

Cabinet Member Report

Decision Makers:	Cabinet Member for Regeneration and Renters
Date:	29 February 2024
Classification:	<p>Part Exempt: Appendices 1 and 2 are exempt from disclosure by virtue of the following Paragraphs of schedule 12A to the Local Government Act 1972:</p> <p>Paragraph Three: Information relating to the financial or business affairs of a particular person (including the authority holding that information)</p>
Title:	Disposal of London Living Rent Homes at 300 Harrow Road to Westminster Builds.
Wards Affected:	Westbourne
Policy Context:	Fairer Housing
Key Decision:	Yes
Financial Summary:	The report sets out proposals for the disposal of 35 affordable homes constructed by the Council to Westminster Builds. The disposal is at market value and details are included within Appendix 1. The report also sets out details of financing arrangements for the acquisition value.
Report of:	Debbie Jackson, Executive Director of Regeneration, Economy and Planning.

1. Executive Summary

- 1.1. Westminster Builds (“WB”) is the trading name for the corporate entities of Westminster Housing Investments Limited (“WHIL”) and Westminster Housing Developments Limited (“WHDL”). The Council owns 100% of the shares in WHIL which in turn owns 100% of the shares in WHDL. For the purpose of this report, WB is used interchangeably with WHIL, as it is the only active company in this arrangement.
- 1.2. In December 2021, the Cabinet Members for Communities and Regeneration and Finance and Smart Cities approved the award of a contract to Wilmott Dixon for the construction of 112 homes and commercial space at 300 Harrow Road. These homes achieved practical completion on the 6th and 9th of November 2023.
- 1.3. The development is 100% affordable and included within the 112 affordable homes are 35 intermediate homes to be rented at London Living Rent. These are proposed to be sold by the Council to its housing company, who will finance the acquisitions from the company’s own resources.
- 1.4. The homes will be held by WHIL on a long lease granted by WCC.
- 1.5. It is proposed that the Council will provide housing management services to WHIL through a management contract. For an agreed fee, the Council will manage the tenancies and homes alongside the social rented homes retained by the Council. The estate and structure of the buildings will also be managed by WCC through the Corporate Landlord model and recharged to WHIL where necessary.
- 1.6. It is recommended that approval to enter into a Housing Management Services Agreement with WHIL is delegated to the Executive Director of Regeneration, Economy and Planning.

2. Recommendations

- 2.1. That Appendix [1] and [2] of this report be exempt from disclosure by virtue of the Local Government Act 1972, Schedule 12A Part 1, paragraph 3 (as amended), in that they contain information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 2.2. That the Cabinet Member for Regeneration and Renters:
 - 2.2.1. Approves the disposal of 35 intermediate rent homes (as defined in paragraph 5.1) at 300 Harrow Road by the Council to Westminster Housing Investments Limited (“WHIL”) for £7.8m on the terms set out in Appendix 1 of this report;
 - 2.2.2. Delegates authority to the Executive Director of Regeneration, Economy and Planning to approve and authorise any and all legal documentation that may be required to facilitate the recommendation in 2.2.1, in one or more transactions;

2.2.3. Following consultation with the Cabinet Member for Housing Services, delegates authority to the Executive Director of Regeneration Economy and Planning to approve and to authorise the Housing Management Services Agreement, subject to agreed terms, between the Council and WHIL as set out in section 7 of this report and to approve the necessary legal documentation to be executed on the Council's behalf thereto; and

2.2.4. Delegates authority to Executive Director of Regeneration Economy and Planning to approve and to authorise entry into a deed of variation (or any future deeds of variation in relation to the site) by the Council as a landowner to the planning agreement to enable the intermediate housing units to be transferred to WHIL.

2.3. That the Cabinet Member for Finance and Council Reform:

2.3.1. Delegates authority to the Executive Director of Finance and Resources to agree final detailed terms with WHIL.

3. Reasons for Decision

3.1. Intermediate rent housing is best suited for assured shorthold tenancies (AST), a type of tenancy that can not be offered by the HRA, which may only grant secure tenancies. ASTs allow the Council to ensure the homes continue to be let to those who qualify for intermediate housing, retaining the purpose of this tenure to provide for those who could not afford market housing.

3.2. By disposing of the homes to WB, they can be let on ASTs but ensures the long-term value of the homes is retained within the Council's group. This is why the disposal to WHIL is proposed.

4. Background, including Policy Context

4.1. In December 2021, the Cabinet Members for Communities and Regeneration and Finance and Smart Cities approved the award of a contract to Wilmott Dixon for the construction of 112 homes and commercial space at 300 Harrow Road. These homes achieved practical completion on the 6th and 9th of November 2023.

4.2. The Truly Affordable Housing Cabinet Report in October 2022 changed the development to 100% affordable and the number of intermediate homes increased from 34 to 35. The intermediate homes are proposed to be sold to Westminster Builds who will let them at no more than London Living Rent, as set by the GLA. The remaining 77 homes will be retained in the Council's HRA and let at social rents.

4.3. The acquisition of the homes is included in the WB Business Plan for 2023/24 and following a review of this business plan the board proposed to fund the acquisition from the company's own resources.

5. Disposal of Intermediate Homes to Westminster Builds.

5.1. The freehold of the development site is held in the Council's General Fund, held for planning purposes, and a separate Cabinet Member report seeks approval to appropriate the land, now it has reached practical completion, to the HRA. This report proposes that the Council makes a disposal of the 35 intermediate units by granting a long lease for a term of 125 years, retaining the communal areas in the Council. The proposed leases are comprising these units:

- A 102 - 104
- A 202 - 204
- A 302 - 304
- A 402 - 404
- A 502 - 504
- A 603, 703, 803, 903, 1003, 1103, 1203, 1303, 1403
- B 102 – 104
- B 202 – 204
- B 302, 402, 502, 602, 702

5.1 The Council instructed Savills to undertake a Red Book valuation of the lease to provide a arm's length valuation of transaction, satisfying the Council's requirements to achieve the best consideration it reasonably can obtain for the disposal of land held for planning purposes. Savills' Red Book valuation is based on standard industry assumptions and a professional and consistent market approach, which requires adjustments to reflect the nature of 300 Harrow Road.

6. Commercial Arrangements

6.1. It is proposed that the company uses its own resources to fund the acquisitions.

6.2. An agreement for lease will be drawn up by the internal legal department reflecting the transaction and the premium payable.

7. Management

7.1. The Council's Housing Services will manage both the social and intermediate homes, including tenancy management, in-flat repairs, cleaning and maintenance of the communal areas and redecoration.

7.2. To facilitate this arrangement, it is proposed that the Council and WHIL enter into a Housing Management Services Agreement. The Council will charge a fixed annual fee for tenancy management and communal cleaning and will recharge the cost of repairs as they arise.

8. Financial Implications

8.1. The council capital strategy includes a provision for a loan to be taken by the company from the council, with associated interest and principal payments flowing back to the council over a period depending on the terms of the loan.

- 8.2. It is noted as part of this report that the WB Board made the commercial decision to use its own resources to complete the purchase. As a result, the council will forego interest payments, but not have capital tied up in the company and receive an upfront payment. This payment can be used to offset immediate pressures in the capital programme with payment being expected in the 23/24 financial year. An NPV analysis has shown an upfront payment is more beneficial to the council given the potential length of the proposed loan.
- 8.3. The disposal price reflects the use of the homes as intermediate rent, a use restricted by planning, and as a result the homes will be sold for less than their cost to const. The acquisition price for affordable homes is based on potential future income generation for the purchaser, or 'Expected Use Value' (EUV). Third parties such as registered providers would adopt a similar approach and would be willing to pay a similar amount of the homes. The Council ensures this is the case by setting the price equal to the Red Book valuation, which is a independent valuation adopting a registered provider methodology.
- 8.4. As a result the Council will make a loss on the disposal of £1.271m when compared to the cost of constructing the homes (£9.13m). However, the disposal to WB allows the assets to remain within the council group and grows the asset base of the company.
- 8.5. Appendix 1 of this report states the full financial implications of the disposal.**

9. Legal Implications

9.1. Under section 233(1) of the Town and Country Planning Act 1990 (TCPA 1990), the Council can dispose of land appropriated for planning purposes to such person, in such manner and subject to such conditions as appear to the Council to be expedient to secure one of the following:

- 9.1.1. The best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out on it (whether by the authority or by any other person); or
- 9.1.2. The erection, construction or carrying out on it of any buildings or works appearing to the authority to be needed for the proper planning of its area.

9.2. A disposal of land under section 233 of the TCPA 1990 includes a sale of the freehold interest, granting a lease, assigning any unexpired term of a lease or the granting of easements.

9.3. Under section 233(3) TCPA 1990 the Council must dispose of land held for planning purposes for the best consideration it reasonably can obtain, unless the Secretary of State consents to the disposal (disposals by way of a short tenancy of seven years or less are excepted from this rule). Paragraph 5.1 of this report

confirms the disposal by way of a long lease granted to WHIL is for the best consideration the Council reasonably can obtain.

9.4. In granting the lease and undertaking interaction with other parties, the Council can rely on its general power of competence under section 1(1) of the Localism Act 2011 (the LA 2011):

9.4.1. Section 1(1) of the LA 2011 introduced the “general power of competence” for local authorities, defined as “the power to do anything that individuals generally may do” and which expressly includes the power to do something for the benefit of the authority, its area or persons resident or present in its area.

9.4.2. The generality of the power conferred by subsection (1) is not limited by the existence of any other power of the authority which (to any extent) overlaps the general power.

9.5. The Council also has powers to enter into an Agreement for Lease, Housing Management Services Agreement and Planning Agreement Deed of Variation under Section 111 of the Local Government Act 1972 which enables the Council to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any other of its functions, whether involving expenditure, borrowing or lending money, or the acquisition or disposal of any rights or property.

10. Equalities

11.1 There are no equalities impacts arising from the recommendations in this report

11. Consultation

11.2 There has been continuous consultation carried out throughout the development of 300 Harrow Road and no further consultation is required for the recommendations of this report as it aligns with the Council’s position throughout the development.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

Brian Arscott – Senior Development Manager

APPENDICES

Appendix 1 – Exempt – Financial Implications

Appendix 2 – Valuation Report

BACKGROUND PAPERS:

Truly Affordable Housing Cabinet Report

NB: For individual Cabinet Member reports only

For completion by the **Cabinet Member** for Regeneration and Renters

Declaration of Interest

I have no interest to declare in respect of this report

Signed: _____

Date: 21/02/2024

NAME: Matt Noble

State nature of interest if any:

(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled

Signed: _____

Cabinet Member for Regeneration and Renters

21/02/2024

Date: _____

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

