 shared ownership properties to affordable rent and deliver all of the affordable rented units at London Affordable Rent. This is therefore a unique opportunity to provide genuinely affordable homes, including 42 three bed homes, that families can move straight into.
- 1.7 The homes and communal areas will be managed by Barnet Homes. There will be a management agreement with Redrow, in relation to the building structure and estate common parts, which is currently being finalised based on further legal and practical advice.

#### **Housing and homelessness pressures**

- 1.8 Barnet has the second largest population of all London boroughs but has the 6<sup>th</sup> lowest stock of social housing.
- 1.9 There are growing pressures in terms of housing and homelessness in the borough. The council and Barnet Homes have worked successfully to reduce the number of households in temporary accommodation (TA) through a successful programme of homelessness prevention activities. This has resulted in the number of households in TA reducing from 2,936 in November 2016 to 2,076 in August 2022 (the lowest in 10 years). Since then, the number of households in temporary accommodation has been rising. At the end of November 2022, Barnet had the 9<sup>th</sup> highest number of households in TA across London.
- 1.10 The Housing Options team is projecting an increase in TA this year as follows:
- Overall, TA – from 2,202 households in March 2023 to between 2,350 & 2,600 in March 2024
  - Emergency TA – from 374 households in March 2023 to between 680 & 918 in March 2024
- 1.11 Thirty percent more homelessness applications were opened in 22/23 than in 21/22; and in Q3 and Q4 22/23, the number of applications opened was 50% higher than the same period in the previous year.
- 1.12 Private rented sector (PRS) landlords are withdrawing properties from the open and temporary accommodation markets. As such, there have been reduced PRS placements, in Q1-Q3 2022/23, Let2Barnet procured 259 properties against a target of 459. Decreased availability of PRS, along with an increase in homelessness approaches, pose challenges both for providing housing to long term residents as well as those moving into the borough because of refugee status. Given that the homes are due to complete on a phased basis between October 2023 and January

2024, the acquisition will provide a much quicker response to the temporary accommodation pressures than if the council were to build an equivalent number of properties.

- 1.13 The challenges outlined above are not unique to Barnet and are being experienced across London. They are however greater in Barnet due to the low proportion of council housing stock we have compared to the population.

#### **Benefits to the council**

- 1.14 As a result of these market factors, a potential additional circa £2million cost pressure to the general fund is forecast that the acquisition will help offset (by alleviating TA pressure).
- 1.15 As set out above, the acquisition will also support the council's ambition to deliver 1,000 homes at 50% of local market rents or lower, by enabling an additional 116 homes to be delivered as affordable rent and thereby allocated to social housing applicants. The acquisition also enables the 133 homes that, under the Section 106, were already due to be for affordable rent, to be delivered at lower rents than may otherwise have come forward by an alternative Registered Provider.
- 1.16 The benefits associated with the acquisition are also set out in the Full Business Case in Appendix A and summarised in paragraph 5.5 below.

## **2. Alternative Options Considered and Not Recommended**

- 2.1 The council could do nothing and leave the developer to secure an alternative Registered Provide partner, however the units may not be affordable to residents in housing need, and we would lose the opportunity to 'flip' 29 private sale and 87 shared ownership units into affordable rented accommodation to support the council's 1000 homes ambition. If purchased by another entity, the homes could be let at up to 80% of market rent which would be unaffordable to most housing applicants in the borough.
- 2.2 The homes could be acquired through Opendoor Homes, a registered provider within The Barnet Group, through a loan from the council via the General Fund. The HRA benefits from an interest rate discount of 0.4% and Minimum Revenue Provision is not required on HRA borrowing. That option is therefore not affordable.
- 2.3 The alternative options are set out in further detail in in the Full Business Case in Appendix A.

## **3. Post Decision Implementation**

- 3.1 Subject to satisfactory completion of legal and financial due diligence, the final transaction and other relevant agreements will be approved by the Portfolio Holder for Homes & Regeneration and contracts will be exchanged by the end of June 2023.
- 3.2 Completion of long leases will follow practical completion of the blocks of flats and the flats. Allocations will commence as soon as the long lease for each core is completed.

## **4. Corporate Priorities, Performance and Other Considerations**

### **Corporate Plan**

- 4.1 Our Plan for Barnet 2023 – 2026 is centred around being a council that cares for people, our places, and the planet. The acquisition of 249 homes within the Colindale Gardens scheme will

support the 'Caring for our places' theme and in particular the ambition to deliver 1,000 homes at 50% of local market rents or lower.

### **Draft Housing Strategy and Homelessness and Rough Sleeping Strategy**

- 4.2 The draft Housing Strategy and Homelessness and Rough Sleeping Strategy were presented to Housing and Growth Committee on 23 March 2023 ahead of public consultation. The acquisition supports both the strategies by delivering genuinely affordable homes that will support people in housing need.

### **Corporate Performance / Outcome Measures**

- 4.3 The acquisition will deliver 249 affordable rented homes towards the council's 1,000 homes commitment.

### **Sustainability**

- 4.4 The Reserved Matters planning application for this phase of the development was approved in 2018. The design met the London Plan sustainability and emissions targets at the time which included a 35% improvement in emissions compared to Part L of the Building Regulations 2013.
- 4.5 Compared to the existing acquisitions programmes, where usually the homes acquired are EPC C, the 249 units will be EPC B.

### **Corporate Parenting**

- 4.6 Barnet Council has a small number of care leavers in temporary accommodation. Increasing the supply of affordable housing is therefore a corporate parenting issue.

### **Risk Management**

- 4.7 The key risks are as follows:
- 4.8 Technical due diligence is ongoing to inform our understanding of risks associated with building and fire safety, service charge affordable and management costs. These issues are set out in further detail in section 3.5.3 of the Full Business Case at Appendix A.
- 4.9 There is a risk that as a result of the purchase, the HRA will be less resilient to future cost pressures including any arising from future regulatory or legislative changes. These risks may be mitigated by reducing the capital works programme, reducing service levels, reducing cost allocations for corporate overheads from the General Fund. There is also the hope that medium-term interest rates may not be as high as estimated.
- 4.10 If interest rates continue to rise and HRA rents are capped in future years, the HRA may go into deficit. However, forward borrowing in the HRA has helped mitigate the council against this risk.
- 4.11 The HRA Business Plan includes various assumptions and is driven by key factors; inflation and interest rate risk on repairs and rental income; management recharges; the cost of financing capital programmes and repayment of debt; the impact of net zero and changes in regulatory or legislative requirements such as fire safety. The sensitivity to these factors means it is at risk of going into deficit if the economic environment and rising demand for services and cost of skilled labour continue to be volatile.
- 4.12 These risks may be mitigated by reducing the capital works programme, re-profiling works into future years, reducing service levels through focusing on priorities, reducing cost allocations for corporate overheads from the General Fund, or potentially medium-term interest rates may not be as high as estimated.
- 4.13 The council approves a 30-year HRA Business Plan each year to review and scrutinise the viability and sustainability of the HRA.

4.14 Further detail on risk management is included in section 6 of the Full Business Case at Appendix A.

#### **Insight**

4.15 The case to acquire has been informed by data in relation to numbers in temporary accommodation, the number of homelessness applications and the number of private rented sector placements, as set out in paragraphs 1.8-1.13.

#### **4.16 Social Value**

4.17 The acquisition will enable more of the 249 units to be delivered as genuinely affordable rented homes. There are no specific social value considerations arising from the acquisition.

### **5. Resource Implications (Finance and Value for Money, Procurement, Staffing, IT and Property)**

5.1 The cost of the acquisition will be funded by HRA borrowing, grant and receipts. Financial appraisal shows that borrowing would be expected to be repaid by year 50.

5.2 The purchase price reflects a valuation provided by an independent valuer.

5.3 Borrowing in the HRA enables the council to access a reduced borrowing rate from the Public Works Loan Board (PWLB). PWLB will be discounted 0.4%.

5.4 Financial Modelling has determined a positive NPV over 50 years of £2.307m, borrowing at an assumed 4.80% interest rate. This includes cost avoidance of £3,500 per property based on the average cost over the last 12 months. This is a conservative assumption, with average net cost per unit of TA indicating an upward trend in the early months of 2023/24.

5.5 The first 3 years of the model show a relatively manageable cash flow deficit c.£0.050-0.200m, with significant positive cash flows thereafter, and a net surplus of £23.868m over 50 years.

5.6 The financial benefits of the proposal are as follows:

- Significant "instant" response to homelessness pressures with an annual temporary accommodation cost avoidance for the General Fund of c£3,500 per non-accessible unit.
- The cost of the council building 249 units or acquiring the equivalent number of units individually would be significantly higher than the cost of the acquisition given current market conditions.
- The nature of the acquisition allows access to alternative grant regimes.
- The acquisition will support the "Starts on site" required to utilise Right to Buy receipts on the acquisition of street properties. Without these new "starts on site" the number of acquisitions that could come forward as part of the HRA 60 acquisitions programme (which is funded by Right to Buy receipts) would be limited to 20 in 2023/24.
- Increase and diversify the HRA's asset base and benefit from future appreciation in value.

5.7 The acquisition constitutes a significant commitment of HRA funds. The overall impact is that the council will breach its Minimum Reserves Policy for an additional 2 years when compared to the HRA Business Plan approved by the Housing and Growth Committee in November 2022.

5.8 The acquisition may also have the effect of reducing the HRA's resilience to future legislative or regulatory changes that may require additional spending commitments. These risks will be mitigated through a range of measures as set out in paragraph 4.10 – 4.13.

- 5.9 If interest rates continue to rise and HRA rents are capped in future years, there is a risk that the HRA will go into deficit. However, forward borrowing in the HRA has helped mitigate the council against this risk.
- 5.10 Acquisitions for the provision of social housing should be exempt from stamp duty and land tax where certain types of public subsidy, including GLA grant, are used to assist with the purchase. Should the application for GLA grant be successful, it should be possible to receive an exemption on stamp duty and land tax, subject to confirmation from HMRC. A budget for stamp duty & land tax has been allowed in the acquisition budget.

## **6. Legal Implications and Constitution References**

- 6.1 Section 120 of the Local Government Act 1972 gives the Council the power to acquire property whether situated inside or outside of their area for the purposes of: (a) any of their functions under the 1972 or any other enactment, or (b) the benefit, improvement, or development of their area.
- 6.2 Section 17 of the Housing Act 1985 also give the Council power to acquire land and buildings for housing purposes.
- 6.3 Under Part 4B1 of the Council's constitution, the acquisition of property for a price of more than £500,000 (revenue) or more than £1million (capital) is to be approved by Cabinet.
- 6.4 The terms of any grant agreement will need to be observed.

## **7. Consultation**

- 7.1 Consultation has been undertaken with the Housing Options service to ensure that the acquisition will benefit those in housing need.
- 7.2 Consultation has also taken place with the GLA in relation to securing grant funding to support the acquisition, and in particular the reduction in the rents.

## **8. Equalities and Diversity**

- 8.1 Decision makers should have due regard to the public sector equality duty in making their decisions. The equalities duties are continuing duties they are not duties to secure a particular outcome. The equalities impact will be revisited on each of the proposals as they are developed. Consideration of the duties should precede the decision. It is important that Cabinet has regard to the statutory grounds in the light of all available material such as consultation responses. The statutory grounds of the public sector equality duty are found at section 149 of the Equality Act 2010 and are as follows:

A public authority must, in the exercise of its functions, have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a) Tackle prejudice, and
- b) Promote understanding.

Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act. The relevant protected characteristics are:

- a) Age
- b) Disability
- c) Gender reassignment
- d) Pregnancy and maternity
- e) Race
- f) Religion or belief
- g) Sex
- h) Sexual orientation
- i) Marriage and civil partnership

8.2 It is not expected that these groups will be adversely affected by implementing the recommendations set out in this report, however the impact will be monitored to ensure that these groups are not adversely affected.

8.3 All units of accommodation that are procured will meet minimum standards. Out of the 249 properties to be acquired, 40 are adaptable.

## **9. Background Papers**

None