

## ***Part 1 Operational Key Decision Report***

### **London Borough of Enfield**

#### **Operational Key Decision –**

**Report of:** Peter George - Director of Development

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**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

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#### **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).

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## **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.

<b>Consideration</b>	<b>Impact of Proposals</b>
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).