


<p style="text-align: center;">London Borough of Hammersmith & Fulham</p> <p style="text-align: center;">CABINET</p> <p style="text-align: center;">16 JANUARY 2017</p>	
<p>GRANT OF A LONG LEASE TO LONDON DIOCESAN FUND IN RESPECT OF PRYOR'S BANK, SW6 3LA</p>	
<p>Report of the Cabinet Member for Finance: Councillor Max Schmid and Cabinet Member for Environment Transport and Residents Services: Councillor Wesley Harcourt</p>	
<p>Open Report</p> <p>A separate report on the exempt part of the agenda provides exempt information in connection with this report.</p>	
<p>Classification - For Decision</p> <p>Key Decision: Yes</p>	
<p>Consultation:</p> <p>Environmental Services Corporate Finance Legal Services</p>	
<p>Wards Affected:</p> <p>Palace Riverside (main ward)</p>	
<p>Accountable Director:</p> <p>Maureen McDonald-Khan, Director for Building and Property Management</p>	
<p>Report Author:</p> <p>Nigel Brown, Head of Asset Management and Property Portfolio</p>	<p>Contact Details:</p> <p>Tel: 020 8753 2835 E-mail: (e-mail address) Nigel.Brown@lbhf.gov.uk</p>

1. EXECUTIVE SUMMARY

1.1. The Council wishes to ensure the long-term availability and sustainability of community-based assets as it recognises that:

- dynamic and well run community buildings can be the centre for local communities; providing a wealth of services, support and facilities upon

which neighbourhoods can develop and thrive. This will promote local citizenship and engagement can be strengthened.

- Third sector organisations and charities can access capital and revenue funding to assist in services and properties which are not available to local authorities and therefore this opens opportunities to build community resilience in areas of need.
- 1.2. Cabinet decided at its meeting on 7 November 2016 to explore community asset proposals and this property transaction is a further pioneering example of this programme.
- 1.3. This report seeks authority to:
- grant a long lease to the London Diocesan Fund, rather than a short lease renewal, to allow the organisation to undertake significant capital investment in the property at their cost as part of a sustainable community-led expansion of services.

2. RECOMMENDATIONS

- 2.1. That the Council enter a 125- year lease (of land and premises shown on the plan attached as Appendix 2) with the London Diocesan Fund ('LDF'). The Council would receive a premium plus a rent under the proposed lease for LDF (details of which are given in the exempt part of the report comprising Appendix 1). The Council would terminate the current tenancy at will that is in place following the tenant holding over from their previous lease expiring in 2012.
- 2.2. That delegated authority be given to the Director for Building and Property Management, in consultation with the Cabinet Member for Environment, Transport and Residents' Services and the Cabinet Member for Finance, to finalise the property transaction.
- 2.3. That delegated authority be given to the to the Bi-Borough Director for Safer Neighbourhoods, in consultation with the Cabinet Member for Environment, Transport and Residents' Services and the Cabinet Member for Finance, the consideration of any comments or objections that arise from public notification of the proposed disposal, under the lease, of open space (largely comprising circulation space adjoining the property 'Pryor's Bank'). (This public notification is a statutory requirement explained in clauses 4.5, 8.2 and 8.3 of this report.)

3. REASONS FOR DECISION

- 3.1. The Council's constitution provides delegated powers in relation to the granting of leases and this is delegated to the Director of Building & Property Management. The proposed transfer is a long lease and therefore Cabinet approval is required as the transaction does not fall under the scheme of delegations.

- 3.2. The London Diocesan Fund and All Saints Fulham Church want to build an extension and increase the capacity to make Pryor's Bank more suitable for use by community groups and for church-related functions, including hospitality functions. However, the grant of a long lease of Pryor's Bank is not subject to any planning permission for the church's proposal for an extension (on part of the north-side of the building). All Saints PCC Fulham also manages a dynamic and well-run community facility at its church hall to the rear of Fulham High Street. However, the hall is running at full capacity and is not ideally located for use by the Sunday toddler groups. The PCC intends to continue providing community services at both sites but may sell off some surplus land adjacent to its church hall to fund improvements for the hall and an extension at Pryor's Bank.

4. PROPOSAL AND ISSUES

- 4.1. All Saints PCC Fulham has occupied Pryor's Bank since June 2007, initially under a 5-year lease which expired in June 2012, and has continued to do so while long-term plans for their community-focused delivery were considered.
- 4.2. All Saints PCC Fulham undertook an extensive programme of repairs to Pryor's Bank under its five-year lease of 2007 in exchange for a considerable rent-free period (to offset the cost) and are now keen to offer a wider set of community services and build upon existing services (including nursery activities, homeless support, teaching and music) with some certainty so they can plan capital investment and further repairs due to ongoing wear and tear and build community capacity with community groups.
- 4.3. The proposed lease would include the transfer of all repairing liability for Pryor's Bank to the tenant and this would result in LBHF not being responsible for any ongoing maintenance and repair.
- 4.4. Presently, the Council is responsible for repairing the building exterior and structure and there will be some minor savings accrued under the Amey total facilities management contract. (The yearly cost has been estimated to rise from £13,076 in 2013 to £13,803 for the current contract year.)
- 4.5. The grant of a new lease and landlord's qualified consent for the tenant to build a small extension, that could include a new entrance connecting with the road adjoining Pryor's Bank. An extension will be subject to planning permission and the outcome of complying with section 123 (2A) of the Local Government Act 1972. (Clauses 8.2 and 8.3 of this report further consider the requirement to give public notice of a proposed disposal of public open space and to consider comments or objections.) Informal discussions have taken place with planning colleagues.
- 4.6. All Saints PCC Fulham has agreed that the lease would prohibit the development of premises on any other land adjoining Pryor's Bank and prohibit enclosing it with any other boundary fence or wall.

- 4.7. To minimise the commercial effect on existing park café businesses, All Saints PCC Fulham has agreed that the inclusion of consent in the lease for a coffee shop would be restricted to being ancillary to the principal permitted use of a church-focused community centre. Therefore, the café amenity would complement and support the work of the parish rather than become a business objective for it.

5. OPTIONS AND ANALYSIS OF OPTIONS

5.1. Option 1 – Seek vacant possession for operational use

Pryor's Bank is not required for operational Council purposes and therefore vacant possession is not needed. If the current tenant moved out of Pryor's Bank, its location in the park and the restrictive covenants may prevent a community or commercial letting to another organisation and the Council would need to bear the holding costs until a new occupier was found. Any operational user would need to secure revenue funding from their budget to fund the day to day running of the property.

5.2. Option 2 – Let the property to another occupier

If the property was vacant, the Council would have full responsibility both for the property's maintenance and for paying any business rates due. The annual running costs to be borne by the Council if vacant would be more than £36,000 per annum taking business rates and holding costs into account. In addition to the routine repair expenditure referred to in clause 4.4, the PCC has identified prospective expenditure of £150,000 required for repairs soon because of wear and tear to the building. The Council would also incur some minor expense for mitigating the risk of squatting and vandalism. There are covenants within the freehold title that limit the options to the Council to let it to a wide range of other parties apart from the current occupier.

5.3. Option 3 – Agree lease renewal for 5 years

The Council did discuss options for a standard lease renewal, (for a minimum term of 5 years) but this is not suitable for sustainable community use so this option was discounted by the London Diocesan Fund. The rental value would be in the region of £44,000 per annum and the Council would also have to bear some ongoing costs.

5.4. Option 4 – Agree a long lease

This report recommends this option. A long lease with a one- off capital premium plus an ongoing revenue is attractive to the Council and allows an established provision of community services to expand and make capital investment in the property. The capital receipt received will be used as part of the capital programme to invest in the administration's key outcomes and the Council will continue to receive rental income (albeit on a reduced basis).

6. CONSULTATION

In addition to consulting both the London Diocesan Fund and All Saints PCC Fulham on the lease terms, the Friends of Bishop's Park have been consulted about granting a long-term lease for All Saints PCC Fulham and no adverse comments were received.

Dave Page verified the consultation with the Friends of Bishop's Park.

7. EQUALITY IMPLICATIONS

- 7.1. The long-term lease to the London Diocesan Fund would have a positive impact by enabling All Saints PCC Fulham to improve both the facilities and the options available to the local community from this long-standing organisation.
- 7.2. All Saints is open to members of all faiths and of none, especially in its work with senior citizens and young people and the disadvantaged and marginalised. The work in the parish reflects and supports the people of the parish and their needs, irrespective of issues of faith, gender, or orientation. The PCC therefore look to meet people where they are in all respects and are appropriately diverse and sensitive in their thinking.

The above Implications were verified by Michelle Greenwald, Change Consultant, Tel 020 7361 2626

8. LEGAL IMPLICATIONS

- 8.1 The Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces Act 1967 ('the 1967 Order')) gives the Council power to provide public facilities for various other things of a generally recreational nature, e.g. Swimming, golf courses, gymnasia, amusement fairs and entertainments, indoor facilities for any recreation and centres and other facilities (indoor or outdoor) for the use of clubs and organisations whose objects are mainly of a recreational, social, or educational character. However, if the disposal is for purposes not covered under the 1967 Order, section 123 of the Local Government Act 1972 should be used.
- 8.2 As this disposal is not covered under the 1967 Order above, the Director of Law advises that s123 of the Local Government Act 1972 can cover the disposal. Independent valuation advice should be obtained on whether the offer made by the LDF represents the best consideration reasonably obtainable. If not, then the Council will technically be letting at less than best consideration for the purposes of S.123 LGA 1972. Under the General Disposal Consent 2003 we can do that, provided the difference between the unrestricted value and the consideration received does not exceed £2,000,000 (two million pounds). However, the General Disposal Consent can

only be used if the Council considers that the purpose of the disposal of land is likely to contribute to the economic, social, or environmental well-being of the borough or any part of it or anyone present in it.

Section 123 also gives the Council power to deal with Open Space land subject to advertising and public consultation requirements. This section does not have the requirement that the land is *no longer required for the purpose for which it was held* (as required under S.122 of the Act) and would release the Council from the trust created through the designation of the land as Open Space (subject to covenants, if any).

- 8.3 The Council is required to advertise a public notice of the disposal of Open Space under S.123(2A) of the above Act in the local gazette for two consecutive two weeks for public consultation.
- 8.4 The Council will require the Church Commissioners' consent to the disposal or a release from the covenants affecting the land. (The Commissioners could demand payment for the release but that outcome would be negotiable with the Church Commissioners and the London Diocesan Fund).

Implications completed by: Rachel Silverstone, Senior Solicitor, Legal Services, Tel 0208 753 2210)

9. FINANCIAL IMPLICATIONS

- 9.1. The Council is currently receiving income under a tenancy at will which equates to £27,500 per annum and a reduced rental income will be received after the completion of the long lease. The proposed rent is outlined in the heads of terms comprising Appendix 1 (in the exempt part of the Cabinet agenda). The property transaction will result in a reduction in rental income so other commercial rental opportunities have been identified and actioned to improve income from other Council assets within its portfolio so there will not be a net loss.
- 9.2. The Council will save some minor expenditure under its Amey contract as all future maintenance and repairs will fall to the London Diocesan Fund and this is outlined above in paragraph 4.4.
- 9.3. Currently there are no records to show that Council has opted to tax any Pryor's Bank land or building. Therefore, the rent received will be exempt for VAT. Any costs incurred in relation to the disposal are likely to count towards the Council's partial exemption calculation. However, in this case these costs are currently forecast to be negligible. Should this position change, the VAT team within Corporate Finance will need to be informed.
- 9.4. As stated in the comments from the Legal and Democratic Services, this property will be sold in accordance with Section 123 of the Local Government Act 1972.

- 9.5. Any lease premium received will need to be treated as a capital receipt. The use of capital receipts is restricted to the funding of capital expenditure or the paying down of debt. The capital receipt received will be used to fund current schemes in the capital programme. Costs associated with the disposal can be written against the receipt but only up to a cap of 4% of the receipt.

Implications verified/completed by: Ariana Murdock, Principal Accountant (Capital), Corporate Finance, 020 8753 3698 and Sally Swaray, Principal Accountant (Environment), 020 8753 2524

10. IMPLICATIONS FOR BUSINESS

- 10.1. There are no immediate business implications or public procurement issues arising from this report, the grant of a lease being excluded from the scope of The Public Contracts Regulations 2015. In accordance with this report's Executive Summary plus clause 4.2, the grant of a long-term lease by the Council to the London Diocesan Fund would support the provision and improvement of community services comprising social, educational, and recreational facilities for the benefit of local residents.

*The above Implications were verified by Antonia Hollingsworth, Principal Business Investment Officer,
Tel: 020 8753 1698.*

11. OTHER IMPLICATION PARAGRAPHS

There are no other comments.

12. BACKGROUND PAPERS USED IN PREPARING THIS REPORT

None

LIST OF APPENDICES:

Appendix 1: Heads of terms – Long lease (contained in the exempt report)

Appendix 2: location plan illustrating proposed letting.