



London Borough of Hammersmith & Fulham

CABINET

9 DECEMBER 2013

**FORMER GENERAL SMUTS PUBLIC HOUSE, 95 BLOEMFONTEIN ROAD
LONDON W12 NOW KNOWN AS 'THE EGYPTIAN HOUSE'**

Report of the Leader - Councillor Nicholas Botterill

Open report

Classification: For Decision

Key Decision: Yes

Wards Affected: Wormholt and White City

Accountable Executive Director: Melbourne Barrett, Executive Director of Housing & Regeneration

Report Authors:
Miles Hooton, Head of Asset Strategy & Portfolio Management

Stephen Kirrage, Director Asset Management & Property Services Housing & Regeneration

Contact Details:

Tel: 020 8753 2835

E-mail:
miles.hooton@lbhf.gov.uk

Tel: 020 8753 3064

E-mail:
stephen.kirrage@lbhf.gov.uk

1. EXECUTIVE SUMMARY

- 1.1 This report sets out the problems relating to the former pub use of this property known formally as General Smutts, located at 95 Bloemfontein Road, London W12, now called 'Egyptian House'. Following discussions with the current tenant who has a long lease of the property, it is recommended that negotiations are opened with the tenant to grant either an extension of the current lease or sale of the freehold subject to a new development being satisfactorily constructed on the site.

2. RECOMMENDATIONS

- 2.1 That approval be given to dispose of the Council's interest in 95 Bloemfontein Road to the incumbent lessee, once the Council has ensured that a satisfactory scheme of redevelopment has been satisfactorily completed.

- 2.2 That authority to negotiate and complete the detailed terms of the transaction be delegated to the Executive Director of Finance and Corporate Governance, the Director of Law, the Executive Director of Housing and Regeneration and the Director of Building & Property Management, providing that the terms achieved represent Best Consideration in compliance with s 123 Local Government Act 1972.

3. REASONS FOR DECISION

- 3.1 This decision will allow the current tenant of this property, who has a long lease with 36 years to run, the opportunity to redevelop the site. A new longer lease is required, otherwise any proposed development would not be financially viable. A new development will improve the built environment in the area and assist in the regeneration of this part of the White City Estate.

4. INTRODUCTION AND BACKGROUND

- 4.1 The subject property is a substantial two storey detached building which was originally built as a Public House when leased to Watney Combe Reid and Company in 1951 (see site plan in Appendix 1). The upper floor comprises residential accommodation. The freehold of this property is owned by the Council and leased on a long lease for a term of 99 years from 25 March 1951 at a rent of £225 per annum on full repairing and insuring terms. The lease was assigned to the current tenant, Banha Enterprise Ltd, in 2010.
- 4.2. The lease currently prevents the use of the property except as a Public House. However, the use of the property as a public house has resulted in significant anti-social behaviour in the locality prior to the acquisition of the leasehold interest by the current lessee; and moreover the Metropolitan Police advised the Council that they would not support the continued use of the premises as a Public House. The Licence for the sale of alcohol was withdrawn in 2011.
- 4.3. The lessee is currently in breach of the lease in using part of the premises for a takeaway, and use of the rear garden area as a coffee shop and shisha bar. The various adhoc alterations to the structure of the building have been undertaken by the tenant without the necessary Landlord's consent.
- 4.4. However, having considered the options available the Council believes that trying to enforce the current conditions in the lease for the continued use of the premises as a Public House would be counter-productive; bearing in mind the previous problems surrounding this use, in this area there is little or no support for this.
- 4.5. Since then the area formally used as a pub has been used as a Community Centre and for prayers by the Muslim Community. However, this use does not conform with the user clause in the lease.
- 4.6. Officers have been in discussions with the lessee about his plans for the future of this building, and he is keen to redevelop the site to provide a

purpose built facility for the benefit of the Community on the ground floor with residential use above.

- 4.7. This approach would fall in line with the Council's plans to regenerate the area, provide a community facility for those living in the immediate area and afford the opportunity to regularise the terms upon which the premises are used.
- 4.8. In order for a redevelopment to happen, negotiations between the Council and the tenant need to take place regarding a possible extension of the current lease to include redevelopment rights, or alternatively the sale of the freehold interest to the current lessee following the completion of an acceptable scheme of redevelopment.
- 4.9. The Council has sought property advice from consultants Lambert Smith Hampton (LSH) on the possible options available to the Council and they have reported as follows:
 - 4.9.1. That as the lease on the property has approximately 36.5 years unexpired and the Council has a valuable interest in this property, the tenant cannot undertake a financially viable redevelopment of this property without either extending the lease or purchasing the freehold interest; furthermore there is a marriage value to the benefit of both parties if redevelopment takes place.
 - 4.9.2. LSH suggest that there are two main options for the Council to consider:
 - 4.9.3. The first is a re-gearing of the existing lease or freehold transfer to the existing lessee. Through this structure the Council would grant a longer lease (around 250 years) or undertake to convey the freehold interest coupled with an obligation on the existing lessee to redevelop the property.
 - 4.9.4. The Council would receive a capital receipt on the grant of an agreement to lease to facilitate redevelopment works with a long lease being granted, or alternatively freehold being transferred once the works are complete. It is recommended that the long lease or freehold is not transferred until the redevelopment has been satisfactorily completed.
 - 4.9.5. Alternatively the Council could seek a capital receipt by receiving a share from the sale of the residential units.
 - 4.9.6. The second option would require agreement with the existing leaseholder for surrender of their leasehold interest and a subsequent disposal of the freehold or long lease with vacant possession in the open market subject to development obligation to implement the mixed use scheme. On completion, the community accommodation would be leased back to the existing occupier at a peppercorn rent but subject to full repairing and insuring terms. The sales receipt would be secured on sale of the property or on completion of the development obligations and to be shared by negotiation between the leaseholder and the Council.
 - 4.9.7. Officers have considered the option of the Council undertaking this development. However, given the current lessee has indicated a desire to undertake a scheme of redevelopment and the potential for realising a

marriage value for the Council, option 1 is recommend as the preferred way forward in this particular case.

- 4.10. With the assistance of Planning colleagues, officers have given the lessee an indication of what sort of development may be permissible on the site so that he can instruct architects to produce a draft scheme to assist the negotiations and for discussion with planning colleagues prior to a formal application being submitted.

5. EQUALITY IMPLICATIONS

- 5.1. There are no equality implications arising from the recommendations in this report.
- 5.2. Implications verified/completed by: Carly Fry – Opportunities Manager, Organisational Development 020 8753 3430.

6. LEGAL IMPLICATIONS

- 6.1 Heads of terms will need to be drawn up carefully, to ensure that the owner has clear development obligations, and that the Council has acceptable alternatives, if the development does not proceed satisfactorily. The power to dispose is contained in the Local Government Act 1972, section 123.
- 6.2 Implications verified/completed by: David Walker - Principal Solicitor : 020 7361 2211

7. FINANCIAL AND RESOURCES IMPLICATIONS

- 7.1 The sale of the freehold interest would generate a capital receipt which could be directed towards the Housing capital programme and/or the reduction of Housing debt.
- 7.2 Any disposal will need to ensure that best consideration is achieved in accordance with the Local Government Act 1972, section 123
- 7.3 Any costs incurred in pursuit of a disposal are likely to impact on the Council's VAT Partial Exemption calculation. At present there is very little headroom in this calculation and a breach would cost the Council between £2-3 million (in the year of a breach). In this instance, costs are anticipated to be minimal as redevelopment costs will sit with the lessee. Nonetheless, officers within the Property Department will need to keep colleagues in Corporate Finance fully informed of any costs borne by the council in pursuit of this disposal.
- 7.4 On the assumption that the first option is pursued, the Council will need to ensure the following when agreeing heads of terms:
 - That the obligation to develop and maintain the community provision is secured – perhaps through covenant. Consideration will need to be given as to the length of any such covenants.

- If the developer is afforded the opportunity to alter the use of the community provision at a later date – perhaps for commercial or residential purposes – the Council should consider the mechanisms by which it benefits from this change as it is likely to release further value from the site.
- The Council should consider an appropriate overage mechanism for any parts of the site that are developed for commercial or residential purposes.

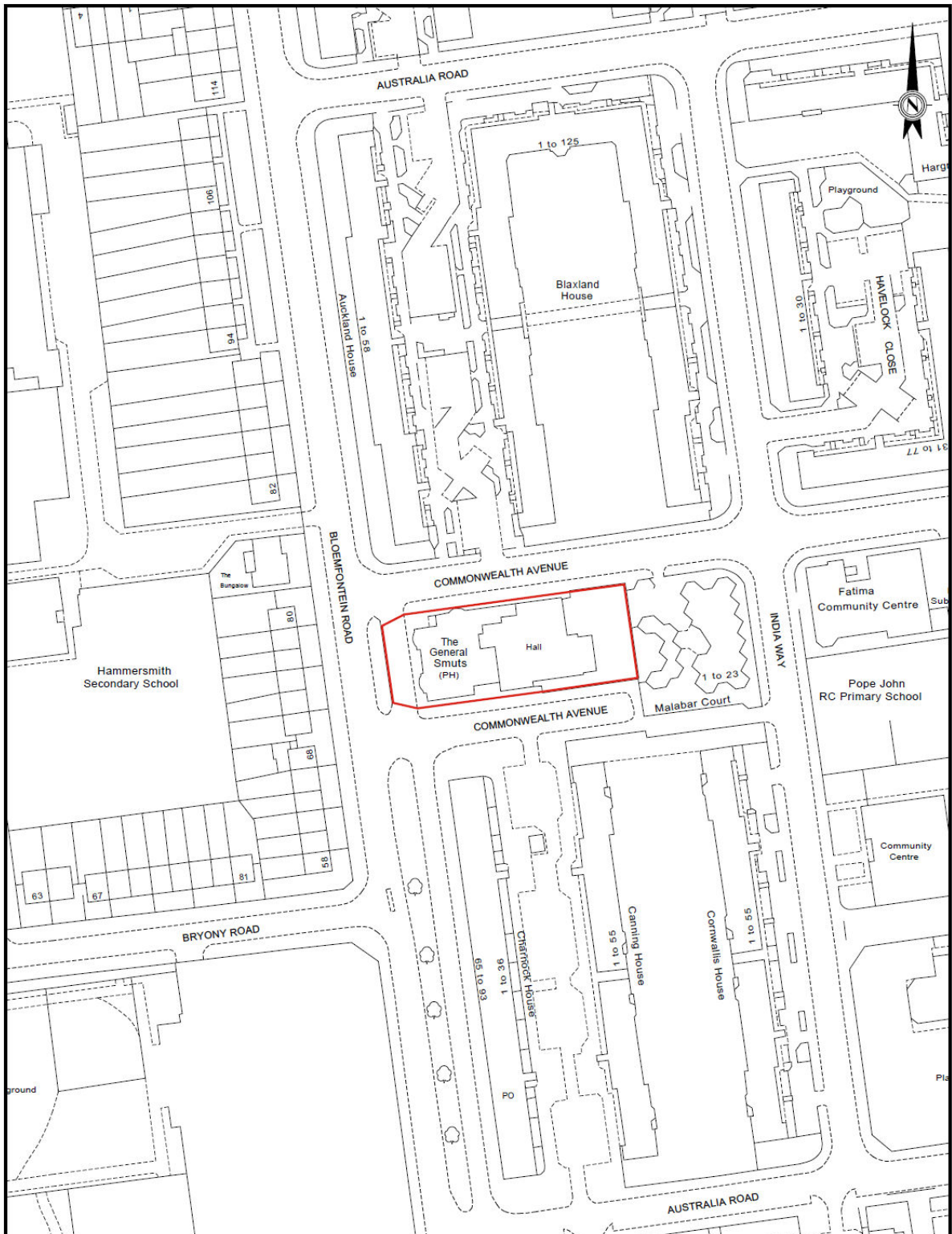
7.5 Implications verified/completed by: Christopher Harris, Head of Finance – Corporate Accountancy and Capital, 0208 753 6440

LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	Former General Smuts Public House, 95 Bloemfontein Road	Miles Hooton Ext 2855	B&PM, T&TS, 6 th Floor, HTHX

LIST OF APPENDICES:

Appendix 1 – Site Plan



HAMMERSMITH AND FULHAM COUNCIL
 Transport & Technical Services
 Town Hall Extension, King Street
 London W6 9JU
 Tel. 020 8748 3020

Drawn HOR	Checked WAS	Approved
Scale 1 : 1250	Original Sheet Size A4	
DWG No. 55100/111	Revision	Date Nov.'13


PROJECT
**91 BLOEMFONTEIN ROAD
 FORMER GENERAL SMUTS PH
 (KNOWN AS 'THE EGYPTIAN HOUSE')**
 LONDON W12 7DA

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NOTES

Date	Rev	Init

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