



Cabinet

Title	Small Sites Programme – Former Nightingale Nursery
Date of meeting	6 February 2024
Report of	Leader of the Council and Cabinet Member for Resources and Effective Council – Councillor Barry Rawlings Deputy Leader and Cabinet Member for Homes and Regeneration – Councillor Ross Houston
Wards	East Barnet
Status	Public with accompanying Exempt Report (not for publication by virtue of paragraph 3 of Schedule 12a of the Local Government Act 1972 as amended as this relates to information of a financial or business nature)
Key	No
Urgent	No
Appendices	Exempt Report
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Summary

The Small Sites Modular Programme was approved by the Housing and Growth Committee in November 2021.

This report sets out a proposal to deem the land at 23 Victoria Road, Barnet, EN4 9PH, formerly known as Nightingale Nursery (the Site), surplus to requirements, and seeks approval to bring the Site forward for residential development by including it into the Small Sites Modular programme, delivering six affordable modular homes.

This opportunity enables the Council to meet affordable housing targets outlined in the Borough's corporate objectives, while also developing more difficult small sites. The Site, together with the sites at East Barnet Library, Whetstone Close and Reets Farm Close comprise a programme which will deliver 40 new homes to be held in the Council's Housing Revenue Account (HRA). It is proposed that all homes are rented at social rent levels with Council secure tenancies and delivered to passivhaus standard (a voluntary standard for energy efficiency in buildings that reduces the buildings ecological footprint. It results in ultra-low energy buildings that require little energy for space heating or cooling).

The Council will grant EDAROTH (developer/contractor) a short-term lease at a peppercorn rent on the Site to deliver the new homes. Upon practical completion the leases will collapse, and unencumbered freehold title will revert back to the Council.

Funding has been secured to deliver the new homes with a pending grant application with the Greater London Authority (GLA).

Recommendations

1. That Cabinet approves that the former Nightingale Nursery Site is surplus to requirements and approves the development proposals to deliver new homes on the Site through the Small Sites Programme.
2. That Cabinet delegate authority to the Deputy Chief Executive to take such actions and make such decisions to enable and facilitate the proposals set out in this report:
 - (i) to include to appropriate the whole or part of the Site including to planning purposes and to authorise any steps lawfully required in connection with the same,
 - (ii) to consider any objections in connection with any intended appropriation,
 - (iii) to engage Section 203 of the Housing and Planning Act 2016; and to negotiate and settle any claims resultant on engaging it,
 - (iv) to dispose of the Site as outlined in this report,
 - (v) to apply for all required statutory consents,
 - (vi) as otherwise may be required in accordance with all lawful requirements and as detailed at section 6.
3. That the Cabinet delegate authority to the Deputy Chief Executive in consultation with the Cabinet Member for Homes and Regeneration to enter into and conclude such documents as required to give effect to the proposals outlined in this Report or agree alternative terms based on the broad principles outlined at 1 above and enter into and conclude such documents or to agree variations to any documents as may be required from time to time.

1. Reasons for the Recommendations

- 1.1 To deliver an increase in housing completions requires the Council and the wider public sector to increase its own pipeline of housing delivery. To that end, the Council has reviewed its assets to consider all suitable sites for redevelopment potential. With a third of the Borough in designated green belt, the Council has to be innovative in how new homes can be built in the Borough. The Corporate Plan, Barnet 2023-26, includes several key priorities that the development of the Site will contribute towards, including, ensuring decent quality housing, investing in communities, and delivering the right homes which people can afford.

1.2 Barnet is the second most populated borough in London, with over 389,300 residents. The population is expected to grow to over 451,000 by 2041, placing further pressure on housing within the borough. The Housing Strategy 2023-28 states there is currently not enough suitable housing in Barnet for everyone to have a safe, secure, and affordable home. Barnet have committed to delivering 1,000 new council homes to be let at 50% or less of the average market rent.

1.3 Delivering more affordable homes will support the growing housing need in the borough.

1.4 Small sites (under 0.25 ha) are delivering a third of new homes in Barnet.

1.5 The proposed six new homes at Nightingale Nursery together with the 34 other new homes under the Small Sites Modular Programme will contribute to these targets and requirements.

1.6 The Site

The Site is known as the former Nightingale Nursery, 23 Victoria Road, Barnet, EN4 9PH.

Key components of the Site are:

- Size of Site is 0.17ha (0.41 acres)
- Previously used as a pre-school nursery
- Located off Victoria Road via an access road.

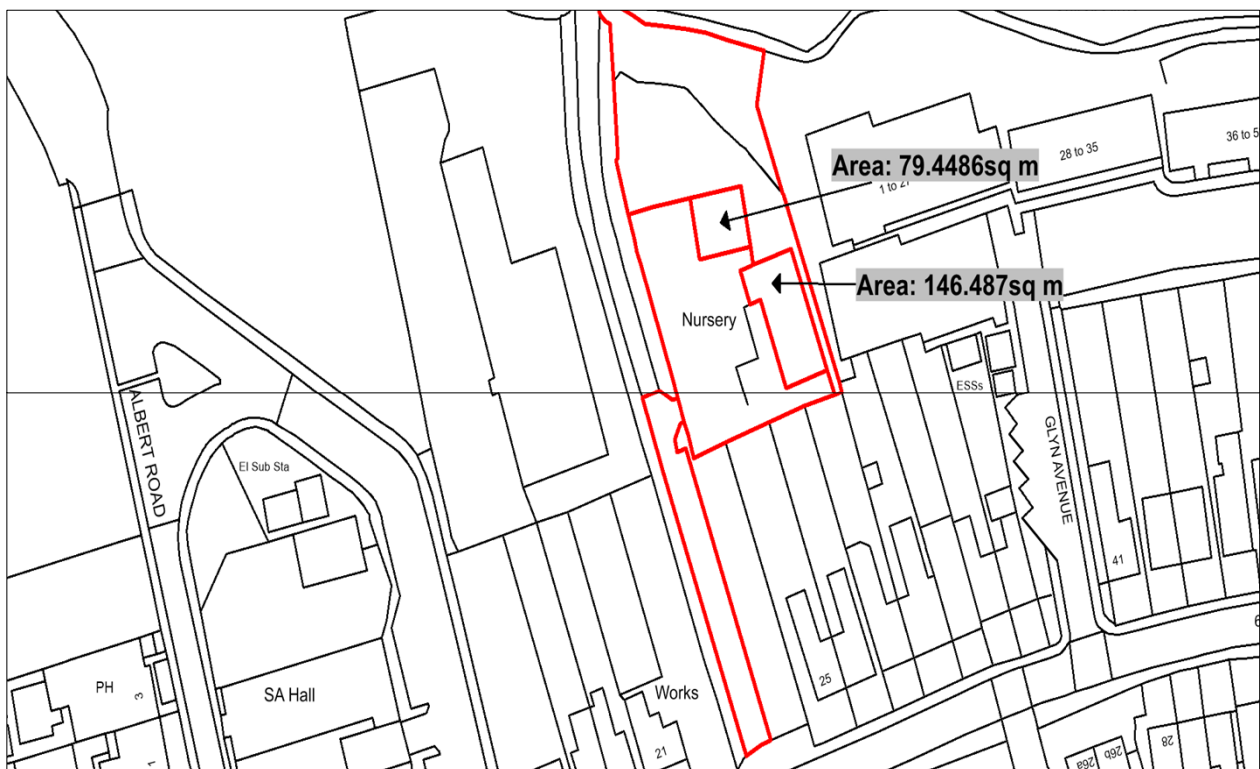


Figure 1: Red line plan of the former Nightingale Nursery

2. Alternative Options Considered and Not Recommended

2.1 The development opportunities for the Site were considered at the Property Review Board on the 26 September 2023. The discounted options were:

2.2 Do Nothing

"Do Nothing Option", the Site would be left untouched and would continue to remain in its current dilapidated state.

2.3 Rental Option

Repurposing the site for rental purposes, such as another children's nursery or a building that could be hired for daytime and evening adult or children's classes. However, the Site in its current state would need significant modernisation to meet current sustainable standards and achieve an EPC Rating A.

2.4 New Build Childrens Nursery Facility (Demolition & New Build)

Proposed a sustainable new build children nursery on the Site. This approach involves demolishing the existing structure and replacing it with a modern, environmentally friendly nursery facility which would require capital expenditure.

3. Post Decision Implementation

3.1 Following Cabinet approval, a Conditional Agreement For Lease (CAFL) will be drafted and entered into with EDAROTH for the former Nightingale Nursery.

3.2 Securing grant funding from GLA.

3.3 Obtaining site surveys and title reports to de-risk delivery.

3.4 Preparing and submitting planning application.

3.5 Satisfying the condition's precedent in the CAFL prior to mobilisation.

3.6 Upon practical completion of the works the leases with EDAROTH will be terminated.

4. Corporate Priorities, Performance and Other Considerations

4.1 Corporate Priorities

4.1.1 The Council's Corporate Plan 2023-26 sets out the aim to ensure Barnet puts caring for People, our Places and the Planet at the heart of everything we do.

4.1.2 Caring for People – The Small Sites Programme will deliver new affordable residential homes which will allow residents to remain within their local community.

4.1.3 Caring for our Places – We want to create a desirable place to live, we are delivering contemporary, state of the art sustainable affordable homes. We have sought to provide a mix of accommodation for a variety of occupiers.

4.1.4 Caring for the Planet - sustainability at the heart of everything we do – becoming a net zero Council by 2030. We will work with local people, communities and businesses across the borough to make Barnet net zero by 2042. We will work to create a place fit for the future, where everyone benefits from improved green infrastructure, green employment and business opportunities.

4.1.5 Delivering the right homes to meet diverse needs now and for future generations, that people can afford and are in the right places, is a key priority and challenge for the Council.

4.1.6 The Corporate Plan further sets out how the Council will deliver these ambitions within financial constraints by making efficient use of money and working more closely with partners in order to deliver for the residents of Barnet.

4.1.7 The 2021 London Plan and draft Local Plan recognise the need to deliver more housing in the Borough. The Council's Housing Strategy 2023-2028 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.

4.1.8 Barnet's Joint Health and Wellbeing Strategy 2021-25 recognises the importance of access to good quality housing in maintaining Well-Being in the Community.

4.1.9 Lack of affordable housing is highlighted in Barnet's Joint Strategic Needs Assessment (JSNA) as one of the top five concerns identified by local residents in the latest Residents' Perception Survey.

4.2 Sustainability

4.2.1 In May 2022, Barnet declared a Climate and Biodiversity Emergency. Barnet is committed to becoming a Net Zero council by 2030 and a place no later than 2042.

4.2.2 In January 2023, the borough launched its BarNET ZERO campaign, which seeks to bring communities, residents, and businesses together to achieve this goal.

- The new homes will be delivered using offsite modern methods of construction which provide:
- Premanufactured Value (PMV) of more than 60% meaning over half the construction takes place off site.
- Increased energy performance with an EPC Rating A as a minimum.
- Net Zero carbon with a fabric first design with air source heat pumps and solar photovoltaic panels. The homes achieve net zero carbon emissions for all regulated, operational energy.
- The new homes ultimately achieve the same overall performance as Passivhaus standard.

4.3 Corporate Parenting

4.3.1 The nursery facility on the Site has been closed for a number of years and it is not considered that this decision will have a direct impact on looked after children. The increased availability of high-quality affordable housing will have an indirect positive benefit and a reduction in temporary accommodation.

4.4 Risk Management

4.4.1 A key benefit of the transactional structure of this project is the transfer of development risk away from the Council to EDAROTH.

4.5 Performance of the developer/construction contractor

4.5.1 The Council will retain the freehold title of the site and will grant the EDAROTH a short-term lease at a peppercorn rent on the site to enable EDAROTH to deliver the new homes. The leases will contain provisions to enable the Council to take back ownership of the land/ land and buildings. The Council will place longstop dates on the development to enable it to terminate the lease if the development has not been built within the agreed timeframe.

4.6 Revenue

4.6.1 The Small Sites Modular Programme was previously approved in November 2021 at the Housing and Growth Committee will be funded through a combination of Public Works Loan Board (PWLB) borrowing and GLA grant.

4.7 Social Value

4.7.1 Increasing the value of existing assets through bringing forward development on underutilised or redundant land towards supporting local housing needs by helping to provide new opportunities for housing, in particular, affordable housing.

4.7.2 Any contractors or parties involved in the development will be encouraged to provide opportunities for employment, training and apprenticeships for local people and use local suppliers where appropriate.

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

5.1 Finance

5.1.1 A capital bid for the full small sites programme (General Fund and HRA) inclusive of the proposed six units has been completed totalling £12.8m, funded by a mix of PWLB borrowing and GLA grant. The formal approval of the allocation will be as part of the 2024/25 budget being presented to budget council on the 27th February 2024.

5.2 Value for Money

5.2.1 The delivery of the development will secure new affordable housing to address need within the borough which will reduce the increasing dependence on temporary accommodation and will secure substantial opportunity to meet strategic housing objectives.

5.3 Procurement

5.3.1 The primary purpose of the transaction for the Small Sites Modular programme is a land transaction through the granting of a lease as such it falls outside of the Public Contracts Regulations 2015.

5.4 Staffing, IT and Property

5.4.1 There are not considered to be any staffing or IT issues arising from this transaction.

5.4.2 Brings forward development on underutilised or redundant land held by the Council.

6. Legal Implications and Constitution References

6.1 Council Constitution Part 2D sets out the terms of reference of Cabinet which includes the following responsibilities:

- Management of the Council's Capital Programme.

6.2 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. 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.

6.3 Nightingale Nursery site is held in the General Fund (GF). The provisions relating to any disposal of GF land are governed by the provisions of s 123(2) of the "LGA 1972"). This states that except with the consent of the SoS no disposal of land shall take place under that section save by way of a short tenancy, except for a consideration not less than the best that can be reasonably obtained.

6.4 Section 123(7) of the 1972 Act states that a short tenancy comprises the grant of a term for less than seven years. The proposed leases to EDAROTH do not therefore require the consent of the Secretary of State..

7 Consultation

7.1 A detailed briefing session was held with East Barnet Ward Members on the 17 November 2023.

7.2 On the exchange of the agreement for lease with the Council, EDAROTH will be engaging with the local community in preparation of a planning application for the site.

8 Equalities and Diversity

8.1 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.

8.2 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 149 of the Equality Act 2010.

9 Background Papers

9.1 Housing & Growth Committee, 16 November 2021, Item 14 – Modular Microsite Proposals Development Sites for Disposal: [Agenda for Housing and Growth Committee on Tuesday 16th November, 2021, 7.00 pm \(moderngov.co.uk\)](#)