

Part I

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WELWYN HATFIELD BOROUGH COUNCIL
CABINET – 15 JUNE 2021
REPORT OF THE CHIEF EXECUTIVE

PROPOSED PURCHASE OF RESIDENTIAL DEVELOPMENT LAND AT PEARTREE
LANE, WELWYN GARDEN CITY

1 Executive Summary

- 1.1 The One YMCA have recently achieved planning approval to redevelop the YMCA hostel at Peartree Lane, Welwyn Garden City to provide improved hostel accommodation. As part of the redevelopment, they have obtained outline planning consent for private residential development on part of the site. The sale of this land will help fund the new YMCA building.
- 1.2 The council hold the benefit of covenants and an overage provision over the site which entitles them to a sum of money for the part of the property which will be private residential properties.
- 1.3 This provides the council with an opportunity to acquire a residential development site at a discounted sum.

2 Recommendation(s)

- 2.1 That the council seek to negotiate with the YMCA to acquire this site.
- 2.2 That delegated authority is granted to the Head of Resources in consultation with the Leader and the Executive Member for Resources, to negotiate this purchase, provided it is at a sum no greater than that set out in the exempt report on this matter and subject to confirmation from a qualified valuer that the council is acting on market terms.
- 2.3 That subject to successful negotiation of a purchase price of less than or equal to the value set out in the exempt report on this matter, that a budget be recommended to Council. The value recommended will be linked to the negotiated purchase price plus stamp duty land tax.
- 2.4 That subject to successful negotiation and approval of budget, that delegated authority is granted to the Head of Resources in consultation with the Leader and the Executive Member for Resources, to appropriate the site to the Housing Revenue Account for the value set out in the exempt report on this matter, or dispose of the site to its subsidiary company Now Housing Limited or on the open market.

3 Explanation

- 3.1 The current YMCA building sits on a site of approximately 1.67 acres on Peartree Lane, Welwyn Garden City.
- 3.2 One YMCA works closely with the council's housing options team, with a significant proportion of the current referrals to the scheme coming from the council. The team also have emergency provision within the hostel, which helps deliver part of our solution to ending rough sleeping locally.

- 3.3 The YMCA building is dated and does not provide accommodation to a standard that is conducive with the charity's aims and objectives to help residents achieve their full potential; in addition, this large site is poorly utilised. One YMCA have plans to redevelop this site and have achieved full planning consent (subject to agreement of a Section 106 planning agreement) for a new 100 bedroom YMCA hostel and outline consent for 43 private residential apartments. The Planning Application reference is 6/2019/2714/OUTLINE.
- 3.4 The cost of the redevelopment is being funded partly by One YMCA and partly by grant from Homes England. Further financial details can be found in the exempt report on this matter. It represents a significant injection of outside funds into the Borough as well as providing additional new homes and a marked upgrade to the supported accommodation provision within the Borough.
- 3.5 The site was sold by Welwyn Hatfield District Council to the National Council of Young Men's Christian Associations (Incorporated) on 20th December 1993 for a sum of £159,750.
- 3.6 The transfer contained a number of restrictive covenants and also an overage provision. Amongst these is a limitation on the use of part of the site to educational and social uses. Any use outside the scope of this requires a payment to the council. The development of private housing triggers this clause.
- 3.7 The clauses therefore limit the sales figure that One YMCA can obtain for the private development land unless One YMCA makes a payment to the council prior to disposal. Either of these options would result in the scheme being non-viable.
- 3.8 The council have had the sum due valued by external valuers and this is set out in the exempt report on this matter.
- 3.9 Legal advice has confirmed that were the council to waive the sum due it would likely breach the UK-EU Trade and Co-operation Agreement on controls of subsidy. The council cannot therefore waive this sum.
- 3.10 In the event that the council purchase the land the covenants and restrictions automatically fall away as both the beneficiary and the burdened party would be the same party. The value of the land would increase in the council's ownership.
- 3.11 The council would, therefore, benefit from a significant marriage value were it to purchase the area of land earmarked for private residential development and this value is set out in the exempt report on this matter.
- 3.12 The benefit of the covenants are held by the General Fund and it is recommended that any purchase is funded by the General Fund.
- 3.13 On completion of the purchase the council would have a number of options available to it. These would include selling the site to release the marriage value obtained from purchasing the site (details of which are contained in the part 2 report), developing the site itself and selling the individual properties or transferring the site to the Housing Revenue Account (HRA) value to use for the development of affordable housing. It is recommended that these options are considered by Cabinet in greater detail at a later date.
- 3.14 An appropriation to the HRA, or market disposal would provide the same disposal value to the General Fund. Direct delivery of a commercial scheme on the site could generate higher returns but would also bring greater risks. Therefore, options will be considered in the following priority order:

- a) Appropriate to the HRA to deliver social housing. – Should a social housing scheme be viable on this site, this would be the preferred use, and the site would be appropriated to the HRA for the value set out in the exempt report on this matter.
- b) Dispose of the site – If a direct delivery for social housing is not viable, then the next preferred option would be to dispose of the site to release the marriage value. This could be to the council's subsidiary company Now Housing Limited or a sale on the open market. This option would derive the value more quickly than development set out in option c, and would be a lower risk than option c.
- c) Develop the site directly within the General Fund – Whilst this is possible, and could potentially release additional value from the site, given the current climate it would be considered a higher risk option, and would take a lot longer to release value from the site. On this basis, this option would not be the recommended approach.

Implications

4. Legal Implication(s)

- 4.1 The Council are permitted to purchase land at Fair Value under Section 120 of the Local Government Act 1972.
- 4.2 Subject to confirmation that the council is acting on market terms on the basis :
 - a) that it is standard market practice for there to be no value attached to the provision of consent for building works or alterations on or to the land save for those works which are identified in the covenant;
 - b) that the use of the two sites does not require any release of or consent under the covenant which requires the sites *"to be used as a YMCA Residential Hostel and Centre or some other form of residential use and uses ancillary thereto or uses relating to the activities of Welwyn Hatfield YMCA only and for no other purpose whatsoever"*;
 - c) of the reasons for the adopted interpretation that only the uplift in the value is to be split 50:50;

and given that the council will be a 'special purchaser' - because it is an adjoining landowner with the benefit of the covenants - together with the marriage value which will take effect in the event that the council purchases the land its acquisition would fall under this legislation and would, in addition, not contravene the UK Control of Subsidy regime.

- 4.3 There is one item of advice outstanding regarding the wording of the overage provision and its treatment in terms of valuation. This will be resolved prior to this matter proceeding to Cabinet.

5 Financial Implication(s)

- 5.1 The Council would pay a sum up to the sum specified in the Part II Report on this matter. It would be proposed that the purchase be funded from short term borrowing, whilst the medium term options are considered (appropriate to the Housing Revenue Account, market disposal, direct development).
- 5.2 The Council would benefit from an increase in the value of the asset on the acquisition in line with the figures set out in the exempt report accompanying this matter.

- 5.3 This increase in the asset value gives the Council the opportunity to generate a profit from this increase in value. The benefit of the increase in value achieved would be the same if the council were to appropriate the site to the Housing Revenue Account for delivery of social housing or dispose of the site on the open market.
- 5.4 If agreement is reached on price, within the agreed limit, a recommendation will be made to Council that a budget be agreed for the purchase. The recommended budget will include any stamp duty land tax and professional fees payable.
- 5.5 The project would be funded from internal and/or short term borrowing, as it is the land would remain with the General Fund in the long term. Any costs associated with this are expected to be minimal and can be absorbed in existing treasury budgets for interest and interest expense.

6 Risk Management Implications

- 6.1 The risks related to this proposal are:
- 6.2 There is a risk that, following acquisition property values may decrease and the Council may not make a profit on this site. Given the margin created by the marriage value this risk is felt to be low.
- 6.3 There is a risk of challenge under the UK-EU Trade and Co-operation Agreement. The Council have sought external legal and valuation advice and believe the risk of a successful challenge is minimal.
- 6.4 There is a risk that One YMCA may not proceed with this matter. This would result in a significant amount of officer time being expended for no gain. Given how far the YMCA have progressed and how much funding they have secured this risk is felt to be minimal.

7 Security and Terrorism Implication(s)

- 7.1 Homelessness or poor quality housing can lead to individuals being vulnerable to recruitment for terrorist activities. The improved YMCA accommodation will therefore help to mitigate this risk

8 Procurement Implication(s)

- 8.1 There are no procurement implications at this stage.

9 Climate Change Implication(s)

- 9.1 The construction of any housing development will have an impact on the environment. In this instance the site is a brownfield site and the new properties will be significantly more environmentally friendly than the existing properties. It is therefore felt that there will be a long term net gain in terms of climate change implications.

10 Human Resources Implication(s)

- 10.1 A significant amount of officer time will be required to progress this matter. This will be managed from existing budgets.

11 Health and Wellbeing Implication(s)

- 11.1 The improved YMCA accommodation will result in improved Health and Wellbeing for users.

12 Communication and Engagement Implication(s)

- 12.1 The Council will need to ensure that residents are kept informed of the proposals for the site.

13 Link to Corporate Priorities

- 13.1 The subject of this report is linked to the Council's Corporate Priorities 1, 3, 4 & 5 Our Community, Our Housing, Our Economy and Our Council and specifically to the achievement of Promoting inclusive and safe communities, Improving public health and well-being, Planning for current and future housing need, Improving housing quality in the Borough, Promoting investment and regeneration and Achieving value for money.

14 Equality and Diversity

- 14.1 An EqlA was not completed because this report does not propose changes to existing service-related policies or the development of new service-related policies

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Site Plan – Whole site edged red, private residential development land edged blue.