



London Borough of Hammersmith & Fulham

Cabinet

8 FEBRUARY 2010

LEADER

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DEPUTY LEADER (+ENVIRONMENT)

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CONTRIBUTORS

CSD
BPM- VPS
ADLDS
DFCS

<p>HAS A PEIA BEEN COMPLETED? YES</p>
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DEVELOPMENT OF WORMHOLT AND WHITE CITY COLLABORATIVE CARE CENTRE AND HOUSING SCHEME LAND DISPOSAL AND SWAP

**Wards
Wormholt and
White City**

To enable the Council's preferred scheme for the Collaborative Care Centre Development (known as the Site A scheme) to progress requires land to be swapped between Wormholt Park with land at Sawley Road and Bryony Road as well as a transfer of additional land to Building Better Health (White City) Limited (the developer). The land swap between Wormholt Park and land at Sawley Road and Bryony Road does not result in any net loss of open space.

A separate report on the exempt part of the Cabinet agenda provides confidential financial information about this matter.

Recommendations:

- 1. To approve the proposed swap of land within Wormholt Park with land at Sawley Road and Bryony Road as detailed in appendix 1.**
- 2. To approve that the additional land required for the Site A scheme as detailed in appendix 2 be added at nil consideration to the land already leased to Building Better Health (White City) Limited under the lease dated 27th February 2007.**

1. INTRODUCTION AND BACKGROUND

- 1.1 Following Cabinet approval on 6th September 2005 a conditional Agreement was completed date 28th July 2006, with Building Better Health (White City) Ltd (BBH) for the development of the former Janet Adegoke Leisure centre site to provide a range of facilities with the objective of improving economic, social and environmental well being. This agreement provided for Building Better Health to pursue a Site A scheme or a Site B scheme. The preferred scheme being Site A (a larger site) since by accommodating an improved physical design and layout of the proposed development it provided increased improvements to the economic, social and environmental well being for the area.
- 1.2 At the time the whole of Site A could not be transferred to BBH because:-
 - (a) part of Site A is within Wormholt Park and subject to 1909 restrictive covenants in favour of the Church Commissioners for England to preserve the land as open space; and
 - (b) the same part of Site A could not be sold without the Council having completed the public consultation procedures for sale of open space under section 123(2A) of the Local Government Act 1972.
- 1.3 Consequently an alternative scheme was proposed for a smaller Site B which excluded the land affected by the 1909 restrictive covenants and the open space but which would require a re-design of the development. At the time both Sites A and B had the same open market value as determined by the council's external valuation consultants. The agreement detailed the benefits to be obtained by Site A and encouraged BBH to remove the restrictive covenants and pursue a Site A scheme with a Site B scheme as a fall back position.
- 1.4 The area of land to be swapped between the Park and the adjacent land at Sawley Road and Bryony Road is of equal area with no net loss of open space as detailed in appendix 1. In order to undertake such a swap (assuming the restricted covenant can be lifted) requires public consultation via a Public Notice under Section 123(2A) of the Local Government Act 1972.
- 1.5 To enable the development to progress and the capital receipt to be received by the Council, the unencumbered smaller Site B was leased to BBH for a term of 250 years commencing 27th February 2007, but BBH was placed under an obligation to progress the Site A scheme to planning permission whilst the land swap and removal of the restrictive covenant issues were pursued. The expectation being that upon the resolution of the land swap and removal of the restrictive covenant the additional land required for Site A would pass to BBH at nil cost (both sites being of equal value). If Site A could not be achieved then under the agreement the parties agreed to (but were not obliged to) work towards an alternative Site B scheme.

- 1.6 The capital receipt received by the Council from BBH represented a discount on the open market value however taken with partnering services received from BBH and the economic, social and environmental well being benefits to residents from the development provided compliance with s123 of the Local Government Act 1972 concerning disposal at less than best consideration.

2. PROGRESS ON SCHEME A

- 2.1 Building Better Health (White City) Limited (BBH) received planning permission for the preferred scheme, the Site A Scheme in June 2009. This in turn required minor amendments to the boundary of Site A to fit the building footprint.
- 2.2 An agreement has been reached with the Church Commissioners (recently extended until December 2011) for the Commissioners to lift the restrictive covenant upon a payment by BBH to them.
- 2.3 A Public Notice under Section 123(2A) of the Local Government Act 1972 concerning the revisions to the open space boundaries and details of the land to be swapped was published in a local newspaper for two consecutive weeks week commencing 21st September 2009 and there was a 28 day period for any objections to be considered. This period closed on 6th November 2009 and no objections were received by this date nor have any objections been received since this date. Subject to Member approval this land swap may now be progressed.
- 2.4 Consequently with the removal of the Section 123(2A) and restrictive covenant constraints to the Site A scheme it can now move forward to development.
- 2.5 This however requires further land to be leased to BBH from the Council than originally leased to them under a 250 year lease dated 27th February 2007 and detailed in the March 2007 Cabinet report in order for them to implement the preferred scheme. Whilst the Council would receive back some land from Site B as part of the lands swap with the Wormholt Park the net effect is to lease a further 470m² of land to BBH. Details of Site A and B are provided in appendix 2.
- 2.6 Two issues arise over the value of this additional land and the intention to pass the land at nil cost to BBH. Firstly whether this would have issues over state aid and secondly the need to satisfy s123 of the Local Government Act 1972 concerning disposal at less than best consideration. Whilst the two sites were valued at the same level in 2007 the period of time to the current proposed transfer makes this in effect a new transaction.
- 2.7 The market value of the additional land to be transferred is considered by the Council's external valuation consultants to have a nil value due to its location and the fact it would have no development use to any other party, i.e. it has no

value on the open market. Consequently the valuation of the land on the basis of EU State aid is nil and so State Aid does not apply to this transaction.

- 2.8 Under s123 of the Local Government Act 1972 (unlike state aid) consideration also needs to be given to special purchaser value as well as open market. Site A now has granted planning permission and site B alone does not. If BBH were only able to proceed with a scheme on site B it would involve significant additional cost, risk and the delay associated with preparing and securing a new scheme design and planning permission. Consequently to BBH as a special purchaser the additional land is in effect a “ransom strip”. In these circumstances this additional land has a potential value. This is however a technical valuation exercise and does not take into account the development history of the site, not least that the Site A scheme is the Council’s preferred scheme and the Council has required BBH to pursue this scheme to planning permission rather than Site B due to the improved physical design and layout achievable on Site A.
- 2.9 It is recommended that although there is in pure valuation terms a premium to be paid for the additional land as a special purchaser by BBH, it is still made at nil value. The Council has the power to dispose of land at less than best consideration without the Secretary of State’s consent if the value is less than £2million and the Council considers that the disposal will help to secure economic social and/or environmental well being objectives.
- 2.10 BBH have been requested to make a payment for the additional land and have responded that they are unable to do so due to the amount of cross subsidy made by them in terms of the Health and Care Centre, affordable housing and Section 106 contribution. This already makes the scheme on the margins of viability and if they have to pay for the additional land then they would need to cover this by a reduction in the cross subsidy. BBH also consider that the payment requested is a circular argument as they claim that they have done what was asked of them by the Council by pursuing a Site A scheme and that they have achieved planning permission for this site which included the requirement for this additional land.
- 2.11 It was the intention of the parties for the Site A scheme to be pursued and the development agreements imposes no obligation on BBH to make additional payment should the Site A scheme be required rather than the Site B scheme. However the Council would not be prevented from insisting upon an additional payment if it saw fit. The Council clearly benefits from economic, social and/or environmental well being objectives by having the Site A scheme as detailed in section 3 below and more specifically by way of the superior physical design and layout achieved.
- 2.12 To revert to a Scheme on site B would involve considerable cost to BBH both in terms of abortive costs for the Site A scheme and new costs to progress Site B. These costs would have to come from the Scheme itself reducing the benefits to BBH and the Council. The Council would also incur additional costs to develop a Site B scheme and abortive costs from the Site A scheme. There is no absolute obligation on BBH to pursue a Site B or Site A scheme and the

site could now be sold to a third party without restriction and (subject to planning) could be developed for an alternative use. Under this basis the regeneration benefits of the Site A scheme would be lost. The Council would only receive any additional value for the sale of the site generated over the capital receipt received less the costs incurred by BBH to date. Whilst this has not been quantified it is not expected the Council would receive any significant sum over its own costs to date, particularly in the current market.

2.13 The disposal of the additional land at nil cost would be conditional upon BBH progressing the implementation of the Site A scheme in line with planning permission and demonstrating to the Council that the scheme is viable which will be achieved if BBH provides the following:-

- (i) draft heads of terms between BBH and the residential developer and its approval by the Council's external surveyors (such approval not to be unreasonably withheld) and the Council's legal advisers.
- (ii) evidence of initial approval from the primary care trust (prior to LIFT Stage 1 approval) of the health centre component of the scheme.

3. BENEFITS TO BE OBTAINED FROM THE DEVELOPMENT

Context

- 3.1 The White City Health and Care Centre development sits within the Council's wider regeneration strategy and forms the western anchor of the White City Opportunity Area.
- 3.2 It is a partnership project delivered through LIFTco with H&F NHS (the PCT) and BBH (Building Better Health) to provide integrated health and social care services in a new state-of-the art building. The development includes 179 housing units (70 of which are affordable), retail space and a café. Through the proposed Section 106 agreement the development will lead to improvements to the local park (and necessary highways works) to a combined value of £1.5m.
- 3.3 The Wormholt and White City ward is one of the most deprived areas of the borough with high levels of unemployment, poor housing options, higher standard mortality rates, higher levels of referral to adult social services and significantly poorer health outcomes than elsewhere in the Borough. Existing services operate reactively from inflexible, poorly designed spaces and struggle to cope with demand, placing significant pressure on acute front-line services.
- 3.4 This project supports the Council's objectives as set out in the Community Strategy leading to a 'healthier borough' and will lead to an improvement in overall well-being in the area.

Strategic importance

- 3.5 The new health and care centre is central to the NHS H&F plans as an early implementer of polysystems and will act as a main hub for health and care services in the north of the borough. The polysystem model is being developed with the Local Authority to provide an integrated response to the needs of local residents.
- 3.6 Wormholt and White City has one of the highest standardised mortality rates in the borough. There are significant health problems within the White City estate, high teenage pregnancy rates and the highest concentrations of residents on the Council's disability and mental health registers. This scheme is required urgently to deliver improved health and care services, leading to better outcomes for people living in the north of the borough and reducing pressure on acute provision.
- 3.7 The health and care centre will offer a wide range of services that include:
- GP services
 - Minor surgery and diagnostic services
 - Speech & language therapy, with a special emphasis on pre school services as the local population need is comparatively high
 - Podiatry
 - Wound management and leg ulcer clinics
 - Physiotherapy
 - Musculoskeletal services
 - Pain services
 - Sexual health and family planning services
 - Midwife and early pregnancy services
 - Smoking cessation
 - Weight management and dietetics
 - Integrated Diabetes services, combining all the assessment and annual health check services required to reduce the onset of preventable complications and improve health.
 - Breathlessness clinic
 - Integrated respiratory and cardiac services
 - Breast Screening
 - Community Dentistry and Special Dental Services to enhance access
 - Baby clinics & child health services
 - Pharmacy
 - Integrated learning disability services
 - Day opportunities services
 - Physical disability services
 - Integrated mental health services for the north of the borough
 - Some voluntary sector provision
- 3.8 The new centre was conceived and designed to promote health and well being, with services using shared space and working together as part of a single system to deliver high quality and effective services to residents. In

addition to services based in the new building a wider range of relevant services such as employment advice, health promotion, drug and alcohol services and children's social care are also to be provided on a session basis to meet the needs of the local population.

- 3.9 White City estate is the second most deprived neighbourhood in the borough. There are significantly higher levels of households in overcrowding, unemployment and working age people in receipt of benefits. Levels of home ownership are also low.
- 3.10 Further to the Health and Care Centre and the support this will offer to residents across a range of health, care and support issues, the development will bring economic and environmental benefits.
- 3.11 The commercial element of the scheme will provide local jobs and the area will benefit from an iconic building designed by Rogers Stirk Harbour. The Section 106 agreement provides for improvements to highways and significantly to Wormholt Park. The development of market housing will support the development of mixed and sustainable communities within an area of intense social housing. 39% of units will be affordable intermediate housing allowing residents an opportunity to get on the housing ladder.

4. CONCLUSIONS AND RECOMMENDATIONS

- 4. In reality with the investment made to date by both the Council and BBH on the Site A scheme this is the only viable scheme to pursue. Whilst to revert to Site B would contain any development within land already entirely leased to BBH, a scheme on Site B would not provide the same level of benefits as the approved scheme for Site A nor would it be likely that such a scheme would proceed in practice given the history, the need to re-design the project and the abortive costs involved. The Council will gain extensive economic social and environmental well being objectives from the Site A scheme which justifies the disposal of the additional land for nil consideration to BBH. Such disposal would be subject to conditions relating to implementing the approved Site a scheme in line with the 2009 planning permission and section 106 agreement. Officers consider that such disposal would be in compliance with s123 of the Local Government Act 1972 concerning disposal at less than best consideration.

5. COMMENTS OF THE DIRECTOR OF COMMUNITY SERVICES

- 5.1 Given the importance of this scheme to the delivery of improved health and social care services in the north of the borough, the Director of Community Services supports these recommendations.

6. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE SERVICES

6.1 As one piece of land is being exchanged for another at nil value there is no overall impact on the Council's balance sheet. There will be no consequences for the Council's revenue account.

6.2 Further comments are provided in the exempt report also on this agenda.

7. COMMENTS OF THE ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)

7.1 The Council has retained external lawyers to advise on this matter and their advice is incorporated in the report.

LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	Public Notice Details External legal advice	Name Miles Hooton Ext. 2835	Environment 6 th Floor Town Hall Extension
2.	Building Better Health (White City) Development	Name Sarah McClinton Ext. 2588	CSD Glenthorne Road
3.	Cabinet Report 19 th March 2007 & 6 th September. Valuation and scheme viability reports.	Name Miles Hooton Ext 2835	Environment 6 th Floor Town Hall Extension