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OVERVIEW & SCRUTINY COMMITTEE

Tuesday, 11 October 2022 at 6.30 pm
Council Chamber, Civic Centre, Silver Street,
Enfield, EN1 3XA

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Councillors : Margaret Greer (Chair), Bektas Ozer (Vice-Chair), Maria Alexandrou, Nawshad Ali, Elif Erbil, James Hockney, Mohammad Islam and Michael Rye OBE

Education Statutory Co-optees: 1 vacancy (Church of England diocese representative), vacancy (other faiths/denominations representative), vacancy (Catholic diocese representative), Alicia Meniru & 1 vacancy (Parent Governor Representative).

Enfield Youth Parliament Co-optees (2)
Support Officer – Marie Lowe (Governance & Scrutiny Officer)

AGENDA – PART 1

1. WELCOME & APOLOGIES

2. DECLARATIONS OF INTEREST

Members of the Council are invited to identify any disclosable pecuniary, other pecuniary or non-pecuniary interests relevant to the items on the agenda.

3. CALL-IN - KEY DECISION 5271 - THE PROPOSED ACQUISITION OF LAND AND BUILDINGS ON PARK AVENUE, POTTERS BAR, EN6 5EW (Pages 1 - 16)

To review the decision of the Cabinet Member for Finance and Procurement taken on 13 September 2022 as a result of the matter having been called-in.

(This item will contain exempt information as defined in Paragraph 3 (information relating to the financial or business affairs of any particular person – including the authority holding that information) of Schedule 12A to the Local Government Act 1972, as amended.)

4. DATES OF FUTURE MEETINGS

To note that the date of the next business meeting is on 10 November 2022.

5. EXCLUSION OF THE PRESS AND PUBLIC

To consider passing a resolution under Section 100(A) of the Local Government Act 1972 excluding the press and the public from the meeting for the items listed as part 2 on the agenda on the ground that they involve disclosure of exempt information as defined in those paragraphs of Part 1 of Schedule 12A to the Act (as amended by the Local Government (Access to Information) (Variation) Order 2006).

PART TWO AGENDA

6. CALL-IN - KEY DECISION 5271 - THE PROPOSED ACQUISITION OF LAND AND BUILDINGS ON PARK AVENUE, POTTERS BAR, EN6 5EW (Pages 17 - 46)

Item 3 above refers.

London Borough of Enfield**Overview & Scrutiny Committee****Meeting Date 11 October 2022**

Subject: Call in – Key Decision 5271, the proposed acquisition of land and buildings on Park Avenue, Potters Bar, EN6 5EW

Cabinet Member: N/A

Key Decision: N/A

Purpose of Report

1. This report details a call-in submitted in relation to the following decision: Portfolio (taken on 13 September 2022). This has been “Called In” by 7 members of the Council; Councillors Lee Chamberlain (Lead), Alessandro Georgiou, Adrian Grumi, Paul Pratt, Ruby Sampson, Edward Smith and Andrew Thorp.

Details of this decision were included on Publication of Decision List No.17/22-23 issued on 13 September 2022.

In accordance with the Council’s Constitution, Overview and Scrutiny Committee is asked to consider the decision that has been called-in for review.

Proposal(s)

2. That Overview and Scrutiny Committee considers the called-in decision and either:
 - (a) Refers the decision back to the decision-making person or body for reconsideration setting out in writing the nature of its concerns. The decision-making person or body then has 14 working days in which to reconsider the decision; or
 - (b) Refer the matter to full Council; or
 - (c) Confirm the original decision.
3. Once the Committee has considered the called-in decision and makes one of the recommendations listed at (a), (b) or (c) above, the call-in process is completed. A decision cannot be called in more than once.
4. If a decision is referred back to the decision-making person or body; the implementation of that decision shall be suspended until such time as the

decision-making person or body reconsiders and either amends or confirms the decision, but the outcome on the decision should be reached within 14 working days of the reference back. The Committee will subsequently be informed of the outcome of any such decision

Relevance to the Council's Plan

5. The council's values are upheld through open and transparent decision making and holding decision makers to account.

Background

6. The request received on 20 September 2022 to "call-in" the Portfolio decision of 13 September 2022 was submitted under rule 18 of the Scrutiny Procedure Rules. It was considered by the Monitoring Officer.

The Call-in request fulfilled the required criteria and the decision is referred to the Overview & Scrutiny Committee in order to consider the actions stated under 2 in the report.

Implementation of the Portfolio decision related to this report will be suspended whilst the "Call-in" is considered.

Reasons and alternative course of action proposed for the "Call in"

7. The Call-in request submitted by Councillors Lee Chamberlain (Lead), Alessandro Georgiou, Adrian Grumi, Paul Pratt, Ruby Sampson, Edward Smith and Andrew Thorp, Members of the Council gives the following reasons for Call-In:
 - This is not a proper use of public money, public funds are not being spent wisely. The proposed purchase forms part of a gamble by the Council using public money for property speculation. It assumes that planning permission for housing on the larger site will be given by Hertsmere Council. This is most unlikely. The property and land in question is being purchased in the hope that they will be allowed to develop adjoining Green Belt land, something which although is outside the boundaries of London goes against the London Mayor's policies, Government policy and planning law.
 - The decision is flawed in that it fails to ensure good value for money. Given the well-known proximity to LBE owned land and need for access, the council has effectively turned this location into a ransom strip. This will cause the inflation of the price for this land. The odds are the Council will pay over the market rate given it's known "need". The decision document fails to recognise this shortcoming and likelihood of the price being artificially inflated. It should be seeking to protect the taxpayer by limiting the spend allowed to no more than the market rate, with no green belt exploitation. The decision notably fails to set any fiscal terms of reference or parameters for the purchase.

- Development of the Green Belt is wrong both on moral and environmental grounds. Development of the green belt is bad in principle for the residents of Enfield and means removing an irreplaceable resource. The Green belt provides obvious environmental benefits, its retention plays a part in slowing climate change and providing "green lungs" which reduce pollution. The Green belt also provides the green spaces which facilitate recognised opportunities for improving both physical and mental health. Its removal affects all the people of Enfield, not just those living nearby it. Building on the green belt has already caused Hertsmere Council to revoke their local plan.
- The Council should focus on delivering the homes in projects it has already identified and it is failing to do so. The Council needs to move forward on land they have already identified and should focus on progressing these to deliver more homes now. The obvious and biggest example being Meridian Water, a project the opposition supports in principle. It is a 13-year-old multi million pound spend project which has done little more than replace the least used railway station in London, with one of most costly stations in outer London. Instead creating more future projects with no likely outcomes, the Administration should focus on delivering homes for people now from brownfield sites it already has various planning permissions and plans in place to progress.

Outline of proposed alternative action:

8. To consider and agree options under paragraph 2.

Consideration of the "Call in"

9. Having met the "Call-in" request criteria, the matter is referred to the Overview and Scrutiny Committee in order to determine the "Call-in" and decide which action listed under section 2 that they will take.

The following procedure is to be followed for consideration of the "Call-in":

- The Chair explains the purpose of the meeting and the decisions which the Committee is able to take.
- The Call-in lead presents their case, outlining the reasons for call in.
- The Cabinet Member/ Decision maker and officers respond to the points made.
- General debate during which Committee members may ask questions of both parties with a view to helping them make up their mind.
- The Call in Lead sums up their case.
- The Chair identifies the key issues arising out of the debate and calls for a vote after which the call in is concluded. If there are equal numbers of votes for and against, the Chair will have a second or casting vote.
- It is open to the Committee to either;
 - take no further action and therefore confirm the original decision
 - to refer the matter back to Cabinet -with issues (to be detailed in the minute) for Cabinet to consider before taking its final decision.
 - to refer the matter to full Council for a wider debate (NB: full Council may decide either to take no further action or to refer the

matter back to Cabinet with specific recommendations for them to consider prior to decision taking)

Main Considerations for the Council

10. To comply with the requirements of the Council's Constitution, scrutiny is essential to good governance, and enables the voice and concerns of residents and communities to be heard and provides positive challenge and accountability.

Safeguarding Implications

11. There are no safeguarding implications.

Public Health Implications

12. There are no public health implications.

Equalities Impact of the Proposal

13. There are no equality implications.

Environmental and Climate Change Considerations

14. There are no environmental and climate change considerations.

Risks that may arise if the proposed decision and related work is not taken

15. There are no key risks associated with this report.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

16. There are no key risks associated with this report.

Financial Implications

17. There are no financial implications.

Legal Implications

18. S 21, S 21A-21C Local Government Act 2000, s.19 Police and Justice Act 2006 and regulations made under s.21E Local Government Act 2000 define the functions of the Overview and Scrutiny committee. The functions of the committee include the ability to consider, under the call-in process, decisions of Cabinet, Cabinet Sub-Committees, individual Cabinet Members or of officers under delegated authority.

19. Part 4, Section 18 of the Council's Constitution sets out the procedure for call-in. Overview and Scrutiny Committee, having considered the decision may: refer it back to the decision-making person or body for reconsideration; refer to full Council or confirm the original decision.

20. The Constitution also sets out at section 18.2, decisions that are exceptions to the call-in process.

Workforce Implications

21. There are no workforce implications.

Property Implications

22. There are no property implications.

Other Implications

23. There are no other implications.

Options Considered

24. Under the terms of the call-in procedure within the Council's Constitution, Overview & Scrutiny Committee is required to consider any eligible decision called-in for review. The alternative options available to Overview & Scrutiny Committee under the Council's Constitution, when considering any call-in, have been detailed in section 2 above.

Conclusions

25. The Committee following debate at the meeting will resolve to take one of the actions listed under section 2 and the item will then be concluded.

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Tel No. 020 8132 1558

Date of report: 3 October 2022

Appendices

Response to Call in reasons
Portfolio Report including appendices

Background Papers

Separate documents have not been relied on in the preparation of this report.

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11 October 2022

Officer Response – for Call-in by Cllr Lee Chamberlain of Decision Kist 17/22-23 - Key Decision 5271, the proposed acquisition of land and buildings on Park Avenue, Potters Bar, EN6 5EW – **PART 1**

These arguments are detailed below:

Reason for call-in

This is not a proper use of public money, public funds are not being spent wisely. The proposed purchase forms part of a gamble by the Council using public money for property speculation. It assumes that planning permission for housing on the larger site will be given by Hertsmere Council. This is most unlikely. The property and land in question is being purchased in the hope that they will be allowed to develop adjoining Green Belt land, something which although is outside the boundaries of London goes against the London Mayor's policies, Government policy and planning law.

Officer response

The adjoining farmland is designated Green Belt land site and has been promoted by Knight Frank, on behalf of LBE, for a number of years, who have actively engaged with both Hertsmere Borough Council (HBC) and HCC throughout the Local Plan process, meeting regularly with HBC Planning Policy Officers and also with HCC.

Following this on-going consultation there is a possibility that this land may be considered for development if the access constraints could be improved.

We are not speculating on the rights or wrongs of Green Belt Development but protecting our position by safeguarding our assets to improve the access in the event that the land gets allocated for development, otherwise, we would get ransomed.

Land values would rise significantly should the land be granted planning permission or is identified as a potential housing development site in the Local Plan. The subsequent sale receipt can be re-invested or used to reduce borrowing. This far outweighs the downside risk of acquiring the subject property and not achieving a successful outcome.

Rental lettings would provide an income in the short term to help cover some of the finance costs. Timescales for a successful planning outcome could be somewhere between 3 to 5 years.

Should the initiative fail to get the necessary planning consent or the property is not required for development, it could be re-sold at market value and the downside risks be therefore limited as the initial outlay to purchase would be recuperated from a sale, less any transaction and holding costs.

Reason for call-in

The decision is flawed in that it fails to ensure good value for money. Given the well-known proximity to LBE owned land and need for access, the council has effectively turned this location into a ransom strip. This will cause the inflation of the price for this land. The odds are the Council will pay over the market rate given it's known "need". The decision document fails to recognise this shortcoming and likelihood of the price being artificially inflated. It should be seeking to protect the taxpayer by limiting the spend allowed to no more than the market rate, with no green belt exploitation. The decision notably fails to set any fiscal terms of reference or parameters for the purchase.

Officer response

We are not speculating on the rights or wrongs of Green Belt development, but protecting our position by safeguarding our asset to improve access, in the event it gets allocated for development, otherwise, it would be subject to a ransom value.

The LBE owned land is currently farmland and designated Green Belt currently with no development value (only hope value) and therefore any ransom value is limited. If the farmland were to get allocated for development in the future then the market value expectation of adjacent landowners could go up considerably meaning we would have to contemplate a ransom price but buying now insures us against that risk and means we can always recover the majority of our costs if the site never gets allocated so that the downside risk to us is limited.

We are paying open market value for the subject property and it has not been artificially inflated. See Part 2 Response

Reason for call-in

Development of the Green Belt is wrong both on moral and environmental grounds. Development of the green belt is bad in principle for the residents of Enfield and means removing an irreplaceable resource. The Green belt provides obvious environmental benefits, its retention plays a part in slowing climate change and providing "green lungs" which reduce pollution. The Green belt also provides the green spaces which facilitate recognised opportunities for improving both physical and mental health. Its removal affects all the people of Enfield, not just those living nearby it. Building on the green belt has already caused Hertsmere Council to revoke their local plan.

Officer response

We are not here to speculate on the rights and wrongs of Green Belt Development, but merely to safeguard our position.

We agree with the approach to maximise brownfield sites both with Enfield borough and beyond. However, we also recognise that there is not a sufficient amount of brownfield sites to accommodate the Hertsmere Council's full housing need within

their (withdrawn) plan and as such, other sites are required including Green Belt sites. Hertsmere revoked their Local Plan due to the large number of objections received which covered potential development sites across their whole borough.

Reason for call-in

The Council should focus on delivering the homes in projects it has already identified and it is failing to do so. The Council needs to move forward on land they have already identified and should focus on progressing these to deliver more homes now. The obvious and biggest example being Meridian Water, a project the opposition supports in principle. It is a 13-year-old multi million pound spend project which has done little more than replace the least used railway station in London, with one of most costly stations in outer London. Instead creating more future projects with no likely outcomes, the Administration should focus on delivering homes for people now from brownfield sites it already has various planning permissions and plans in place to progress.

Officer response

The Council is working on other projects within the borough to deliver new homes, such as at Meridian Water. Meridian Water has its own dedicated project team to deliver the specific objectives around Meridian Water which falls outside the scope of this project which is a General Fund site managed by Strategic Property Services. Similarly, there are a number of other projects being managed by the Housing Revenue Account (HRA) which will also deliver new homes. Delivering this project therefore will have no detrimental effect on resourcing to other housing delivery projects being managed by Meridian Water and the HRA.

This subject land falls under the General Fund and is managed by Strategic Property Services (SPS). One of the key drivers for SPS is to identify opportunities for the Council in either maintaining or increasing revenue streams and assets or releasing capital through sale and development of surplus assets, a Core Principle of the Council SAMP. The objective here is to acquire a property that will improve access to LBE owned land and enhance the prospects of future development and secure a significant cash release upon its sale. Other development projects within the borough are progressing independently of what happens here.

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Part 1 Operational Key Decision Report

London Borough of Enfield

Operational Key Decision –

Report of: Peter George - Director of Development

Subject: Acquisition of land and buildings on Park Avenue, Potters Bar, EN6 5EW

Cabinet Member: Cllr Tim Leaver (Cabinet Member for Finance and Procurement)

Executive Director: Joanne Drew (Acting)

Ward: Outside LBE (Hertsmere Council)

Key Decision: 5271

Purpose of Report

1. The purpose of this report is to grant approval for the acquisition of land and buildings on Park Avenue, Potters Bar, EN6 5EW, (here in referred to as “the property”)
2. Further details of the acquisition are confidential and are covered in Part 2 of this Report.

Proposals

3. To seek approval to purchase the property which will provide a means of access to adjoining Council owned land which could be used for future housing development.
4. That the Head of Strategic Property Services be authorised to complete the purchase of the property and agree to any non-material changes to the Heads of Terms, Contract for Sale and Transfer.

Reason for Proposal(s)

5. The land at the property would provide an alternative improved means of access to Council owned land on Southgate Road to help unlock its potential for residential development and could lead to a significant capital receipt upon its sale.

Relevance to the Council’s Corporate Plan

6. Any future capital receipt from this land would be re-invested within the borough or used to reduce the Council’s borrowing (General Fund).

PL 22/011 Part 1 KD5271

Background

7. The Council owns c. 17 ha (42 acres) of land outside the borough, which was obtained on dissolution of the GLC in 1985. It is located within Hertsmere Council administrative area and is designated as Greenbelt land. A substantial part of this landholding is considered suitable for future development.
8. If allocated or granted a planning permission, this would result in a significant capital sum for the Council if sold or developed.
9. The land to the rear of the property has an existing access from Southgate Road but this is potentially not sufficient to provide for the quantum of new housing envisaged. Other points of access have therefore been considered and the subject property offers such opportunity.

Main Considerations for the Council

10. To improve the chances of a successful planning outcome, the Council or a developer need to demonstrate to Hertsmere Council that it has an adequate means of access to the Council owned land. Therefore, acquiring property on Park Avenue provides such access.
11. Once any property is acquired, rental lettings would provide an income in the short term to cover finance costs. Should the initiative fail to get the necessary planning consent or the property is not required for development, it could be re-sold at market value and the downside risks be therefore very limited.
12. If the property and Council owned land to the rear of the property achieves a successful planning consent or is identified as a potential housing development site in the Local Plan; then land values are expected to rise significantly. Timescales for a successful planning outcome could be somewhere between 3 to 5 years.
13. Options on whether to acquire the property have been considered and are discussed in more detail in Part 2 of the Report - confidential appendix.
14. Any offers submitted are confidential as discussed in Part 2.

Summary and Recommendation

15. Securing an improved means of access to the adjoining Council owned land will improve the chances of a successful planning outcome, the upside for the Council is substantial with potential cash receipts significantly exceeding the current market value of the Council's land.

16. The downside financial risks are limited and, apart from an unforeseen downturn in the housing market, would be limited to stamp duty land tax and professional fees incurred on the purchase and re-sale.
17. Borrowing costs for the purchase will be covered by rental income, thereby minimising borrowing costs to neutral.
18. The upside far outweighs the (manageable) downside risks and, therefore, the recommendation is to acquire the subject property.

Safeguarding Implications

19. The property lies outside the borough and there are no apparent safeguarding implications.

Public Health Implications

20. There are no public health implications.

Equalities Impact of the Proposal

21. Corporate advice has been sought regarding equalities and an agreement has been reached that an equalities impact assessment is neither relevant nor proportionate for the approval of this report.

Environmental and Climate Change Considerations

22. The proposal is to acquire an existing property with the medium- term intention of incorporating it into a future development.
23. This could mean that the acquisition may provide a substantial number of new homes in a sustainable location and that benefit from improved environmental compliance.

Consideration	Impact of Proposals
Adaptation and resilience	This proposal does not deal with matters which directly impact on climate change adaptation and resilience.
Energy consumption	The proposal will lead to the purchase of an asset which currently uses energy but as it will remain in existing use, overall, the impact is neutral.
Carbon emissions and offsets	Delivery of the proposal should not in itself lead to any increase in emissions and no offsets are proposed. There could be impacts if the site is subsequently redeveloped although these would be dealt with through the planning and building control processes.
Environmental	Delivery of the proposal has no identified direct environmental impacts.
Procurement	No additional procurement of goods or services is proposed.

Risks that may arise if the proposed decision and related work is not taken

24. The subject property is well suited for the proposed purpose and another suitable opportunity may not arise for the foreseeable future.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

25. There is a risk that approval is granted to acquire the property but the Council/ a developer are unsuccessful in securing a planning consent or getting the Council owned land to the rear of the property allocated as a potential housing development site.
26. If an acquisition is made and the adjoining Council owned land fails to secure planning, then the property would be re-sold, thereby limiting the financial risk.

Financial Implications

27. By regulation, for the purchase of any property these funds will be made through borrowing and interest load payments will be set off by the rental income received on letting the property until required for development.

Legal Implications

28. Section 120 of the Local Government Act 1972 provides that for the purposes of any of their functions or for the benefit, improvement or development of their area a council may acquire by agreement (for money or money's worth) any land, whether situated inside or outside their area, for any purpose for which they are authorised by the 1972 Act or any other enactment to acquire land notwithstanding that the land is not immediately required for that purpose.
29. Any acquisition of property envisaged by the subject matter of this report must comply with the Council's Constitution, including its Property Procedure Rules. The recommendations set out in this report are consistent with the Council's powers and duties. The Council must demonstrate that it has exercised its powers in a manner that is reasonable and proportionate and in a manner consistent with its fiduciary duties to ensure sound management of public finances. There is also the Council's general duty at public law to exercise its powers reasonably, properly and in accordance with best value, and to have regard to its fiduciary duty and to general administrative law principles with regard to mitigation of risk and due diligence.
30. The Property is registered at the Land Registry under three separate titles. Legal due diligence is required on all proposed property acquisitions to include a full review of title, searches and enquiries of the vendor in order to ascertain any relevant liabilities and restrictions associated with any such acquisitions. This will be done following receipt of documentation by the Council.

31. All legal agreements arising from the matters described in this report must be approved in advance by Legal Services on behalf of the Director of Law and Governance.

Workforce Implications

32. There are no workforce implications

Property Implications

33. These are contained throughout this report and the confidential appendix

Other Implications

34. None.

Options Considered

35. Do Nothing. The opportunity to secure access to the Council's adjoining land to the rear of the property falls away and reduces the Council's chances of a successful land use allocation/ planning consent. If the site does not get allocated or achieve a planning consent, there will be no uplift in land value to generate a significant capital receipt for the Council.

Conclusions

38. It is in the Council's best interests to secure a property on Park Avenue that substantially improves access to future development of adjoining land in its ownership, thereby improving means of access and the chances of a successful planning outcome - so resulting in a significant uplift in capital value and future sale receipts.

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Date of report: 24/08/2022

Appendices

Appendix 1: Site Plan of LBE landholding

Appendix 2: Part 2 Report (Confidential).

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of the Local Government Act 1972.

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