

PART 1



London Borough of Enfield

Title:	Surplus property disposal – Kenninghall Car Parks
Report to:	Cllr Leaver - The Cabinet Member for Finance, Procurement and Property.
Director:	Fay Hammond – Executive Director of Resources Nick Denny, Director of Property
Report Author:	James Hall james.hall@enfield.gov.uk
Ward(s) affected:	Edmonton Green
Key Decision Number	KD3432
Classification:	Part 1 & 2 (Para 3)
Reason for exemption	Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Purpose of Report

1. To approve the disposal of Kenninghall car parks (3 plots), which have been declared surplus to operational requirements, to Kenninghall Holdings Ltd, a special purchaser and as on terms set out in the attached Part II report.

Recommendations

- I. Agree the sale of Kenninghall car parks to a Special Purchaser in accordance with the Heads of Terms appended to the confidential Part II report.
- II. Authorise the Director of Property to finalise non-material changes to the Heads of Terms, including such variations that may be necessary to cover existing third-party rights affecting the property.
- III. Authorise the Executive Director of Resources to finalise any variation to the sale price within acceptable Governance limits and/or for a change of buyer.
- IV. To note that all agreements to be entered into as contemplated by this report are to be approved in advance of commencement by Legal

Background and Options

2. Kenninghall car parks comprise 3 privately let car parks in close proximity to each other and known as follows:
 - Derby Road Land
 - Kenninghall Car Park
 - Ray Road Land
3. The freehold of all 3 car parks are owned by the London Borough of Enfield (LBE) subject to short commercial leases to European Metal Recycling LTD (EMR).
4. In March 2024, a Cabinet decision (KD5701) approved the disposal of these car parks as part of a portfolio of property sales. This decision is however published under KD3432 as a 'disposal of Council property'.
5. An approach was made by the adjoining landowner, Kenninghall Holdings Ltd, to purchase all three freehold sites. Kenninghall Holdings are considered to be a Special Purchaser as they own the freehold site which abuts all 3 sites where there is some marriage value.
6. As a consequence of these special circumstances, a valuation of these assets was undertaken to include an assessment of marriage value for the Special Purchaser and an invitation to meet the valuation was met by the purchaser. The sale is to include the 3 subsisting leases, after which the Council will have no additional duties to the leaseholder.
7. The purchase price exceeds the market value due to the special purchaser conditions.
8. This paper reports on the valuation and recommends a sale to the Kenninghall Holdings Ltd.

Preferred Option and Reasons for Preferred Option

9. The preferred option is to sell the freehold with the benefit of the subsisting leases to the neighbouring landowner who is a special purchaser. The price offered is based upon a valuation undertaken by Lambert Smith Hampton on behalf of LBE to value the site and any marriage value. The value is considered to be higher than the market value due to its marriage value.
10. The option to put the property on the market was discounted for commercial reasons which is explained in Part 2.
11. The reasons for recommending this offer is that it is considered to exceed market Value and represents Best Consideration.
12. Further details of the valuation is contained in Part 2.

Relevance to Council Plans and Strategies

13. The sale of the property will deliver a capital receipt to the Council and thereby helping generally to fund Council services which contribute to a strong and healthy community.

Financial Implications

Capital Budget Implications

14. If the net capital receipt is used to repay debt / substitute borrowing, that would avoid interest costs (detail covered in Part 2).

Revenue Budget Implications

15. The Council's 2024/25 budget includes an assumption of £7.5m capital receipts in 2024/25 to offset borrowing and fund specific transformation programmes. If this is not achieved, there will be an additional pressure on the Council's revenue budget via interest costs and provisions to repay debt.
16. There will be a loss of £113,150 per annum rental income currently received from the three leases, these have an end date of 30/11/2025. The interest saving covered in Part 2, outweighs this income.
17. The bid satisfies requirements to generate best value, as stipulated by the Local Government Act 1972, owing to the valuation-based approach that culminated in the acceptance of the best value.
18. By disposing of the Kenninghall Car Parks now, we are relinquishing the potential for any future capital appreciation.

Tax Implications (VAT & SDLT)

19. The report sets out that the Council intends to dispose of Kenninghall car parks to Kenninghall Holdings Ltd in an off-market sale.
20. Since the Council has incurred no vatable expenditure on these sites within the last 10 years, meaning that there will be no partial exemption implications arising from this proposal. Therefore, the decision to not to elect the property for VAT was given.
21. The property is currently not elected for VAT. However, since the land is used as a car park there is a default position on car parks as being standard rated. Therefore, VAT would be charged on the rent, but not on the sale price (if it remains unelected).
22. Should the sale not be undertaken in the way described in the report, the VAT implications will need to be reassessed

Legal Implications

23. Section 123 of the Local Government Act 1972 gives a power of sale or leasing to Councils. Pursuant to this section, the Council has a statutory duty to achieve best consideration (save for tenancies of less than seven years), unless it has the benefit of an express or general consent of the Secretary of State. In entering into property transactions, the Council must also comply with the provisions of its Constitution, including but not limited to its Property Procedure Rules, which set out mandatory procedures regarding (amongst other things) the acquisition, management and disposal of property assets.
24. In this case, it is noted that the sale is not an open marketing exercise and that the offer received is from a Special Purchaser. The offer has been accepted on the grounds of it representing best consideration reasonably obtainable and compliance with the Council's Property Procedure Rules.
25. Public law principles will apply to the decisions made by the Council, including the Council's duty to take account of its fiduciary duty and to act prudently. The Council is also under a general duty to act reasonably and show that its decisions are made after having given due and proper consideration to all relevant factors. Furthermore, the Council is required as a best value authority under section 3 of the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. It is considered that this duty is fulfilled by the proposals described in this report as the adoption of the recommendations lies within the powers of the Council.
26. The Council is required to act in accordance with the Public Sector Equality Duty under section 149 of the Equality Act 2010 and have due regard to this when carrying out its functions. It is noted that corporate advice has been taken on this issue.
27. Any legal agreements arising from the matters described in this report must be approved by Legal Services on behalf of the Director of Law and Governance.

Equalities Implications

28. 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.

HR and Workforce Implications

29. There are no workforce implications.

Environmental and Climate Change Implications

30. The land is currently used as 3 car parks but the wider sites have a strategic land allocation as set out within the draft Enfield Local Plan 2019-2039. The wider site is capable of redevelopment for industrial use. Given the purchaser owns the adjoining land it is quite feasible that this land may come forward for redevelopment for industrial use in the future (subject to planning). If developed this should make a more efficient use of the land that is expected to rise from the development on the sites and outweigh the negative impacts of the embodied and operational carbon emissions from the development.
31. The sites have no EPC rating as there are no buildings on site.
32. It should be noted that if the buyer retains the site for parking there may be limited planning or regulatory controls for improving the energy efficiency of the building, currently regulation primarily covers lettings.

Public Health Implications (if any)

33. There are no public health implications. The implications for public health will depend upon how the car park is managed in future, including pricing options.

Property Implications

34. Property implications are within the main body of this report and accompanying Part II (confidential) paper.
35. The freehold interest of 3 sites are being sold subject to leases as follows:
- Kenninghall Car Park – EMR Ltd - for a term of 5 years from 01 December 2020 at £47,200 pa (site area 17,221 sq ft).
 - Derby Road Car Park – EMR Ltd – for a term of 5 years from 01 December 2020 at £31,650 pa (site area of 11,538 sq ft)
 - Ray Road land – EMR Ltd – for a term of 5 years from 01 December 2020 at £34,300 (site area of 13,186 sq ft).
33. For the avoidance of doubt, the sale will be made subject to these subsisting leases and the Council will have no additional duties to the existing leaseholder once sold nor any requirement to terminate and seek VP for the sale.

Procurement Implications

34. Any expenditure to facilitate the sale of these car parks, must be in line with the Councils Contract Procedure Rules and UK procurement legislation.

Summary & Conclusions

35. The Kenninghall car parks are currently let to EMR Ltd but are also deemed surplus to the Council's operational needs.
36. Pursuant to a March 2024 Cabinet decision, to sell the asset, an approach was made by the adjoining land owner to purchase the sites. The adjoining landowner, Kenninghall Holdings Ltd, is considered to be a Special Purchaser and therefore a valuation was undertaken by an independent valuer (on the instruction of LBE) to determine the value and any marriage value. Kenninghall Holdings made an offer at the Special purchase price which is considered higher than market value and therefore negated the need to go to market as it is considered to represent best consideration.
37. This report seeks approval to proceed with the offer based on the independent valuation undertaken and the bidder's ability to complete the transaction in a timely way.

Report Author: James Hall
Principal Development manager
James.hall@enfield.gov.uk
0208 132 1720

Appendices

Part II Report – Confidential
EQIA
Site maps
Confidential appendices

Background Papers

n/a