

## PART 1 Report



### London Borough of Enfield

<b>Title:</b>	<b>Operational KD 3432 New Letting – John Wilkes House &amp; 2 Orchard Rd Car Park</b>
<b>Report to:</b>	<b>Executive Director for Housing, Regeneration &amp; Development – Sarah Cary (in consultation with Cabinet Member for Finance and Property)</b>
<b>Date of Report briefing:</b>	<b>18 May 2023</b>
<b>Director:</b>	<b>James Wheeler</b>
<b>Report Author:</b>	<b>James Hall</b> <a href="mailto:james.hall@enfield.gov.uk">james.hall@enfield.gov.uk</a>
<b>Ward(s) affected:</b>	Edmonton
<b>Key Decision Number</b>	<b>KD 3432</b>
<b>Implementation date, if not called in:</b>	<b>14<sup>th</sup> June 2023</b>
<b>Classification:</b>	<b>Part I Public</b>
<b>Reason for exemption</b>	<b>The Part II report contains information that is commercially sensitive and could be prejudicial to the interests of both the Council and potential buyers.</b>

### Purpose of Report

1. To approve the new letting of John Wilkes House & 2 Orchard Road car park, which have been declared surplus to operational requirements, following a period of open marketing, to preferred Bidder 'A' and on terms set out in the Confidential Appendix.

## Recommendations

- I. Agree the new letting of John Wilkes House to Bidder 'A' as preferred bidder 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. To note that all agreements to be entered into as contemplated by this report are to be approved in advance of commencement by Legal Services on behalf of the Director of Law and Governance.**

## Background and Options

2. The proposal to lease John Wilkes house is a variation to the disposal agreed by Cabinet, under KD 5189 in September 2020. The variation was agreed as part of a budget paper that went to Council in February 2023 and was subsequently approved to let the property.
3. John Wilkes House was previously occupied by the Housing Services department until late 2020, and then more recently by Behavioural Support Services (BSS) as an interim occupation before moving into new premises.
4. The subject property forms part of a list of properties authorised for disposal in 2020/21 as part of KD 5189 by Cabinet approval dated 14.10.2020. However, in 2022, in response to the significant increase to the cost of government borrowing that put new pressure on the Council revenue budget, Finance and Property agreed to consider retaining some surplus assets for letting the property for a retained rental income (revenue) instead of a capital receipt on disposal.
5. The option to rent theoretically presented a better return than investing the anticipated capital receipt or paying down borrowing costs. Therefore, the option to retain for rental revenue as opposed to a capital receipt is now considered instead of a disposal, the variation to which was agreed by Council as part of a budget paper in February 2023.
6. The property has been subsequently widely marketed for letting interest by our local agents and, in addition to the usual channels (email shots, telephone calls and property websites). We have sent details out to over 500 community & voluntary sector groups using the Council's own databases seeking expressions of interest for letting.
7. There was a reasonable level of interest among independent educational and voluntary sector organisations, as well as a couple of business users (one serviced office operator and an electrical wholesaler) such that best bids were called on 3<sup>rd</sup> March 2023. These bids that are described in more detail within Part II of this report.
8. Discussions have also taken place with colleagues in the HRA about the possibility of retaining the property for conversion to temporary housing but that is not a suitable option.

## **Preferred Option and Reasons for Preferred Option**

9. The option to rent theoretically presents a better return than investing the anticipated capital receipt or paying down borrowing costs. Therefore, the option to retain for rental revenue as opposed to a capital receipt is now recommended.
10. Analysis of the various offers received for letting was undertaken, based on the offer level and conditionality, consideration of social value and assessment of the bidders' credentials and deliverability.
11. Bidder 'A' was the highest offer received; was credible and offered additional benefits and the therefore recommended for approval. Further details of the assessment of the bids is contained in the Confidential Appendix.

## **Relevance to Council Plans and Strategies**

12. The letting of the property will deliver additional revenue income and help reduce Council borrowing costs.

## **Financial Implications**

13. A review of the letting vs disposal options shows letting would generate an additional net revenue benefit of £65k over 20 years, or an average £3k per annum, as well allowing the Council to retain the asset and sell at a future date should it choose to do so.
14. The letting option is therefore preferable as it would generate additional revenue income as well as allowing the Council to retain the asset.
15. The Council's 2023/24 budget includes an assumption of £7.2m capital receipts in 2023/24 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. The bid satisfies requirements to generate best value, as stipulated by the Local Government Act 1972, due to competitive bidding process which generated the highest bid which was accepted.
17. There is £17k of existing borrowing related to the site, which will be funded from the capital receipt.
18. Further financial details are provided in the Confidential Appendix.

*(Financial Implications provided by MJ on 15.05.2023).*

## **Legal Implications**

19. Pursuant to S.123 of the Local Government Act 1972 the Council has the power to dispose of land in any manner it wishes, subject to certain provisions. A disposal in this context includes the granting of a lease.
20. Any disposal of property must also comply with the Council's Constitution, including its Property Procedure Rules which set out mandatory procedures

regarding (amongst other things) the acquisition, management and disposal of property assets. The process undertaken as set out in this report assists in demonstrating that in leasing the property upon the terms set out in the Heads of Terms represents best consideration.

21. The Council also has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided it is not prohibited by legislation. A local authority may exercise the general power of competence for its own purpose, for a commercial purpose and/or for the benefit of others. This power encompasses the power for the Council to enter into contracts.
22. 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.
23. It is noted that the property was marketed by way of an informal tender process seeking offers for the granting of a lease of the premises by the Council. Furthermore, that Bidder A achieved the highest evaluation score and has been selected as the preferred bidder, representing best consideration reasonably obtainable. The justification for selection of Bidder A is set out both in this report and the Confidential Appendix.
24. The form of Lease must be approved by Legal Services on behalf of the Director of Law and Governance.
25. The Council has acted in accordance with the Public Sector Equality Duty under section 149 of the Equality Act 2010 and has had due regard to this when carrying in arriving at this decision.
26. The proposals contained within this report are within the Council's powers and duties.

*(Legal implications inserted by JH (Legal Dept) based on version of report circulated on 26<sup>th</sup> May 2023)*

### **Equalities Implications**

27. 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**

28. There are no workforce implications.

### **Environmental and Climate Change Implications**

29. The winning bidder's proposal is to rent the building from LBE and reuse it for non-domestic purposes. The proposed use is not expected to dramatically increase the energy consumption of the site.

30. As the site has a high embodied carbon content due to the construction type, from a carbon emissions standpoint retaining the building in its current form may be preferable to proposals that involve major development or demolition of the site, unless these works were done with careful consideration for minimising carbon.
31. The site has an EPC of D which, demonstrating the site would benefit from energy and decarbonisation upgrades, it is unknown if the bidder proposes to make energy or decarbonisation improvements to the site. Alternative options, such as PD change of use, may have had a negative energy cost impact for occupants without significant upgrades.

### **Public Health Implications (if any)**

32. There are no public health implications.

### **Property Implications**

33. Property implications are within the main body of this report and accompanying Part II (confidential) paper.
34. The freehold interest is being let subject to a 20 year FRI lease term with a tenant option break at year 10.

### **Summary & Conclusions**

35. John Wilkes House and 2 Orchard Road Car Park is surplus to the Council's operational needs.
36. In response to the significant increase to the cost of government borrowing that put new pressure on the Council's revenue budget, Finance and Property agreed to consider retaining some surplus assets to let for a retained income (revenue) instead of a capital receipt on disposal.
37. Following a marketing process, for letting, this report seeks approval to proceed with Bidder 'A' based on analysis of the offers received and initial due-diligence on the preferred bidder's ability to commit to the lease obligations.

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### **Appendices**

*Letting Particulars*  
*Part II Report – Confidential Appendix*

### **Background Papers**

*n/a*