



City of Westminster

Cabinet Member Report

Meeting or Decision Maker:	Cabinet Member for Communities and Regeneration Cabinet Member for Finance and Smart City
Date:	September 2021
Classification:	General Release but that Appendix 1 and 2 be declared as exempt from publication as it involves the disclosure of information as prescribed by paragraph 3 of Part 1 of Schedule 12a to the Local Government Act 1972, (as amended), in that they contain information relating to the financial or business affairs of any particular person (including the authority) as per paragraph 2.1 below.
Title:	Acquisition of 291 Harrow and 1-2 Elmfield Way, W9.
Wards Affected:	Westbourne
City for All/Policy Context:	The Big Plan for Adults with Disabilities 2018-21 City Plan 2019-2040 North Westminster Economic Development Area
Key Decision:	Yes
Financial Summary:	The acquisition is supported as viable on the basis as set out in Appendix 1 and 2.
Report of:	Gerald Almeroth, Executive Director of Finance and Resources and Debbie

1. Executive Summary

1.1. This report proposes the acquisition of the following parcels of land identified below and is supported by an “Outline Business Case (“OBC Part.1”) as set out in Appendix 2:

- 291 Harrow Road, owned by NHS Property Services (NHSPS)
- 1–2 Elmfield Way, owned by NHS Property Services (NHSPS)
- “N3” site, owned by the Department of Health and Social Care (DHSC)

1.2. The parcels of land mentioned in paragraph 1.1 will hereafter be collectively referred to as (“the Site”). The OBC Part. 1 detail a range of potential options for the Site, from the do nothing to redevelopment, and demonstrates that by acquiring then developing the land are seen as more financially beneficial than the status quo (i.e. the do nothing). The Council could meet various strategic objectives such as The Big Plan for Adults with Disabilities and improving homes, as well as the City Plan’s need to create new housing.

1.3. The acquisition of the proposed Site also provides an opportunity to redevelop new Learning Disabilities (“LD Homes”) that are located within the Site and are nearing the end of their useful lifecycle. In addition to re-providing high quality care, the low density of the Site creates an opportunity to build new affordable housing on the site along with new (“LD Homes”), cross-subsidised from private homes sale receipts.

1.4. The Council has previously explored opportunities on the Site and a planning application was submitted in 2013, however negotiations to acquire the Site were unsuccessful.

1.5. In the last 12 months the Council has reopened negotiations with NHS PS and DHSC.

1.6. Council officers have negotiated a price with NHSPS, and this report recommends that the Council proceed with the acquisition of the Site.

1.7. Initially, as the care provision on the Site is ongoing, the Site will be acquired in the General Fund and Property Services will manage and collect rent as Corporate Landlord. Subject to the approval of recommendations as set out in this report and the completion of the acquisition having taken place, a project team will then be set up to commence further options analysis work with the intention of presenting a detailed Outline Business Case Part 2 (“OBC Part. 2”), to the Capital Review Group and further Cabinet Member Report outlining the optimal proposal, cost, and delivery mechanism.

2. Recommendations

- 2.1. That Appendix 1 and 2 are exempt from disclosure by virtue of the Local Government Act 1972, Schedule 12A, Part 1, paragraph 3 (as amended), in that it contains 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 Finance and Smart City approves:
 - 2.2.1. the Council proceed with the acquisition of the parcels of land known as 291 Harrow Road, 1-2 Elmfield Way and the DHSC owned N3 site (“the Site”) for the value set out in Appendix 1.
 - 2.2.2. delegates approval to agree final commercial terms of the acquisition as set out in Appendix 2 to the Executive Director of Finance & Resources.
 - 2.2.3. a virement from the General Fund’s central contingency to fund the acquisition and feasibility costs falling in this financial year and notes that a separate budget request for future years will be submitted as part of the Council ’s annual budget setting process.
- 2.3. Subject to approval of recommendation 2.2 above and the legal completion of the acquisition of the Site by the Council, the Cabinet Member for Communities and Regeneration approves:
 - 2.3.1. That further options analysis is undertaken in relation to various proposals as set out in the OBC Part. 1 (Appendix 2) including further consultation and engagement as required.
 - 2.3.2. A feasibility budget of up to £1.5m to appoint a multi-disciplined project team, to undertake the work set out in 2.3.1.

3. Reasons for Decision

- 3.1. The Council commissions Learning Disabilities care from Yarrow Housing and Westminster Society on the proposed site. The units are now nearing the end of their useful lifecycle and without intervention would become uninhabitable in the near future, after which the provision would likely move out of Borough.
- 3.2. Acquiring the Site potentially enables the Council to re-provide new, high quality learning disabilities homes alongside a mix of affordable and market sales homes, increasing the provision of affordable housing in the Borough.

4. Background

4.1. 'The Site' consists of three adjoining sites:

- 291 Harrow Road, currently owned by the NHS Property Service (NHS PS) who have leased it to Westminster Society who provide care services to Westminster and the NHS
- 1-2 Elmfield Way, currently owned by the NHS PS who have leased it to Yarrow Housing who also provide care services to Westminster and the NHS
- N3, a Multi-Use Games Area (MUGA), owned by Department for Health and Social Care.

4.2. In the last 12 months the Council has reopened negotiations with NHSPS and the DHSC in relation to the Site purchase. Running alongside those negotiations, separately the Council has designed a Masterplan for the Woodfield Rd area and carried out initial discussions regarding the site with the Council's Planning Authority team.

4.3. The Council's scheme seeks to re-provide 16 LD homes in new, fit for purpose accommodation on site in a two-phase scheme which minimises disruption to the current residents. In total the scheme could provide 133 homes, with the remaining homes offering a mix of social and intermediate tenancies as well as market sale homes.

4.4. This work has culminated in an OBC Pt. 1 appended to this report, setting out the case for acquiring the Site the options presented. The business case follows the standard 5-case model and is summarised below:

5. Business Case

5.1. OBC Part 1, appended to this report, evidences the Strategic, Economic, Commercial, Financial and Management case for intervention, i.e., acquiring the site and working up the options to identify an optimal scheme.

5.2. The Strategic case demonstrates how acquiring the site could help contribute towards the Council's Strategic objectives including:

- The Big Plan for Adults with Learning Disabilities 2018-2021
- City Plan 2019-40
- North Westminster Economic Development Area

5.3. The economic case applied the strategic objectives to a range of options for intervention by defining critical success factors, i.e. things that have to happen/exist for the project to be a success. These include:

- Provision of high-quality care

- Increased availability of high-quality affordable housing in Westminster
- Improved quality of life for existing residents of Westminster

5.4. A long list of options are being considered including do nothing, do minimum, refurbishment and redevelopment by the project team and further analysis will be undertaken once the project team are established and will include appropriate consultant and engagement strategy.

5.5. The commercial case examines the leasing structure. Currently NHS PS as freeholder has leased 291 Harrow Road and 1-2 Elmfield road to Westminster Society and Yarrow Housing respectively. They then pass on their property costs to the Council through care package agreements.

5.6. The finance case is summarised in the financial implications section of this report.

5.7. The management case identifies how the Site will be managed, falling into Property service's portfolio of assets, and the costs required to take the project forward. There are some Council costs associated with managing and maintaining the assets, as well as financing costs associated with the acquisition.

5.8. Once the site is acquired, the appointed project team will work up the further options, with the optimal option presented along with detailed costs, as part of a OBC Pt. 2 exercise.

6. Future Development opportunity

6.1. Whilst the optimal option will not be fixed until the next business case stage, the Council has sought initial advice, on the development potential.

6.2. One of the optimal schemes as it stands consists of 133 residential homes including 16 new, high quality specialist residential accommodation for the existing residents of 291 Harrow Road and Elmfield Way. These new Learning Disabilities homes will enable the current residents to stay in-Borough and ensures long term provision to meet future demand expectations.

6.3. The design includes a Healthcare centre; however this could be taken out to increase the number of homes on to the Site to 165.

7. Property Acquisition

7.1. Appendix 1 details the specifics of the Site acquisitions and its viability, are commercially sensitive and are not for general publication.

8. Highway Adoption

8.1. The road at Elmfield Way is currently an un-adopted highway. This has been highlighted by the legal title report as a potential risk and the Council will

undertake highways and transport surveys prior to legal completion to assess this.

9. Financial Implications

9.1. The Financial Implications for this report are set out in Appendix 1 are commercially sensitive and are not for general publication. The acquisition will be funded through the General Fund, with the £1.5m project budget coming from the General Fund's central contingency.

9.2. The Council has undertaken external valuation appraisal work on the site that supports the purchase price as market value.

10. Legal Implications

10.1 The Council can rely on its general power of competence under section 1 of the Localism Act 2011. This is the power to do anything an individual can do provided it is not prohibited by other legislation.

10.2 Section 111 of the Local Government Act 1972 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.

10.3 The Site will be acquired under Section 120 of the Local Government Act 1972. This power authorises the Council to acquire property by agreement for any purpose for which they are authorised by the Act or by any other enactment, even if that property is not immediately required for that purpose and, until it is required for the purpose for which it was acquired, any property acquired under this subsection may be used for any of the Council's functions.

10.4 The acquisition of the Site will be subject to appropriate legal due diligence and a high level summary of the report on title has been included in Appendix 2.

10.5 All procurements will be undertaken in accordance with the Council's Contract Procurement Rules and the Public Contract Regulations 2015. It is noted that procurements need to build flexibility to novate appointments in the event that the Council looks into alternative arrangements for any of the future options considered for the Site.

11. Consultation

- 11.1 If the Council proceeds with the acquisition a full communications strategy including resident engagement will be drafted, ensuring local residents are fully consulted on future development options.
- 11.2 As part of the project governance Cllr Acton briefed Ward Members on 6 August 2021 (i.e. Cllr Hug Cllr Boothroyd, and Cllr Qureshi), with no objections raised.

12. Equalities Implications

- 12.1 The Equality Act 2010 introduced a single public sector equality duty. This duty requires the Council to have due regard in its decision-making processes to the need to:
- a. Eliminate discrimination, harassment, victimisation or other prohibited conduct;
 - b. Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it, and;
 - c. Foster good relations between those who share a relevant characteristic and those that do not share it.
- 12.2 The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 12.3 The Council is required to act in accordance with the equality duty and have due regard to the duty when carrying out its functions, which includes making new decisions in the current context and in relation to the new strategy.
- 12.4 An initial EQIA assessment has been undertaken. No negative impact has been identified on protected groups, with overall the acquisition likely to have a positive outcome, with potential to improve existing services for people with Learning Difficulties. A full EQIA will need to be undertaken as part of any options analysis post acquisition.

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

Alan Howard <ahoward1@westminster.gov.uk>

APPENDICES

Appendix 1 – Restricted Section

Appendix 2 – Outline Business Case Part 1

BACKGROUND PAPERS:

- Background papers should list the documents on which the report author has relied in compiling the report.
- Confidential background papers (i.e. papers not available for public inspection) should have an asterisk against them and an indication of the grounds for exemption

NB: For individual Cabinet Member reports only

For completion by the **Cabinet Member** for (add portfolio title)

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: _____ Date: _____

NAME: _____

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

INSERT REPORT TITLE and reject any alternative options which are referred to but not recommended.

Signed

Cabinet Member for (add portfolio title)

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:

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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.