



Asset and Enterprise Committee

Agenda

Part One

Council Chamber - Town Hall

Friday, 27 March 2015 at 7.00 pm

Membership (Quorum – 3)

Councillors

Cllrs Quirk (Chair), Sapwell (Vice-Chair), Aspinell, Clark, Cloke, Mrs Coe, Hirst, Kerslake, Morrissey and Sleep

Committee Co-ordinator: Claire Hayden (01277 312 741)

Additional Information:

Substitutes

The names of substitutes shall be announced at the start of the meeting by the Chair and the substitution shall cease at the end of the meeting.

Substitutes for quasi judicial Committees must be drawn from members who have received training in quasi-judicial decision making. If a casual vacancy occurs on a quasi judicial Committee it will not be filled until the nominated member has been trained.

Rights to attend and speak

Any Member may attend any body to which Council Procedure Rules apply.

A Member who is not a member of the committee may speak at the meeting. The Member may speak at the Chair's discretion, it being the expectation that a member will be allowed to speak on a ward matter.

Point of Order/Personal explanation/Point of Information

8.3.14 Point of order

A member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Procedure Rules or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chair on the point of order will be final.

8.3.15 Personal explanation

A member may make a personal explanation at any time. A personal explanation must relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate, or outside of the meeting. The ruling of the Chair on the admissibility of a personal explanation will be final.

8.3.16 Point of Information or clarification

A point of information or clarification must relate to the matter being debated. If a Member wishes to raise a point of information, he/she must first seek the permission of the Chair. The Member must specify the nature of the information he/she wishes to provide and its importance to the current debate. If the Chair gives his/her permission, the Member will give the additional information succinctly. Points of Information or clarification should be used in exceptional circumstances and should not be used to interrupt other speakers or to make a further speech when he/she has already spoken during the debate. The ruling of the Chair on the admissibility of a point of information or clarification will be final.

Information for Members of the Public

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Private Sessions

Occasionally meetings will need to discuss some of its business in private. This can only happen on a limited range of issues, which are set by law. When a Board or Committee does so, you will be asked to leave the meeting.

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The council welcomes the filming, photography, recording and use of social media at council and committee meetings as a means of reporting on its proceedings because it helps to make the council more transparent and accountable to its local communities.

Where members of the public use a laptop, tablet device, smart phone or similar devices to make recordings these devices must be set to 'silent' mode to avoid interrupting proceedings of the council or committee.

If you wish to record the proceedings of a meeting and have any special requirements or are intending to bring in large equipment then please contact the Communications Team before the meeting.

The use of flash photography or additional lighting may be allowed provided it has been discussed prior to the meeting and agreement reached to ensure that it will not disrupt proceedings.

The Chair of the meeting may terminate or suspend filming, photography, recording and use of social media if any of these activities, in their opinion, are disrupting proceedings at the meeting.

Access

There is wheelchair access to the Town Hall from the Main Entrance. There is an induction loop in the Council Chamber.

Evacuation Procedures

Evacuate the building using the nearest available exit and congregate at the assembly point in the North Front Car Park.

Part I

(During consideration of these items the meeting is likely to be open to the press and public)

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| 17 | Urgent Business
An item of business may only be considered where the Chair is of the opinion that, by reason of special circumstances, which shall be specified in the Minutes, the item should be considered as a matter of urgency. | | |



Chief Executive

Town Hall
Brentwood, Essex
19.03.2015

Minutes

Asset and Enterprise Committee Wednesday, 18th February, 2015

Attendance

Cllr Sapwell (Vice-Chair, in the Chair)	Cllr Kerlake
Cllr Aspinell	Cllr Morrissey (Acting Vice-Chair)
Cllr Mrs Coe	Cllr Sleep
Cllr Hirst	

Substitutes Present

Cllr Kendall (Substituting for Cllr Quirk)
Cllr Le-Surf (Substituting for Cllr Clark)
Cllr Mrs McKinlay (Substituting for Cllr Cloke)

Also Present

Cllr Baker
Cllr Hossack
Cllr Mrs Murphy
Cllr Mynott
Cllr Reed
Cllr Ms Sanders
Cllr Clark (during the latter part of the meeting)

Officers Present

John Parling	Strategic Asset Manager
Chris Potter	Monitoring Officer & Head of Support Services
Jean Sharp	Governance and Member Support Officer
Adrian Tidbury	Estates and Valuation Surveyor

456. Apologies for Absence

Apologies were received from Cllrs Clark, Cloke and Quirk. Cllr Clark attended during the latter part of the meeting.

457. Minutes of the previous meeting

RESOLVED that the minutes of the 21 January 2015 Asset and Enterprise Committee meeting were a true record.

458. Hutton Community Centre - New Lease

The report before Members considered the response to the expressions of interest received from organisations interested in taking a medium term lease on the Hutton Community Centre. The four proposals received were outlined within the report, however, the proposal from Purple Puddles was withdrawn before the meeting took place.

There were two confidential appendices before Members which provided further details on the proposals, including some financial information, and a summary of each.

Before the Committee considered the expressions of interest, each organisation made a presentation and Members were given the opportunity to ask questions of each representative.

Presentations were received from:

- Build a Better Hutton
- Hope Community Church
- Essex Boys and Girls Clubs

At the end of the presentations and questions from Members, the Committee agreed to have a short comfort break and the meeting was adjourned for ten minutes.

Upon recommencement of the meeting, in accordance with Rule 28.1 of the Council's Procedure rules, the Committee **RESOLVED** to continue with the business of the meeting since it had not been concluded within two hours.

Cllr Aspinell MOVED and Cllr Le-Surf SECONDED the following:

That delegated authority be granted to the Strategic Asset Manager after consultation with the Chair of Asset and Enterprise Committee to negotiate and enter into a lease of the Hutton Community Centre with Essex Boys and Girls Clubs.

Cllr Hirst MOVED and Cllr Mrs McKinlay SECONDED an AMENDMENT as follows:

That delegated authority be granted to the Strategic Asset Manager after consultation with the Chair of Asset and Enterprise Committee to negotiate with both the Essex Boys and Girls Club and Build a Better Hutton Group regarding the lease of the Hutton Community Centre and bring it back to the next Committee for a final decision.

Following a full discussion a recorded vote was requested in accordance with Rule 9.5 of the Council's Procedure Rules. Members voted as follows:

FOR: Cllrs Mrs Coe, Hirst, Kerslake, Mrs McKinlay and Sleep (5)

AGAINST: Cllrs Aspinell, Kendall, Le-Surf, Morrissey and Sapwell (5)

The Chair exercised his casting vote and the AMENDMENT was LOST.

Returning to the SUBSTANTIVE MOTION, following further discussion, Cllr Mrs McKinlay MOVED and Cllr Hirst SECONDED that the decision be DEFERRED.

A vote was taken on a show of hands and the MOTION to DEFER was LOST, the Chair having exercised his casting vote.

A recorded vote was requested on the SUBSTANTIVE MOTION in accordance with Rule 9.5 of the Council's Procedure Rules. Members voted as follows:

FOR: Cllrs Aspinell, Kendall, Le-Surf, Morrissey and Sapwell (5)

AGAINST: Cllrs Mrs Coe, Hirst, Kerslake, Mrs McKinlay and Sleep (5)

The Chair exercised his casting vote and the MOTION was CARRIED. It was therefore RESOLVED:

That delegated authority be granted to the Strategic Asset Manager after consultation with the Chair of Asset and Enterprise Committee to negotiate and enter into a lease of the Hutton Community Centre with Essex Boys and Girls Clubs.

459. Urgent Business

There were no items of urgent business.

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27 March 2015

Asset and Enterprise Committee

Old House - Progress to date

Report of: *Adrian J Tidbury, Estates and Valuation Surveyor*

Wards Affected: *Brentwood North*

This report is: *Public*

1. Executive Summary

- 1.1 This report considers the progress made towards the refurbishment and transformation of the Old House into flats.

2. Recommendation(s)

2.1 That Members note the progress made to date

3. Introduction and Background

- 3.1 Members will recall the decision of the Ordinary Council meeting held on 10th December 2014 that:

- Based on the Business Case presented, Members proceed with the damp, bat and structural surveys to support the proposal to convert Old House to residential units.
- Subject to no material changes to the financial viability arising from the survey works, to agree the appointment of consultants to undertake detailed designs in conjunction with English heritage and the Essex County Council Historic Buildings Adviser, leading to the preparation of contract documents to maximise the number of units achievable on the site.
- Following successful listed building consent and Planning approval, authority be given to the Leader of the Council, the Chair of the Asset and Enterprise Committee and the Acting Chief Executive, to undertake a tender process and to appoint a suitable contractor to

complete the refurbishment of the property and on completion, instruct letting agents to market the property.

- Subject to the approval of this project, members endorsed the borrowing requirement of £1,080,000 and that until the budget for 2015/16 is finalised, provision for the year 1 borrowing costs will be assumed to be funded from the General Fund Working balance.

4. Issue, Options and Analysis of Options

- 4.1 Members will be pleased to note that since the Ordinary Council meeting held on 10th December 2014, officers have carried out a tender process leading to the appointment of 'Cornish Architects' of London to lead on the project.
- 4.2 Since the appointment of the architects officers have also appointed the design team consisting of:
- Quantity Surveyors Goring Berry LLP
 - Services Consultant Mendick Waring Ltd
 - Structural Engineers. Morton Partnership Ltd
- 4.3 A full refurbishment and demolition Asbestos Survey has been commissioned through Spectra Analysis Services Ltd and the report is awaited.
- 4.4 Planning Pre-Application advice has been requested by the Architects prior to submitting the project for full Planning permission with Listed Building consent.
- 4.5 Draft preliminary services drawings have been developed and applications made to the utility companies for the provision of these services.
- 4.6 Further discussions have taken place with the Quantity Surveyor regarding the tendering process leading to the preferred contractor. New EU procurement rules (The Public Contracts Regulations 2015 that came into force on 26th February 2015 no longer permit the use of Pre Qualification Questionnaires)
- 4.7 Damp and Bat surveys have yet to be commissioned and additional quotations have now been sought.

- 4.8 A Construction (Design and Management) regulations (CDM) consultant will need to be appointed for the project. CDM regulations place duties on the Client, Designer and Contractor with regard to construction projects.

5. Consultation

- 5.1 No formal consultation has been undertaken regarding the proposed refurbishment

6. References to Corporate Plan

- 6.1 Value for Money: policies that invest in key services to create opportunity for all, provide better value for Brentwood's taxpayers and enhance the Borough's infrastructure whilst modernising and transforming Brentwood Borough Council. We will re-prioritise and focus our resources and be innovative in our approach.
- 6.2 Our Borough: Policies which promote our environment, support sustainable growth, and safeguard our high quality environment including heritage and countryside. We will provide responsive, accessible and forward thinking services for vulnerable residents, supporting people back into work and providing good quality housing making Brentwood our residents' Borough of Choice.

7. Implications

Financial Implications

Name & Title: Christopher Leslie, Financial Services Manager (S151 Officer)

Tel & Email: 01277 312542/christopher.leslie@brentwood.gov.uk

- 7.1 The Council's approved capital programme includes £1,080,000 in 2015/16 for the Old House Redevelopment project.

Legal Implications

Name & Title: Philip Cunliffe-Jones, Solicitor

Tel & Email: 01277 312730/philip.cunliffe-jones@brentwood.gov.uk

- 7.2 At this stage there are no new legal implications to register. The Planning application and Listed Building Consent application need to be co-ordinate, and the pre-application advice will no doubt do this.

- 8. Background Papers** (include their location and identify whether any are exempt or protected by copyright)

9. Appendices to this report

None

Report Author Contact Details:

Name: Adrian J Tidbury, Estates and Valuation Surveyor
Telephone: 01277 312678
E-mail: adrian.tidbury@brentwood.gov.uk

27 March 2015

Asset & Enterprise Committee

14 Ongar Road, Brentwood – Lease Renewal

Report of: *John R Parling, Strategic Asset Manager*

Wards Affected: *Brentwood North*

This report is: *Public*

1. Executive Summary

- 1.1 This property is let to Brentwood & District Mental Health Association (MIND). The tenant was originally granted a 5 year lease from 16th August 2005 at £26,000pa. The tenant held over after this lease expired and the occupation was only regularised by way of a short term agreement in November 2014 until terms could be agreed for a new lease. Provisional agreement has been reached regarding a new lease and approval is sought from the Committee to conclude and record the terms.

2. Recommendation (s)

- 2.1 Members are asked approve the granting of a new lease to Brentwood & District Mental Health Association on the basis or terms as set out in Appendix A.**

3. Introduction and Background

- 3.1 The property is situated in a terrace of three small shop units comprising the subject property, Dental Surgery and Boutique. The subject property comprises ground floor retail unit with ancillary accommodation and 1st floor offices.
- 3.2 The property was originally let to Brentwood & District Mental Health Trust, on the basis of 5 year internal repairing lease from 16 August 2005 at £26,000pa. The tenant remained in the property on expiry and their

occupation was regularised in November 2014 when a short term lease was agreed until terms could be agreed for a longer arrangement.

3.3 Terms have now been agreed for a 5 year lease, details are set out in Appendix A.

3.4 The terms provide both the tenant and the Council with a relatively secure future and revenue stream.

4. Issue, Options and Analysis of Options

4.1 If the recommendation is not approved there is risk that the tenant may relocate to alternative property and the Council's revenue stream could be disrupted.

5. Reasons for Recommendation

5.1 To ensure that a revenue stream is maintained and to regularise the occupation of the tenant.

6. Consultation

6.1 None at this stage

7. References to Corporate Plan

7.1 The key links to the Corporate Plan 2013 –16, are specifically:

- a) A Prosperous Borough
- b) Set planning policy that supports discerning economic growth and sustainable development
- c) Promote a mixed economic base across the Borough, maximising opportunities in the town centres for retail and balanced night time economy

8. Implications

8.1 Financial Implications

Name & Title: Christopher Leslie, Financial Service Manager (S151 Officer)

Tel & Email: 01277 312542/christopher.leslie@brentwood.gov.uk

The new lease will provide an increase in revenue providing additional income to the General Fund.

8.2 Legal Implications

Name & Title: Philip Cunliffe-Jones, Solicitor

Tel & Email: 01277 312703/philip.cunliffe-jones@brentwood.gov.uk

The Council's disposal powers are contained in section 123 of the Local Government Act 1972, and section 1 of the Localism Act 2011 also provides local authorities with a general power of competence. Under section 123 of the Local Government Act 1972 the Council has the power to dispose of land in any manner that they wish. The main constraint is that the disposal (other than a short tenancy) must be for the best consideration reasonably obtainable unless there is ministerial consent or the transfer is to further local well being. A short tenancy is a term less than seven years. The recommendation is within these powers.

8.3 Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

None

9 Background Papers (include their location and identify whether any are exempt or protected by copyright)

Appendix A – Terms of Lease (*Exempt*)

Report Author Contact Details:

Name: John R Parling, Strategic Asset Manager

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Appendix A

Appendix contains exempt information and is therefore not publicly available.

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27 March 2015

Asset & Enterprise Committee

2,4 & 6/8 Harewood Road

Report of: *John R Parling, Strategic Asset Manager*

Wards Affected: *Pilgrims Hatch*

This report is: *Public*

1. Executive Summary

- 1.1 This asset comprises a small parade of neighbourhood retail units which are let to the Co-Operative Society with The Bhaji (Indian Take-Away) and one vacant unit. A location plan is contained within Appendix A.
- 1.2 Details of the accommodation are set out in Appendix B.
- 1.3 The asset is currently within the Housing Revenue Account, and all income received is retained by HRA for the support of Social Housing.
- 1.4 This report seeks the approval of the Committee to appropriate the asset from Housing HRA for General Fund purposes to revenue stream to support the provision of services to residents. The accounts will be adjusted to show a capital receipt to HRA and debit the General Fund. The HRA receipt will be used to assist with the provision of affordable residential units on already identified locations.
- 1.5 Appropriation is the statutory power to transfer from one land holding power to another. There is a general power in Section 122 Local Government Act 1972 which applies in this case.

2. Recommendation(s)

- 2.1 That pursuant to Section 122 Local Government Act 1972 the land at 2,4 and 6/8 Harewood Road shown on the plan at Appendix A be appropriated from the Housing Act 1985 Part II to the Local Government Act 1972 Part VII;**
- 2.2 That an adjustment of the accounts be made at the value as determined by an independent Chartered Surveyor to be appointed jointly by the Head of Housing and the Strategic Asset Manager.**

3. Introduction and Background

- 3.1 The Asset Management Strategy sets out as one its key objectives the acquisition of revenue generation assets. The transfer of this asset to the General Fund is consistent with this objective.

4. Issue, Options and Analysis of Options

- 4.1 Recently the outstanding rent review with the tenant of 6/8 Harewood was agreed and the matter has now been documented and arrears recovered.
- 4.2 The rent review which is outstanding with the tenant of 4 Harewood has been auctioned and it is expected that this will be agreed and the settlement reflected in the independent valuation.
- 4.3 The unit at 2 Harewood Road was recently recovered from a tenant where the lease had expired and they had ceased trading. The unit has been marketed and this has created significant interest and it is expected that a letting will be agreed and documented shortly. The value of this void/letting will be reflected in the independent valuation.
- 4.4 The transfer will be subject to satisfactory, title, building condition survey and independent valuation.

5. Reasons for Recommendation

- 5.1 To provide the General Fund with a revenue generating asset in accordance with the key objectives of the adopted Asset Management Plan and also to provide the Housing Revenue Account with a capital receipt to assist in the delivery of new affordable residential units on Council owned sites.

6. Consultation

6.1 None

7. References to Corporate Plan

The key criteria for the transfer of the freehold to the site are linked directly to the Corporate Plan 2013-16, specifically:

- a) A Prosperous Borough.
- b) Set planning policy that supports discerning economic growth and sustainable development.
- c) Promote a mixed economic base across the Borough, maximizing opportunities in the town centers for retail and a balanced night-time economy.

8. Implications

Financial Implications

Name & Title: Christopher Leslie, Finance Officer (S151 Officer)

Tel & Email: 01277 312542 /christopher.leslie@brentwood.gov.uk

8.1 The purchase of the property by the General Fund will be financed by capital borrowing. Associated borrowing will be financial appraisal, which will be carried out once the independent valuation is carried out.

9. Legal Implications

Name & Title: Philip Cunliffe-Jones, Solicitor

Tel & Email: 01277 312703 /philip.cunliffe-jones@brentwood.gov.uk

The recommendation entails the exercise of the statutory power of appropriation under Section 122 Local Government Act 1972. This applies to Housing Assets which do not involve a house used for residential accommodation. After the accounts have been adjusted as certified by a Chartered Surveyor, a certified copy of the resolution and plan with the valuation certificate should be placed in the deed packet as a document of title.

10. Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

11. Background Papers

None

12. Appendices to this report

Appendix A – Location Plan

Appendix B – Property Details (*Exempt*)

Report Author Contact Details:

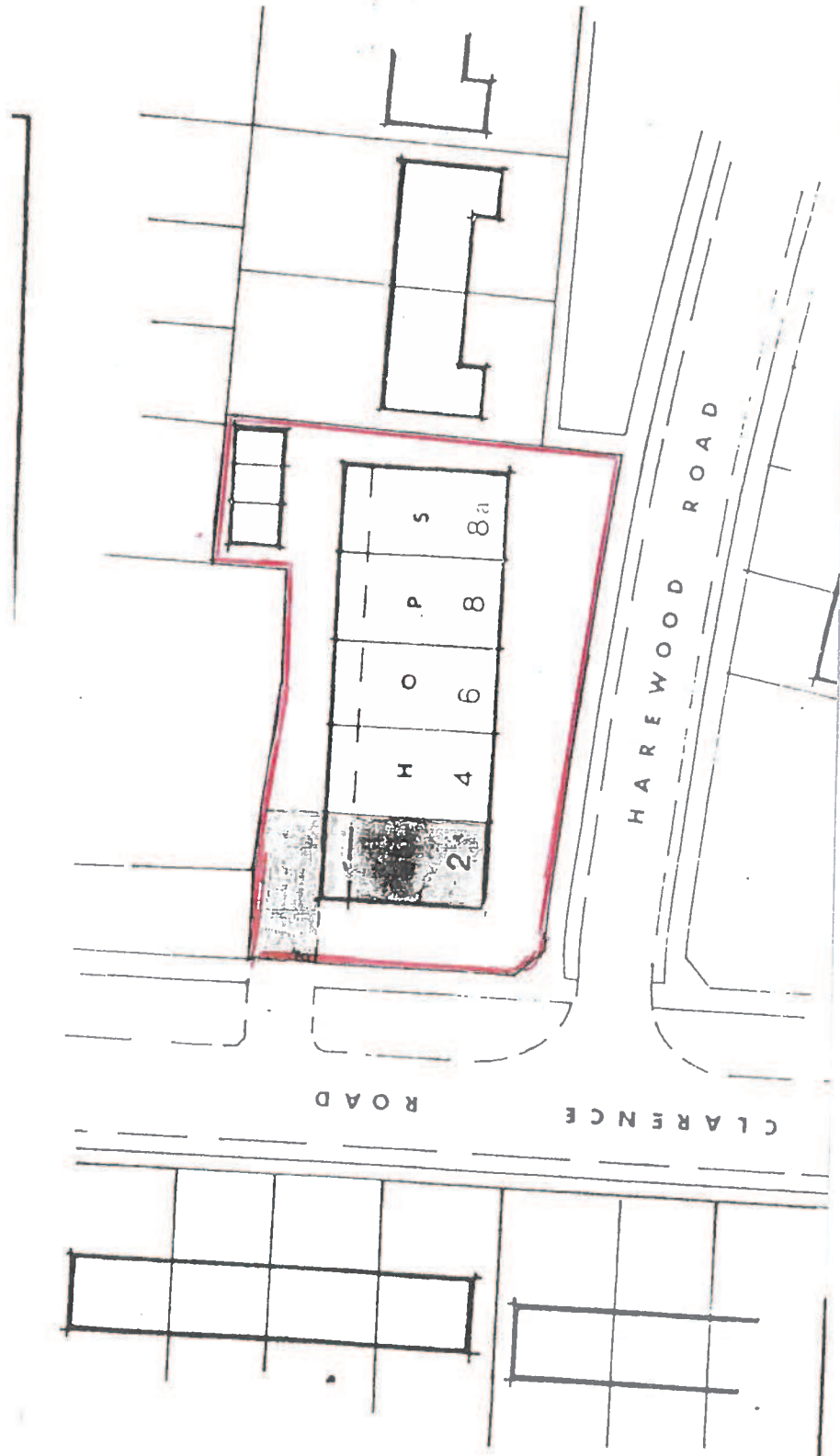
Name: John R Parling, Strategic Asset Manager

Telephone: 01277 312630

E-mail: john.parling@brentwood.gov.uk

2, 4 & 6 - 8, Harewood Road, Brentwood

Appendix A, Location Plan



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Appendix B

Appendix contains exempt information and is therefore not publicly available.

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27 March 2015

Asset & Enterprise Committee

Warley Training Centre – Sale & Acquisition

Report of: John R Parling, Strategic Asset Manager

Wards Affected: Warley

This report is: Public

1. Executive Summary

- 1.1 The Asset & Enterprise Committee on 15 July 2014 resolved *“That conditional contracts for the sale of the property are exchanged with the highest and most compliant bidder (Bid B), with the Council then negotiating to retain 5 units for revenue purposes.”*
- 1.2 A further report was presented to the Asset & Enterprise Committee on 17 September 2014 confirming that the Council’s solicitors have been instructed regarding the sale and negotiations have been undertaken to retain 5 units at a discount to current values.
- 1.3 A report was presented to Ordinary Council on 22 October 2014 relating to the acquisition of the 5 units.

Council resolved

“1. That delegated authority be given to the Acting Chief Executive to approve and enter into conditional contract on behalf of the Council relating to the acquisition of the 5 x 2 bedroom apartment units as set out in exempt Appendix A (Confidential) but such delegated authority shall be conditional upon best consideration relating to such acquisition and the connected disposal being reaffirmed to the satisfaction of the Section 151 Officer at the date of exchange of contracts by an independent RICS (Royal Institution of Chartered Surveyors) qualified surveyor.

2. Members approve a virement from the Parking and Improvement Scheme to address the reduction in the original capital receipt anticipated for this sale”

- 1.4 Following agreement of terms and approval of the Asset & Enterprise Committee and Ordinary Council to the proposed transactions the original compliant bidder has sought to reduce their offer for the site. As a consequence the under bidders and the original bidder were asked to resubmit. The details of the original bids, the compliant bidders reduced bid and the results from the most recent re bid exercise are set out in Appendix A.

2. Recommendation (s)

- 2.1 **That delegated authority be given to the Chief Executive/Interim Chief Executive to approve and enter into conditional contracts with the party that has submitted the highest compliant and deliverable bid.**
- 2.2 **That delegated authority is given to the Chief Executive/Interim Chief Executive to enter into an option agreement to acquire up to 5 residential apartments subject any exercise of the option being agreed by Council.**

3. Introduction and Background

- 3.1 In June 2014 the Council's selling agents were instructed to seek bids from the original parties that submitted bids and also any additional active new entrants into the local market. Offers were requested to be submitted on or before the 11th July 2014.
- 3.2 The potential bidders were advised to submit two bids on the following basis:-
1. A bid on the previous advised basis including the provision of a small community facility, and
 2. A bid to include the price that the developer would transfer different unit types to the Council
- 3.3 Several offers were received and the bidders that submitted the highest and compliant bids were interviewed and the party that submitted the highest original bid (Bid B) also offered the most attractive proposal relating to the acquisition of the 5 units.
- 3.4 The Heads of Terms with (Bid B) provided for the sale to be conditional on the purchaser obtaining planning permission for 38 residential units plus a community hall of 60sq m (shell but with wc/kitchen) and also a

commitment by the Council to acquire 5 units at a pre agreed discounted price.

- 3.5 The sale proceeds were to be reduced by the aggregate prices of the 5 units and the net proceeds be paid at the completion date for the sale of the land.
- 3.6 The current highest bidder proposes to submit a planning application in accordance with the expectations of Planning including a community hall of 60 sq m (shell). The bidder has also agreed that the Council can option to acquire up to 5 apartments on the basis that the option is required to be operated prior to the completion of the sale of the land i.e. after planning permission has been granted or earlier if the purchaser elects to complete earlier, the monies to acquire the units to be paid on the completion of those units.

4. Issue, Options and Analysis of Options

- 4.1 Prior to exchange an independent valuation will be sought to reaffirm that the sale offers best value to the Council to comply with s123 of the Local Government Act 1972.
- 4.2 Subject to agreement at a future Council meeting, the management of the residential units will be undertaken through a commercial arm of the Council (Local Authority Trading Company (LATCO) or similar), the form of which was outlined in a report, Commercialisation of Council Services, to the Asset & Enterprise Committee on the 17 September 2014. It is envisaged that the commercial company will be established prior to the completion of the sale of the land (which is likely to be completed by mid 2015).
- 4.3 In the unlikely event that the commercial company is not established within the required timeframe, the management of the units will be undertaken with the assistance of an independent management company utilising a business lease structure. Local Authorities are unable to utilise Assured Shorthold Tenancy contracts (AST) therefore a third party will be appointed to act as the intermediate landlord between the residential tenant and the Council.
- 4.4 In the absence of a commercial company, the 5 units will be held within the General Fund (pending any future decision on a commercial company) and the net proceeds of the rental income will form a direct revenue source to the General Fund.

5 Reasons for Recommendation

- 5.1 To provide the Council with a capital receipt and potential future revenue stream and with the opportunity to benefit from any capital appreciation of the assets.

6 Consultation

- 6.1 None at this stage

7 References to Corporate Plan

- 7.1 The key criteria for the disposal of the freehold of the freehold interest in this site are linked directly to the Corporate Plan 2013 –16, specifically:
- a) A Prosperous Borough
 - b) Set planning policy that supports discerning economic growth and sustainable development
 - c) Promote a mixed economic base across the Borough, maximising opportunities in the town centres for retail and balanced night time economy

8 Implications

8.1 Financial Implications

Name & Title: Christopher Leslie/ Finance Officer (S151 Officer)
Tel & Email: 01277 312542 / christopher.leslie@brentwood.gov.uk

The sale of the Warley Training Centre will generate a capital receipt that will be used to fund the Council's capital programme.

Purchase of up to 5 residential apartments will generate a capital receipt that will be used to fund the Council's capital programme.

8.2 Legal Implications

Name & Title: Philip Cunliffe-Jones, Solicitor
Tel & Email: 01277 312703/ phillip.cunliffe-jones@brentwood.gov.uk

- 8.2.1 The Council's disposal powers are contained in section 123 of the Local Government Act 1972. Under section 123(1) of the Local Government Act

1972 the Council has the power to dispose of land in any manner that they wish.

- 8.2.2 The Council, however, does not have the same complete freedom of action that a private landowner would have as regards disposal and that section 123(1) of the Local Government Act 1972 might at first suggest.
- 8.2.3 The Council is a public authority and is subject to public law restraints. When the Council is entrusted with apparent complete discretion, it must exercise its powers reasonably and in accordance with the relevant statutory purpose.
- 8.2.4 In addition, section 123(2) of the Local Government Act 1972 requires any disposal to be for the best consideration that can reasonably be obtained (unless the disposal is for the granting of or assignment of a lease of seven years or less – which is not the case here). If the consideration is for less than the best consideration that can reasonably be obtained, prior ministerial consent is required.
- 8.2.5 It is clear that there is a timing aspect as regards the disposal and acquisition and the administration arrangements regarding the management of the intended residential units. Any lack of detailed information relates to a future decision on such arrangements rather than the narrow decision itself on whether to give delegated authority (and if so upon what basis) to proceed with the disposal and acquisition. It is ultimately for Members to satisfy themselves that there is sufficient information before them.
- 8.2.6 The law clearly provides for land to be acquired in scenarios before everything is ready. Section 120(2) of the Local Government Act 1972 specifically states: ‘A principal council may acquire by agreement any land for any purpose for which they are authorised by this or any other enactment to acquire land, notwithstanding that the land is not immediately required for that purpose; and, until it is required for the purpose for which it was acquired, any land acquired under this subsection may be used for the purpose of any of the council's functions’
- 8.3 **Other Implications**) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

None

9 Background Papers

None

10 Relevant Past Reports

22 October 2014 – Ordinary Council
17 September 2014 – Asset & Enterprise Committee
15 July 2014 – Asset & Enterprise Committee
4 July 2012 - Asset, Infrastructure & Localism Panel
28 February 2012 - Asset, Infrastructure & Localism Panel

11 Appendices to this report

Appendix A – Bids Received (*Exempt*)

Report Author Contact Details:

Name: John R Parling, Strategic Asset Manager
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Appendix A

Appendix contains exempt information and is therefore not publicly available.

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27 March 2015

Asset & Enterprise Committee

Action Plan & Asset Review Update

Report of: *John R Parling, Strategic Asset Manager*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.1 The Asset Management Strategy 2014/15 was approved by the Asset & Enterprise Committee on the 15 July 2014 - that report set out the aims and objectives for the forthcoming year for the Councils property asset portfolio. Appendix A to this report sets out the progress achieved on the more significant work flows.
- 1.2 The Strategy highlighted the entrepreneurial approach to the Councils management of its assets and this objective is being adopted as opportunities arise.

2. Recommendation(s)

- 2.1 That Members note the report.**

3. Introduction and Background

- 3.1 The key actions for 2014/15 set out in the Asset Management Strategy were:
 - Asset Challenge Review
 - Delivery of Major Projects
 - Develop Housing for Social and Private Tenants
 - Maximise Revenue and Capital Receipts
 - Acquisition of Revenue Generating Opportunities

- 3.2 Asset Challenge Review - the Strategic Asset Management Team (SAMT) will undertake a forensic review of all the Council's assets with the exception of HRA dwellings to determine usage and whether assets are being put to best use and whether there are alternative and better solutions to deliver the same outcomes.
- 3.3 Delivery of Major Projects – the SAMT will endeavour to progress and complete the principal projects including sales.
- 3.4 Develop Housing for Social and Private Tenants – SAMT will work closely with Housing to identify sites and opportunities for the Council to acquire residential units and also develop where appropriate.
- 3.5 Maximise Revenue and Capital Receipts – SAMT will ensure that best value is achieved in acquisitions and disposals. SAMT will identify opportunities for the Council to generate additional revenue by acquisition or better use of the existing portfolio.

4. Issue, Options and Analysis of Options

- 4.1 The Asset Management Strategy 2014/15 outlines a change in the way that the council's assets are managed. It puts forward a comprehensive and coordinated structure and implementation solutions to ensure that the Council's asset portfolio is efficiently and effectively managed to ensure best use and to maximise revenue and capital receipts.

5. Reasons for Recommendation

- 5.1 None

6. Consultation

- 6.1 None at this stage

7. References to Corporate Plan

7.1 Corporate Plan 2013 –16, specifically:

- a) A Prosperous Borough
- b) Set planning policy that supports discerning economic growth and sustainable development
- c) Promote a mixed economic base across the Borough, maximising opportunities in the town centres for retail and balanced night time economy

8. Implications

Financial Implications

Name & Title: Christopher Leslie, Finance Manager (S151 Officer)

Tel & Email: 01277 312542 /christopher.leslie@brentwood.gov.uk

8.1 There are no direct financial implications at this stage, although future reports on individual transactions/recommendations will detail relevant implications.

Legal Implications

Name & Title: Philip Cunliffe-Jones, Solicitor

Tel & Email: 01277 312703/ p.cunliffe-jones@brentwood.gov.uk

8.2 This is an information report with no legal implications at this stage. Future Reports on individual transactions will have implications to be considered

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

8.3 None

9. Background Papers

9.1 None

10. Appendices to this Report

Appendix A - Action Plan Update (March 2015)

Report Author Contact Details:

Name: John R Parling, Strategic Asset Manager
Telephone: 01277 312690
E-mail: john.parling@brentwood.gov.uk

ACTION PLAN UPDATE

TITLE: Asset Management Strategy
 LEAD OFFICER: Strategic Asset Manager

PROGRESS UPDATE:	March 2015	V 1.0
R	Target date likely to be missed. Caution	
A	On target to meet completion date. Monitor	
G	Action completed.	

This Action Plan sets out a timetable for developing and implementing the objectives of the Councils Asset Management Strategy. It identifies the key projects, tasks, resources, opportunities, milestones and outcomes for each objective. It suggests the lead responsibility for each Action.

START DATE:	Q2 2014/15	FINISH DATE:	As indicated	NO. WEEKS	
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REF	TASK DESCRIPTION	RAG	TARGET FINISH DATE	REVISED FINISH DATE	RESPONSIBLE	PROGRESS UPDATE
A – CAPITAL & REVENUE INCOME						
AM1.	Warley Training Centre		Q2 2015/16		JRP	Heads of Terms agreed for the sale of the asset and acquisition of 5 residential units. A report on the proposed acquisition will be submitted to Council on 22 October 2014 and Finance & Resources Committee on 29 October 2014. Acquisition of 5 units approved. Negotiations ongoing with preferred developer. Report to be presented to 27 March 2015 A & E Committee
AM2.	Bell Mead		Q2 2015/16		JRP	Terms agreed and approved for the sale of the asset. Conditional contracts exchanged. Planning application submitted.
AM3.	Old House		Q4 2015/16		AJT	Proposed sale being reviewed. Investigations into other options including possible retention and refurbishment being undertaken. Architect appointed, surveys commissioned, scheme continues to be developed. Update Report to be presented to A & E Committee 27 March 2015.

REF	TASK DESCRIPTION	RAG	TARGET FINISH DATE	REVISED FINISH DATE		RESPONSIBLE	PROGRESS UPDATE
AM4.	Hallsford Bridge		Q2 2015/16			JRP/AJT	Proposed sale being reviewed. Potential for housing development being investigated, consultations with HRA being undertaken. HRA have declined opportunity. Terms agreed for the sale of the site. Legal instructed to prepare and issue conditional contract
AM5.	Acquisition of Assets for Revenue purposes		Ongoing			JRP	Identification of assets that will produce appositionive revenue return to BBC , strategic acquisitions that will enhance the value of existing assets and those that will benefit BCC in the medium and long term. Policy prepared and to be presented to Asset & Enterprise Committee on 27 March 2015.
– CORPORATE PROJECTS							
AM6	Town Hall		Ongoing			Phil Ruck	Refurbishment project- Space planning and surveys being updated and commissioned to determine works programme. Ongoing discussions with potential tenants and partners. Report presented to Council on 10 December. Partial refurbishment approved. Development Manager appointed and DTZ retained to review terms previously agreed with Chromex.
AM7	William Hunter Way		Ongoing			Phil Ruck	Public consultation commenced September 1 st . Consultation completed 5 November, a development brief is to be drafted by Planning Services and procurement exercise to appoint a development manager commenced. Procurement of Development Manager being led by Thurrock, expectation Development Manager will be appointed by 31 March 2015.

AM8	Cross Rail		Ongoing			Roy Ormsby	Park & Stride project under review. Discussions ongoing with Cross Rail. Working Group met with Cross Rail 11 November, further meetings scheduled. Negotiations regarding compensation for use of Friars Avenue Car park commenced
REF	TASK DESCRIPTION	RAG	TARGET FINISH DATE	REVISED FINISH DATE		RESPONSIBLE	PROGRESS UPDATE
AM9	G & T Sites		Ongoing			JRP	Investigation being undertaken into availability of G & T sites. None identified to date
C – ESTATES MANAGEMENT							
AM10	Review of HRA non housing assets		Ongoing			GO	Management of HRA non housing assets now under SAM. Portfolio being investigated to identify assets where revenue can be improved. Vacant units, lease expiries and outstanding rent reviews being pursued. Agreement reached with tenant of 6 – 8 Harewood Road on outstanding rent review, arrears recovered. Negotiations ongoing with tenant of 4 Harewood Road regarding outstanding rent review. 2 Harewood Road has been recovered from tenant holding over, arrears recovered and negotiations ongoing with potential tenants. 114 Orchard Avenue, negotiations ongoing with prospective tenants. The Keys terms agreed on vacant units, negotiations ongoing with tenants of other units where lease expired and outstanding rent reviews
AM11	Review of General Fund Leased Assets		Ongoing			GO	Review of leased assets to determine opportunities to action outstanding rent reviews and lease expiries. Ongoing. Terms agreed with 14 Ongar Road for renewal of leases and negotiations commenced with tenant of 2 Ongar

							Road where lease has expired. The lease of the tenant of car parking spaces at South street has be formally terminated by notice and negotiations ongoing for new lease at increased rental. Arrears have been collected. Rent increases in the lease to the tenant of car parking spaces at the multi-storey car park have been action and arrears collected. The ground rent received at Prospect Way has been reviewed an additional rent received.
AM12	Hutton Community Centre		Ongoing			KA/TR	Future robust long term options being considered. Expressions of interest received from community groups to manage the facility. Report presented to A & E Committee 18 Feb- negotiations ongoing with preferred tenant.
D – FACILITIES MANAGEMENT							
AM13	Town Hall – review of surveys/investigations previously undertaken		Q1 2015/16			GM	As part of the proposed refurbishment previous surveys being updated and additional surveys being undertaken Various occupations by tenants and partners being reviewed. The initial exercise to restack staff completed. Further exercise to consolidate Planning on the lower floors being investigated.
AM14	Repairs & Maintenance Contract		Ongoing			TR	Repairs and maintenance recently outsourced to Wates Living. Quality, cost and effectiveness of new contractor being monitored to ensure compliance with brief and service level agreement. Monitoring continuing
REF	TASK DESCRIPTION	RAG	TARGET FINISH DATE	REVISED FINISH DATE		RESPONSIBLE	PROGRESS UPDATE

AM15	Capital Works		Q4 2014/15			JRP	<p>Various projects being reviewed and assessed including:</p> <p>Brentwood Leisure Centre – Swimming Pool plumbing – Initial works to completed December 2014</p> <p>Multi-storey Car Park – concrete repairs Works to commence April 2015</p> <p>Warley Depot – MOT facility</p> <p>Warley Football Pavilion – refurbishment</p> <p>King Georges Playing Fields Pavilion – refurbishment</p> <p>Parks Depot - extension</p>
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E – ESTATES MANAGEMENT SYSTEMS GOVERNANCE AND GOOD PRACTICE

AM16	Review of electronic data management systems to determine system to be adopted for SAM		Q3 2014/15			GM	<p>Systems being reviewed include:</p> <p>Pythagoras/Yardi/Qube/Uniform/Tramps /Estateman/Argus/. System to be adopted – Argus identified and installed. Currently, inputting data on properties to be valued as at 31 March 2015.</p>
AM17	Community Transfer Policy		Q4 2014/15			JRP	<p>Draft report prepared and issued for comment. Other policies relating to the acquisition/disposal of assets are being presented to Assets & Enterprise Committee on 27 March 2015</p>
AM18	Business Rates		Q4 2014/15			GM	<p>Review progress with retained advisers Wilkes Head Eve. Ongoing – investigation being undertaken into empty rates relief at Town Hall</p>
REF	TASK DESCRIPTION	RAG	TARGET FINISH DATE	REVISED FINISH DATE		RESPONSIBLE	PROGRESS UPDATE

AM19	Corporate Landlord		Q4 2015/16			JRP	Develop concept for discussion. Objective to establish a culture whereby assets are valued and put to their best use to achieve best value or contribute to the community wellbeing to the maximum. Ongoing
F - COMMUNICATION							
AM20	Deliver a comprehensive communications plan that is based on the Asset Management Strategy and this Action Plan.		Ongoing			JRP	To ensure that the Council, members and staff are aware of processes and responsibility and accountabilities. Ongoing
G - ASSET CHALLENGE							
AM21	Westbury Road Car Park		Q1 2015/16			JRP	Review of the use that the car park is put to and alternative options. Options prepared for consideration. Further investigation being undertaken
AM22	Brentwood Leisure Centre & Community Centres		Ongoing			GO	Review of responsibilities and other potential opportunities. Meeting held with CE and quarterly meetings arranged. Condition surveys to be undertaken to record condition relative to repair and decoration covenants.
AM23	Warley Depot		Q4 2014/15			JRP	Review as to use and potential alternative locations to undertake services currently carried out there. Report to be presented to A & E Committee 27 March 2015
AM24	Multi- Storey Car Park		Ongoing			JRP	Review of options to add uses to MSCP to generate revenue being investigated

REF	TASK DESCRIPTION	RAG	TARGET FINISH DATE	REVISED FINISH DATE		RESPONSIBLE	PROGRESS UPDATE
AM24	Herongate & Ingrave Community Centre		Q1 2015/16			AJT	Identify Trustees/ or potential users of facility to ensure best use. Agreement close to resolve issue of Trustees.
AM25	Review of potential HRA development sites, including garage sites		Q4 2014/15			JRP	6 sites identified as phase 1. Schemes prepared and two are being investigated further. HRA need to prepare a policy regarding tenure/management and procurement. 3 sites identified and progressing with planning application process. Pre app meeting held and planning applications to be submitted

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27 March 2015

Asset & Enterprise Committee

Asset Acquisition, General Disposal and Disposals at less than Best Consideration Policies

Report of: *John R Parling, Strategic Asset Manager*

Wards Affected: *None*

This report is: *Public*

1. Executive Summary

- 1.1 The Asset Management Strategy 2014/15 was approved by the Asset & Enterprise Committee on the 15 July 2014. Following on from the adoption of this strategy it is necessary that suitable and appropriate policies are adopted to ensure compliance with statutory requirements to achieve best value and also to ensure transparency and fairness in dealing with community groups
- 1.2 The Policies outline the process and procedures that should be followed when acquiring and disposing of assets including disposals to community groups. A separate report has been prepared relating to the acquisition of revenue entrepreneurial assets.

2. Recommendation(s)

- 2.1 That the policies, relating to the Acquisition, General Disposals and Disposals at less than Best Consideration attached are approved.**

3. Introduction and Background

- 3.1 The key actions for 2014/15 set out in the Asset Management Strategy were:

- Asset Challenge Review
 - Delivery of Major Projects
 - Develop Housing for Social and Private Tenants
 - Maximise Revenue and Capital Receipts
- 3.2 To achieve these actions policies need to be in place to ensure compliance with statutory codes and ensure fairness and transparency particularly in dealing with local community and voluntary groups.
- 3.3 The Policy relating to Acquisitions sets out the following process and procedures:
- Business case to be prepared to support an acquisition.
 - The Strategic Asset Manager will lead the search for a suitable asset.
 - A short list will be prepared and a financial analysis prepared and target acquisition identified.
 - The Strategic Asset Manger will lead negotiations to agree the terms to acquire the target acquisition.
 - The Strategic Asset Manager will obtain any approvals required to acquire including where necessary Asset & Enterprise, Finance & Resource Committees and Council approvals.
- 3.4 The Policy relating to General Disposals sets out following:
- A disposal is the transfer of the freehold or leasehold interest of land to a third party.
 - Before a property is declared surplus consideration should be given to its suitability for other Council uses.
 - The Strategic Asset Manager will determine the best method of disposal and marketing strategy.
 - The Strategic Asset Manager will obtain any approvals required to dispose including where necessary Asset & Enterprise, Finance & Resource Committees and Council approvals.
- 3.5 The Policy relating to Disposals at less than best Consideration sets out the following:
- Section 123 of the Local Government Act 1972 states that Council's, except with the express consent of the Secretary of State, and cannot dispose of land (other than by way of a short tenancy) for less than best consideration.

- Selling land at under value confers a benefit and may breach State Aid rules.
- The General Disposal Consent (England) 2003 enables Local Authorities to dispose of land at less than best consideration if its disposal is likely to contribute to the promotion or improvement of the economic, social or environmental well being of its area. Any shortfall is required to be identified.
- Generally, freeholds will not be sold, short leasehold interest, of 7 years or less will be granted which are excluded from security of tenure. The leases will require the tenant to repair and insure the property, annual rent reviews based upon RPI and annual mutual breaks.
- Any organisation will be required to provide details of its constitution, audited accounts and details of its membership including minutes of its AGM and any extraordinary meetings prior to any letting or renewal and when required by the Council.
- The open market rental value of the property is to be determined and if it is decided by Council to grant a discount or assistance the value of this is to be met as a grant rather than a reduction in the rent. The aggregate of the grants should be recorded on a register by the s151 Officer.
- In the event that an organisation requires a longer lease than that is standard because a funding organisation requires it then in the event that the project is supported by the Council then a longer term may be granted subject to the term being based upon the minimum required by the funder, that the funds have been awarded, and that the extended lease term provides for the rent payable to be regularly reviewed.

4 Issue, Options and Analysis of Options

- 4.1 The Asset Management Strategy 2014/15 outlines a change in the way that the Council's assets are managed. It puts forward a comprehensive and coordinated structure and implementation solutions to ensure that the Council's asset portfolio is efficiently and effectively managed to ensure best use and to maximise revenue and capital receipts.
- 4.2 The Policies provide guidance and a process to deliver the Strategy's objectives in a consistent and transparent manner.

4. Reasons for Recommendation

- 5.1 Members need to ensure that best practice and transparency are maintained.

5. Consultation

6.1 None at this stage

6. References to Corporate Plan

7.1 Corporate Plan 2013 –16, specifically:

- a) A Prosperous Borough
- b) Set planning policy that supports discerning economic growth and sustainable development
- c) Promote a mixed economic base across the Borough, maximising opportunities in the town centres for retail and balanced night time economy

7. Implications

Financial Implications

Name & Title: Christopher Leslie, Finance Officer (S151 Officer)

Tel & Email: 01277 312542/christopher.leslie@brentwood.gov.uk

8.1 There are no direct financial implications at this stage, although future reports on individual transactions/recommendations will detail relevant implications.

Legal Implications

Name & Title: Philip Cunliffe-Jones, Solicitor

Tel & Email: 01277 312703 /philip.cunliffe-jones@brentwood.gov.uk

8.2 There are no direct legal implications at this stage. The power in Section 123 Local Government Act 1972 to dispose of land is complemented Section 233 Town and Country Planning Act 1990 enabling the disposal of land for development.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

8.3 None

8. Background Papers

9.1 None

10. Appendices to this Report

Appendix A – Acquisition Policy

Appendix B – General Disposal Policy

Appendix C – Disposals at less than best Consideration Policy

Report Author Contact Details:

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Acquisition Policy

1. Introduction

- 1.1 This document sets out the process for dealing with the acquisition of land & property assets and identifies the roles and responsibilities in the decision making process of acquiring an asset. This will ensure a coordinated approach is adopted with a view to maximising value both in terms of finance and in meeting the Council's aims and objectives.

2. Definitions

- 2.1 An acquisition is defined as the transfer of the freehold or long leasehold interest of a property from a third party.

3. Procedure

- 3.1 Once a need for a property asset is identified the following procedure should be followed.

- 3.2 The Head of Service will prepare a statement setting out the business case justifying the need for the acquisition. The business case will have regard to the Council's statutory or discretionary powers to provide services and its corporate aims and objectives. The business case should be supported by the relevant Chair.

- 3.3 In normal circumstances the Council should only consider acquiring land or property if it:
- (a) contributes toward the provision of a Council service and has been identified as a priority need within the service's Business Plan and the Council's Corporate Asset Plan;
 - (b) is required for strategic purposes; or
 - (c) provides a sound investment with a potential future return.

4. Process

- (a) If a need for property has been identified, the Strategic Asset Manager will undertake investigations as to whether suitable land or property is already held by the Council.
- (b) If no suitable property is identified, the Strategic Asset Manager will undertake a search to establish whether a suitable property might be available in the market.

- (c) A schedule of suitable properties should be prepared. The schedule, where possible, should indicate; price, location, condition, availability, type, tenure, suitability etc.
- (d) After consultation with the Head of Service a short list of suitable properties should be identified. The Head of Service and the Strategic Asset Manager should undertake an options appraisal to establish the budgetary implications of acquiring the property in terms of initial capital costs and future revenue costs based on a Whole Life costings methodology. Implications for the current Corporate estate should also be reviewed. Consideration should be given to:
- Any costs in acquiring the property
 - Any revenue costs
 - Availability of funding sources
 - The cost in terms of capital and revenue of holding the property, including:
 - Immediate refurbishment/maintenance costs
 - Future maintenance/life cycle costs
 - Business rates
 - Insurance
 - Operating costs
 - ICT costs
 - Equipment/fittings/fixtures
 - Indirect costs (releasing existing properties – dilapidations, disposal costs etc)
 - Where surveys are not obtained prior to preparing the appraisal this should be noted within the appraisal and estimated costs indicated
 - The effect on existing budgets and the Council's Medium Term Financial Plan should be established and appropriate adjustments made.
- (e) The financial appraisal should be submitted to the Chair of Asset & Enterprise, the Chair of the Service concerned and the Council's s151 Officer to obtain approval for the Strategic Asset Manager to undertake negotiations for the acquisition of the preferred property. All negotiations should be "subject to contract".

- (f) All negotiations should be carried out on the most advantageous terms to the Council that can be reasonably obtained consistent with fairness to all interested parties subject to any relevant statutory provisions and appropriate regulations. Consideration should be given to what surveys are required and when they should be undertaken. In any event, all required surveys should be undertaken prior to exchange of contracts. If the surveys identify capital or revenue expenditure costs in excess of the estimates built into the original appraisal a further report should be presented to the relevant Chairs and s151 Officer for approval before proceeding with an acquisition.
- (g) On reaching agreement as to the terms of acquisition the Strategic Asset Manager will exercise, where permitted their delegated power to “acquire land or interest in land by agreement under any enactment in consultation with the s151 Officer” in accordance with the Council’s Standing Orders.
- (h) Once appropriate authority, i.e. where appropriate Asset & Enterprise, Finance & Resource Committees and Council, has been obtained for the acquisition Legal shall be instructed to complete the matter.
- (i) All acquisitions will be conducted in accordance with the Council’s financial standing Orders and the Scheme of Delegations and in particular those relating to the disposal or acquisition of land and buildings.
- (j) On exchange of contracts the Insurers should be advised and provided with the property’s reinstatement value.
- (h) On completion of the acquisition, details should be added to the Corporate Property Asset Database.

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General Disposal Policy

1. Introduction

- 1.1 This policy sets out the process for rationalisation and disposal of surplus Council land and property assets where they no longer make a contribution towards meeting the Council's aims and objectives. The policy covers the disposal of both operational and non operational property assets.

2. Definitions

- 2.1 A disposal is defined as the transfer of the freehold or leasehold interest of land and/or buildings to a third party, or the passing of possession of land and/or buildings to a third party under management agreements and licences to occupy.

3. Procedure

- 3.1 A property for disposal may be identified in the following ways:
- Through the Council's asset review process which identifies property surplus to requirements
 - Through service areas declaring specific sites as surplus to requirements
 - Through identifying previously un-identified surplus land from the asset management system.
- 3.2 Before a property is formally declared as being surplus to requirements consideration should be given to the suitability of the property for other Council users.

4. Initial Investigation

- 4.1 Once a property has been identified as potentially surplus, the Strategic Asset Manager will consult with the statutory authorities including Highways as well as all relevant internal Council services including, as appropriate, Legal, Economic Development, Planning Policy, Development Control, and Housing to establish whether there are any development constraints on the site.
- 4.2 Ground investigation works and studies into previous land use to be carried out as appropriate

5. Valuations

- 5.1 A valuation of the property for disposal should be undertaken at the earliest opportunity and continually reviewed through the disposal process. Where it is decided to negotiate in-house a disposal to a single party rather than offer on the open market an external independent Chartered Surveyor's valuation should be obtained that supports unequivocally any terms agreed.

6. Method of Disposal

- 6.1 The Strategic Asset Manager will determine the method of disposal and marketing strategy.
- 6.2 Unless there is a special case, all potential purchasers are to be given an opportunity to submit an offer in accordance with the Council's Standing Orders. If a special purchaser has been identified then agreement from the Chair of Assets & Enterprise and s151 Officer should be obtained to treat solely with that party.
- 6.3 Where appropriate, development sites should be sold with outline planning permission or planning brief and should be sold with a requirement that requires development within an agreed timescale to avoid land banking.
- 6.4 On agreement of heads of terms the Strategic Asset Manager will exercise, where permitted, their delegated power to dispose of land in accordance with the Council's Standing Orders. Any disposal not permitted under delegated powers should be approved the procedure as set out in the Council's Standing Orders.

7. Timing

- 7.1 The timing of any marketing/disposal should be considered in the context of the Council's budgetary requirements, together with property market conditions.
- 7.2 All negotiations for disposal should be undertaken through the Strategic Asset Manager, who should be either a Fellow or Member of the Royal Institution of Chartered Surveyors.

8. Instructions/Completion

- 8.1 Once a purchaser has been identified and heads of terms agreed the Strategic Asset Manager will obtain the necessary approvals to proceed including where appropriate, Asset & Enterprise, Finance & Resource Committees and Council.

- 8.2 The Strategic Asset Manager will instruct Legal to prepare, issue and agree the appropriate documentation.
- 8.3 When completion of the disposal has been achieved the Corporate Asset Database should be updated and the Insurers notified.

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Disposals at Less Than Best Consideration Policy

1. Introduction

- 1.1 This document sets out the Council's policy on the disposal of Council owned land and property at less than best consideration reasonably obtainable. The policy relates to both granting of leases and the disposal of freehold and long leasehold interests.

2. Statutory Background

- 2.1 Section 123 of the Local Government Act 1972 states that Council's, except with the express consent of the Secretary of State, cannot dispose of land (other than by way of a short tenancy i.e. grant of a term not exceeding 7 years) for consideration less than best that can be reasonably obtained in the market.
- 2.2 The 1972 Act authorised the Secretary of State to issue General Disposal Consents covering particular types of cases. However, the General Disposal Consent (England) 2003 gives Local authorities greater freedom to dispose of any interest in land at less than best consideration without the specific consent of the Secretary of State. Under this General Disposal Consent LA's may consider disposal at a reduced price if the purpose for which the land is to be disposed of is likely to contribute to the promotion or improvement of the economic, social or environmental well being of its area.
- 2.3 There are a limited number of cases where the General Disposal Consent will not apply, housing land, open space land and land held under specific statutory powers that preclude a sale under the Local Government Act 1972.
- 2.4 The Council must be aware of the rules regarding state aid. Selling land at under value confers a benefit upon the purchaser and a Council vendor must not breach the European Commission rule which relate to the importance of avoiding distortion in competition.

- 2.5 The General Disposal Consent strongly advises Councils to obtain a realistic valuation on the under value in all cases. All values are to be reported in capital, not rental, terms i.e. discounted rent multiplied by the number of years granted.

3. Purpose of the Policy

- 3.1 A clear statement of the terms under which the Council will consider the sale of land and property at an under value is important because of the likely impact on the capital programme if capital receipts are lower than they would be if the asset was disposed of at best consideration.

- 3.2 The adoption of a policy will also provide the Council with a clear and consistent basis for making decisions about using its property assets as a means of achieving community objectives, recognising that best consideration in terms of asset value on disposal is not necessarily always measured simply in monetary terms.

4. Policy Scope

- 4.1 The Council will consider disposals at less than best consideration in accordance with the General Disposal Consent (England) 2003 where it is satisfied that the proposed use to which the property will be put assists in achieving the Council's objectives and in excess of that currently provided. Where possible assistance should be in the form of annual grants rather than discounts to value.

- 4.2 The Council must be satisfied that the promoting local body, voluntary group or association ("the body") is properly constituted and managed. This will be verified beforehand by appropriate investigation and audit.

- 4.3 The application for the Council to consider any concessions regarding value should be submitted to the Asset & Enterprise Committee and should include:

- a) An assessment as to the extent which the organization activities contribute towards achieving the Council's aims and objectives
- b) Include a copy of the organisation's constitution and three years of accounts.
- c) Set out the extent to which the organization is proactive in seeking to share and make available the assets to other
- d) community and voluntary sector uses on a not for profit basis
- e) A recommendation as to the length of any discount
- f) Confirmation that the organization will submit its activities and accounts on an annual basis or when required by the Council.

4.4 The Council will consider the sale of a freehold at less than best consideration only in very exceptional circumstances.

4.5 The Council, where appropriate, will consider disposing of leasehold interests at less than best consideration:

- For up to 7 years.
- For up to 25 years in circumstances where a significant investment is to be made by the body which involves external funding and where the funding body requires a longer term.
- In both cases the granting of the leases will only be made when the investment is approved by the Council and funding has been obtained to undertake the investment.

4.6 The Council will include in any lease an appropriate clause under which the asset will revert to the Council in the event of:

- a) Bankruptcy
- b) Corruption
- c) Failure to deliver benefits
- d) Mutual annual break clauses

4.7 All leases will contain rent review provisions indicating that the market rent will be reviewed at appropriate intervals (annually at RPI)

4.8 All leases will include provisions to exclude any security of tenure rights

5. Implementation of the Policy

- 5.1 Due to the variety of arrangements currently in place in respect of the use of the Council's assets by voluntary and community organizations it will be necessary to phase in the policy as follows:-
- a) As soon as possible where lease arrangements have already expired
 - b) As and when existing lease is due to expire
 - c) When the Council agrees to enter into a new lease arrangement
6. All disposals will be conducted in accordance with the Council's Financial Standing Orders and Schemes of Delegations.

27 March 2015

Asset & Enterprise Committee

Property Acquisition Fund Policy & Procedure

Report of: *John R Parling, Strategic Asset Manager*

Wards Affected: *None*

This report is: *Public*

1. Executive Summary

- 1.1 The Asset Management Strategy 2014/15 was approved by the Asset & Enterprise Committee on the 15 July 2014. One of the key actions in the Strategy is the “Acquisition of Revenue Generating Opportunities”
- 1.2 Policies have been prepared to provide guidance for the Acquisition, General Disposal and Disposals at less than Best Value and these are attached to a separate report to this Committee. The Acquisition Policy referred to is appropriate for normal situations however this Policy lacks the flexibility particularly in terms of time scales and is drafted on the basis of acquisitions for operational reasons and that all acquisitions would be by negotiation.
- 1.3 It is proposed that in certain circumstances that the Acquisition Policy is adjusted to enable the Council to make opportunistic purchases and to compete effectively with other parties

2. Recommendation(s)

- 2.1 That the Committee approve the Acquisition Policy which allows flexible adjustments in specified circumstances to enable the Council to acquire revenue generating assets.**
- 2.2 That the Finance and Resources Committee are requested to consider a Capital Programme allocation up to £10m within the Medium term Financial Plan for the acquisition of revenue generating assets to add and enhance the council’s current investment and operational property portfolios.**

3. Introduction and Background

3.1 The key actions for 2014/15 set out in the Asset Management Strategy were:

- Asset Challenge Review
- Delivery of Major Projects
- Develop Housing for Social and Private Tenants
- Maximise Revenue and Capital Receipts
- Acquisition of Revenue Generating Opportunities

3.2 To achieve the key action “Acquisition of Revenue Generating Opportunities” it is necessary to introduce a process that that is efficient to compete in the current market place as well as being capable of being robust enough to satisfy the scrutiny of Council.

3.3 The Property Acquisition Fund Policy & Procedure (Appendix – A) sets out the following process and procedures;

- That the Strategic Asset Manager is authorised in appropriate circumstances to purchase land and property up to the maximum value of the Property Acquisition Fund subject to consultation and unanimous agreement of the Leader of the Council, Chair of Asset & Enterprise Committee, Chief Executive/Acting Chief Executive and the s151 Officer.
- Where such authorisation is exercised the property must be consistent with the aims and objectives of the Council and that the process contained within the Acquisitions Policy can not be complied within the timescales stipulated by the vendor.
- Prior to authorisation a “Justification Certificate” for the purchase should be prepared.
- The Justification Certificate shall comprise an appraisal of the open market capital and rental value, purchase costs, estimate of any repair/refurbishment costs and whole life cost analysis.
- Any use of the delegated authority should be reported to the next available meeting of the Asset & Enterprise, Finance & Resources Committees and Council.

- 3.4 Appendix – B illustrates the range of potential returns that may be achieved from revenue opportunities.
- 3.5 Initially it is proposed to identify opportunities within a 50 mile radius of Brentwood, however, opportunities within 100 mile radius will also be considered which are relatively attractive. Opportunities across all sectors will be considered that provide an initial net yield of 6% or more.
- 3.6 Non income opportunities are unlikely to be considered unless they offer short term capital gain which then can be recycled to acquire revenue generating assets.
- 3.7 The assets in the short term will be acquired and held by the Council itself until a Local Authority Trading Company (LATCO) is established and it is deemed appropriate to acquire assets through this vehicle.

4. Issue, Options and Analysis of Options

- 4.1 The Asset Management Strategy 2014/15 outlines a change in the way that the council's assets are managed. It puts forward a comprehensive and coordinated structure and implementation solutions to ensure that the Council's asset portfolio is efficiently and effectively managed to ensure best use and to maximise revenue and capital receipts.
- 4.2 The Property Acquisition Fund Policy & Procedure provides guidance and a process to deliver the Strategy's objectives in a consistent and transparent manner.

5. Reasons for Recommendation

- 5.1 Members need to ensure that best practice and transparency are maintained.

6. Consultation

- 6.1 None at this stage

7. References to Corporate Plan

7.1 Corporate Plan 2013 –16, specifically:

- a) A Prosperous Borough
- b) Set planning policy that supports discerning economic growth and sustainable development
- c) Promote a mixed economic base across the Borough, maximising opportunities in the town centres for retail and balanced night time economy

8. Implications

Financial Implications

Name & Title: Christopher Leslie, Financial Service Manager (S151 Officer)

Tel & Email: 01277 312542/christopher.leslie@brentwood.gov.uk

- 8.1 The Council has no available resources to fund an additional £10m commitment, therefore additional borrowing would need to be undertaken. The costs of borrowing would impact on the General fund account and therefore the investment must be able to demonstrate that the costs of borrowing can be covered in order to prevent further pressure on the Revenue budget.

Legal Implications

Name & Title: Philip Cunliffe-Jones, Solicitor

Tel & Email: 01277 312730 /philip.cunliffe-jones@brentwood.gov.uk

- 8.2 Local authorities have a statutory duty to balance their budgets. Local authorities cannot borrow to finance revenue expenditure or run deficits. The recommendation relates to capital expenditure – land is always Capital in local government finance. If there is sufficient scope for initiatives, which will have to be considered on a case by case assessment, the recommendation can be supported.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

- 8.3 None

9. Background Papers

9.1 None

10. Appendices to this Report

Appendix A – Property Acquisition Fund Policy & Procedure

Appendix B – Investment Return Matrix

Report Author Contact Details:

Name: John R Parling, Strategic Asset Manager

Telephone: 01277 312690

E-mail: john.parling@brentwood.gov.uk

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Property Acquisition Fund Policy & Procedure

1. Introduction

- 1.1 The Council has set up a capital fund to be made available for the acquisition of land and property to generate a revenue stream to support and safeguard the services that the council provides.
- 1.2 The current policy for the acquisition of land & property is set in the Property Acquisition Policy. The policy and process lacks the flexibility particularly in terms of timescales and was drafted on the basis of acquisitions for operational reasons and that all negotiations would be by negotiation
- 1.3 Markets conditions continue to improve and there have been cases where vendors have brought properties to the market on the basis that they are to be sold very quickly.
- 1.4 The Council needs to review its acquisition process in the current dynamic market if it is to acquire attractive and appropriate properties. It is proposed that duly authorised officers be given the necessary authority to agree and complete the purchase of suitable properties subject to prior consultation and unanimous agreement of the Leader of the Council, Chair of Asset & Enterprise Committee, Acting Chief Executive/Chief Executive & s151 Officer.

2. Background

- 2.1 The property market stalled in the summer of 2007 however, in the last 2/3 years there has been a marked improvement both in the residential and commercial markets.
- 2.2 Land and Property can be acquired by private treaty (negotiation), auction, CPO and by way of partnership working, e.g. land swaps. Generally, properties are marketed by way of private treaty and terms and conditions are negotiable. The acquisition of any property is dependent upon the market and the willingness of owners to sell. Unless a vendor is a distressed seller then it may be difficult to persuade any particular vendor to sell. Therefore both a focussed and opportunistic approach needs to be adopted.

- 2.3 Vendors and their advisers take into account the price offered and also the ability of the prospective purchaser to agree, contract and complete. Offers that are submitted conditional upon certain requirements or require a prolonged approvals process, whether real or perceived, are likely to be discounted from consideration or at least considered to be less attractive than others without such conditions.
- 2.4 The proposed Property Acquisition Fund Policy & Procedure sets out a process that provides for a truncation of acquisition process in order to capture these opportunities and to allow for flexibility. It is recommended that the application of the process as set out in the Acquisitions Policy be suspended in specified circumstances to enable the Council to bid at auctions or to enter binding contracts at short notice where the purchase terms are particularly attractive or beneficial to the Council. The Policy will be used in exceptional situations and only after consultation with key Members and Officers.

3. Policy

- 3.1 It is proposed that the Strategic Asset Manager is authorised in appropriate circumstances to purchase on behalf of the Council land and property up to the maximum value of the Property Acquisition Fund subject to consultation and the unanimous agreement of the Leader of the Council, Chair of Assets & Enterprise, Chief Executive/Acting Chief Executive and the s151 Officer, subject to the following:
- Where such authorisation is exercised the property must be consistent with the aims and objectives of the Council and that the process contained within the adopted Acquisitions Policy can not be complied within the timescales stipulated by the vendor
 - Prior to authorisation a “Justification Certificate” for the purchase should be prepared.
 - The Justification Certificate shall comprise an appraisal of the open market capital and rental value, purchase costs, estimate of any repair/refurbishment costs and whole life cost analysis.
 - Any use of the delegated authority should be reported to the next available meetings of the Asset & Enterprise and Finance & Resources Committees and Council.

4. Considerations

4.1 When property is purchased at auction, there may be a buyer's commission to be paid

4.2 Stamp Duty Land Tax is payable on properties according to the statutory scale which is currently:

Purchase price/lease premium or transfer value	SDLT rate
<£125,000	0%
£125,000 - <£250,000	1%
£250,000 - <£500,000	3%
£500,000 - <£1,000,000	4%
£1,000,000 - <£2,000,000	5%
>£2,000,000	7%
>£2,000,000 (purchased by certain persons, including corporate bodies)	15%

4.3 In addition certain vendors may opt to tax (i.e. impose VAT) on the sale price. This cost will be in addition to the purchase price. Land registration fees are also payable to the Land Registry to register the completion of the acquisition on a prescribed scale based on the value of the relevant property. Search fees and legal fees may also be payable.

4.4 All expenses directly attributable to any purchase will in accordance with accounting regulations be charged to the fund as part of the cost of acquisition. Any VAT attributable to the purchase will unless the Council's partial exemption limited is exceeded be recovered from HMRC.

5. Legal Considerations

5.1 The power to acquire land for purposes in connection with the Council's functions by agreement is contained in s 120 of the Local Government Act 1972 and s121 in the case of compulsory acquisition. Whilst there is no general duty to purchase at the best consideration but the Council must be able to demonstrate that it has exercised those powers in a manner consistent with its fiduciary duty to the Council Tax payer i.e. by ensuring that it is satisfied that the purchase price paid is reasonable in the light of the particular facts and circumstances.

6. Criteria

- 6.1 All sectors of property are to be considered, i.e. residential and commercial and acquisition geographical area should be within the South East, including Essex and the Home Counties. Individual lot sizes up to £2,000,000 are to be purchased. Consideration should be given when acquiring investment properties to length of lease and the security of the income subject to any other material consideration. The revenue yield should generally be in excess of the cost of borrowing unless the intention is to assemble a site for development purposes or to enable a development to be undertaken at some future point.

Investment Returns

Capital	Repayment Over 50 years	Interest 3.33%	Total Borrowing Costs	Annual Return								
				5%	5.50%	6%	6.50%	7%	7.50%	8%	8.50%	9%
£ 1,000,000.00	£ 20,000.00	£33,300.00	£ 53,300.00	£ 50,000.00	£ 55,000.00	£ 60,000.00	£ 65,000.00	£ 70,000.00	£ 75,000.00	£ 80,000.00	£ 85,000.00	£ 90,000.00
£ 2,000,000.00	£ 40,000.00	£66,600.00	£ 106,600.00	£ 100,000.00	£ 110,000.00	£ 120,000.00	£ 130,000.00	£ 140,000.00	£ 150,000.00	£ 160,000.00	£ 170,000.00	£ 180,000.00
£ 3,000,000.00	£ 60,000.00	£99,900.00	£ 159,900.00	£ 150,000.00	£ 165,000.00	£ 180,000.00	£ 195,000.00	£ 210,000.00	£ 225,000.00	£ 240,000.00	£ 255,000.00	£ 270,000.00
£ 4,000,000.00	£ 80,000.00	£133,200.00	£ 213,200.00	£ 200,000.00	£ 220,000.00	£ 240,000.00	£ 260,000.00	£ 280,000.00	£ 300,000.00	£ 320,000.00	£ 340,000.00	£ 360,000.00
£ 5,000,000.00	£ 100,000.00	£166,500.00	£ 266,500.00	£ 250,000.00	£ 275,000.00	£ 300,000.00	£ 325,000.00	£ 350,000.00	£ 375,000.00	£ 400,000.00	£ 425,000.00	£ 450,000.00
£ 6,000,000.00	£ 120,000.00	£199,800.00	£ 319,800.00	£ 300,000.00	£ 330,000.00	£ 360,000.00	£ 390,000.00	£ 420,000.00	£ 450,000.00	£ 480,000.00	£ 510,000.00	£ 540,000.00
£ 7,000,000.00	£ 140,000.00	£233,100.00	£ 373,100.00	£ 350,000.00	£ 385,000.00	£ 420,000.00	£ 455,000.00	£ 490,000.00	£ 525,000.00	£ 560,000.00	£ 595,000.00	£ 630,000.00
£ 8,000,000.00	£ 160,000.00	£266,400.00	£ 426,400.00	£ 400,000.00	£ 440,000.00	£ 480,000.00	£ 520,000.00	£ 560,000.00	£ 600,000.00	£ 640,000.00	£ 680,000.00	£ 720,000.00
£ 9,000,000.00	£ 180,000.00	£299,700.00	£ 479,700.00	£ 450,000.00	£ 495,000.00	£ 540,000.00	£ 585,000.00	£ 630,000.00	£ 675,000.00	£ 720,000.00	£ 765,000.00	£ 810,000.00
£ 10,000,000.00	£ 200,000.00	£333,000.00	£ 533,000.00	£ 500,000.00	£ 550,000.00	£ 600,000.00	£ 650,000.00	£ 700,000.00	£ 750,000.00	£ 800,000.00	£ 850,000.00	£ 900,000.00

Current Returns	Retail	Industrial	Distribution	Office
Prime	5%	5.75%	5.25%	5.75%
Secondary	6%	7%	6.50%	7%
Tertiary	7%	9%	7.50%	8%
Standard investment categories- Prime = Institutional properties which are let to good covenants and on long leases. Secondary = good property company stock with mixture of covenants and varying lease terms. Tertiary = mixed quality and relatively short leases in perhaps less attractive locations				
Yields: indicative yields - will vary depending on quality of asset, location, covenant and lease length				

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27 March 2015

Asset and Enterprise Committee

Mascalls Park - Cycle Track

Report of: *Adrian J Tidbury, Estates and Valuation Surveyor*

Wards Affected: *Warley*

This report is: *Public*

1. Executive Summary

- 1.1 This report considers the widening, re- construction and adoption of the existing footpath as a shared footpath and cycletrack leading from the Mascalls Park Development to Greensleeves Drive.

2. Recommendation(s)

- 2.1 **That the Council enter into negotiations with the developer, Bellway Homes concerning the provision of appropriate consideration for the loss of the land to highway.**
- 2.2 **That subject to these negotiations, the Council agrees for the track and path as indicated in this report be reconstructed and completed under the terms of the s106 agreement for the development of Mascalls Park and for that cyclepath to be adopted by the Highway Authority - Essex County Council for its future maintenance and protection.**

3. Introduction and Background

- 3.1 Members will be aware of the Bellway Homes development at Mascalls Park for 75 residential dwellings situated in Mascalls Lane north of its junction with Warley Hill.
- 3.2 Members will also be aware that the development is subject to an s106 agreement between the Council, Bellway Homes and Essex County Council.

- 3.3 The s106 agreement sets out the planning requirement for the development and includes requirements in terms of highways and is contained in the Appendix A.
- 3.4 Schedule one of the agreement sets out the requirements of the associated highway works and includes for the construction of a 3 metres wide cyclepath/footpath link between the estate road serving the development and Greensleeves Drive, Clements Park to the north of the site, including lighting, drainage and measures to prevent its use by motorised vehicles.
- 3.5 There are restrictions in the agreement that restrict occupation of the development (no more than 35 residential dwellings) until the cyclepath has been completed.
- 3.6 The agreement also covers the Highway Works Agreement which deals with the construction of the highway works to adoptable standards.
- 3.7 The developer has not sort the approval of the Council to carry out these works but would appear to have relied on the Councils assumed approval through the agreement and officers are now being pressed for permission to commence these works.

4. Issue, Options and Analysis of Options

- 4.1 Whilst the development has passed through the planning stage and the s106 agreement has been signed by all three parties, it relates to the planning aspects of the development and does not provide agreement from the land owner to works outside the development site.
- 4.2 No discussion regarding compensation has taken place with the developer regarding the loss of the land to highway.
- 4.3 The land on which the cyclepath passes is land in the ownership of the Council under title EX633106 and is a path/track currently in existence although in various states of maintenance and indeed width.
- 4.4 The land is currently heavily wooded in nature and unlikely to be used as developable land but kept as public open space.
- 4.5 For the track to be made into a cyclepath as shown in the Appendix B would negate any maintenance to the track in the foreseeable future. In addition, for the cyclepath to be formally adopted by the Highway Authority - Essex County Council, would remove all responsibility for the cyclepath from the Council.

- 4.6 Within the highway adoption process, the land upon which the highway is placed remains in the ownership of the land owner and the highway is added to the Queens Highway for members of the public to have the right to pass and repass in accordance with the Highways Act. The responsibility for the maintenance and protection of the highway becomes the responsibility of the Highway Authority - Essex County Council.

5. Consultation

- 5.1 No formal consultation has been undertaken regarding the proposed refurbishment.

6. References to Corporate Plan

- 6.1 Value for Money: policies that invest in key services to create opportunity for all; provide better value for Brentwood's taxpayers and enhance the Borough's infrastructure whilst modernising and transforming Brentwood Borough Council. We will re-prioritise and focus our resources and be innovative in our approach.
- 6.2 Our Borough: Policies which promote our environment, support sustainable growth, and safeguard our high quality environment including heritage and countryside. We will provide responsive, accessible and forward thinking services for vulnerable residents, supporting people back into work and providing good quality housing making Brentwood our residents' Borough of Choice.

7. Implications

Financial Implications

Name & Title: Christopher Leslie, Financial Services Manager (S151 Officer)

Tel & Email: 01277 31254 /christopher.leslie@brentwood.gov.uk

- 7.1 The provision of the cycle way may generate a capital receipt for the Council. The Council will not have to fund the development costs of the cycle path and Essex County Council will be liable for the future maintenance costs.

Legal Implications

Name & Title: Philip Cunliffe-Jones, Solicitor

Tel & Email 01277 312703/

philip.cunliffe-jones@brentwood.gov.uk@brentwood.gov.uk

7.2 The function of land management and disposal are separate to the exercise of planning powers. The Council owns the open space land which is offsite from the development at Mascall Park and is able to agree to have paths crossing the land on such terms as it required. If the path is adopted and maintained by the highway authority that use will be permanent unless the path is diverted or extinguished

8. Background Papers (include their location and identify whether any are exempt or protected by copyright)

9. Appendices to this report

Appendix A - s106 Agreement under the Town and Country planning Act 1990 as amended relating to land at Mascalls Park, Mascalls lane, Great Warley, Brentwood, Essex CM14 5HQ

Appendix B - General Arrangement of Northern Cyclepath

Report Author Contact Details:

Name: Adrian J Tidbury, Estates and Valuation Surveyor

Telephone: 01277 312678

E-mail: adrian.tidbury@brentwood.gov.uk

SCHEDULE 1 – DESCRIPTION OF HIGHWAY WORKS

The works shall comprise the construction of the following:

1. Kassell style "level entry" high kerbs, tactile paving, pole and flag and associated footway works to be provided at the north bound bus stop adjacent to 171 Warley Hill;
2. Kassell style "level entry" high kerbs, tactile paving, a replacement shelter, pole and flag and associated footway works to be provided at the south bound bus stop opposite Hill Crest in Warley Road.
3. Construction of a 3 metres wide Cyclepath/ footpath link between the estate road serving the development and Greensleeves Drive, Clements Park to the North of the Site, including lighting, drainage and measures to prevent its use by motorised vehicles;

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27 March 2015

Asset and Enterprise Committee

Shenfield War Memorial - Post WW2 Memorial

Report of: *Adrian J Tidbury, Estates and Valuation Surveyor*

Wards Affected: *Brentwood North*

This report is: *Public*

1. Executive Summary

- 1.1 This report considers the request of the Royal British Legion to adopt both the new 1946 War Memorial and the recently installed 1914-18 Commemoration benches.

2. Recommendation(s)

- 2.1 **That the Council instructs its lawyers to draft the necessary deeds of adoption formally bringing the new 1946 War Memorial and the recently installed 1914 -18 Commemoration benches into the Councils ownership and that the Council continues to maintain those memorials in line with the existing maintenance of the existing memorials at the site.**

3. Introduction and Background

- 3.1 The Council gave consent as the land owner for the new 1946 memorial to be placed on its land in February 2012. Funding for the memorial was raised by the Mayor. Any deficit in the fund was underwritten by the Co-Op who also funded the provision of the two benches commemorating the 1914 -18 Great War.
- 3.2 The conveyance of the land to the Council was dated 1921 by Thornton's who were trustees based in the Strand London. This Conveyance permitted the erection of a wayside cross or an approved public erection. These memorials were considered as approved public erections and therefore in accordance with the conveyance.

- 3.3 The new memorial and commemorative benches are covered by the councils indemnity insurance.
- 3.4 The new 1946 War memorial was commemorated on Sunday 19th May 2013 following a significant parade to the site.
- 3.5 Permission for the installation of the Commemorative Benches was provided on 31st October 2013 and the service dedicating the benches took place on Sunday 3rd August 2014.

4. Issue, Options and Analysis of Options

- 4.1 The main issue for the Council to consider is the level of insurance required which is consistent with the insurance cover provided for the adjacent memorials.
- 4.2 Maintenance of the both the memorial and the benches will be minimum, it is possible that some remarking of the text may be required in years to come, but no maintenance is likely to be required in the foreseeable future.
- 4.3 The Council has in the past received requests to take over war memorials in other locations and has declined the request. However, in this case the land is in the ownership of the Council and the Council already maintains the site in terms of both the grounds and renovations to the existing memorials which were carried out two years ago.

5. Consultation

- 5.1 No formal consultation has been undertaken.

6. References to Corporate Plan

- 6.1 To work with the local community and voluntary organisations to develop the priorities for community development, raise awareness of activities and promote opportunities for residents,
- 6.2 To continue to work with local businesses and community groups to deliver a number of community events.
- 6.3 To increase Community and Voluntary sector activity, initiatives and projects.

7. Implications

Financial Implications

Name & Title: Christopher Leslie – Financial Services Manager (S151 Officer)

Tel & Email: 01277 312542/christopher.leslie@brentwood.gov.uk

- 7.1 The additional costs associated with the adoption of the memorial and benches are negligible and will be met within existing budgets.

Legal Implications

Name & Title: Philip Cunliffe-Jones, Solicitor

Tel & Email: 01277 312703/philip.cunliffe-jones@brentwood.gov.uk

- 7.2 Under the War Memorials (Local Authorities' Powers) Act 1923 as amended responsibility for the overall control of war memorials was vested with local authorities, who are empowered to incur reasonable expenditure for the maintenance, repair and protection of war memorials.
- 7.3 The War Memorials Trust provides a guide to fund raising, and the Department for Culture, Media and Sport provides a Memorial Grant Scheme

8. **Background Papers** (include their location and identify whether any are exempt or protected by copyright)

There are no relevant background papers for this report

9. Appendices to this report

Appendix A - Site Plan

Appendix B - Site Plan

Report Author Contact Details:

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27 March 2015

Asset & Enterprise Committee

Town Hall – Community Use Charge

Report of: *John R Parling, Strategic Asset Manager*

Wards Affected: *Brentwood South*

This report is: *Public*

1. Executive Summary

- 1.1 The Town Hall meeting rooms are used for a variety of purposes for Council business and also used by external organisations from the commercial, voluntary and community sectors. Currently the Council only charges commercial organisations for the use of the rooms and any support provided e.g. refreshments.
- 1.2 Over the next Quarter room bookings for external organisations (non Commercial) exceeds 100.
- 1.3 It is proposed that the Council should introduce a charging regime for non commercial organisations to bring it in line with other providers and also to assist in defraying the cost of providing the facilities.

2. Recommendation

- 2.1 That a charging regime is introduced with immediate effect to charge non commercial organisations in accordance with the proposed charging regime as set out in section 4. of this Report.**

3. Introduction and Background

- 3.1 In 2013 Officers undertook a review of the level of support that it gave to voluntary and community organisations which was estimated at over £600,000 annually. It was then examined to determine whether this support was fit for purpose i.e. what governance was in place; how the organisation supports the Council's priorities and consider a more strategic approach to future funding.

- 3.1** It was agreed at 18 June Overview and Scrutiny Committee (min. ref 40) look at the four areas of support, Parish Council Grants, Discretionary Rate Relief, Partnership/Community Funding and in kind support.
- 3.2** The In Kind Support Policy covers four key areas; Printing, Parking Permits, Room Hire at the Town Hall and community lease arrangements.
- 3.3** The Council needs to ensure that there is a fair and transparent process in place where it gives additional support to voluntary sector organisations, rather than the ad hoc arrangements that are currently in place. While the current situation supports very worthy organisations, it is not a fair process which is accessible to any voluntary organisation.
- 3.4** As the Council is under increasing monetary pressures to rationalise its spending then it is proposed to adopt a cost recovery model for these strands.
- 3.5** This report relates to Room Hire at the Town Hall only.

4 Issue, Options and Analysis of Options

4.1 Town Hall Room Hire

- 4.1** Currently the Council's meeting rooms are used by a number of outside organisations both during working hours and out of normal working hours.
- 4.2** There is staff costs associated with these room bookings such as the administration to book the room, the set up of the rooms, security of the building and the cleaning of rooms etc. after the meeting. The proposed room booking charges would contribute to these costs as well as the other associated costs such as the heating, lighting and general wear and tear of the room.
- 4.3** It is proposed that where meetings are taking place by external voluntary and community organisations a set fee is charged to the organisation for the room hire. The meeting times will also be restricted to 8.30am until 7pm Monday to Friday. At present the rooms that will be available to hire with the current configuration of rooms in the Town Hall is the Council Chamber, Committee Room 1 and 2 and Meeting Room 1.

4.4 If the meetings finish after 7pm then additional overtime staff costs we added to this rate, at approximately £20 per hour. In addition any additional services provided will be charged at cost including the provision of refreshments.

4.5 The current commercial charge and proposed community rate is set out in the table below.

Room	Current Commercial rate	Proposed Community Rate
Council Chamber	£200 half day	£100 half day
Council Chamber	£400 full day	£200 full day
Committee Rooms 1 & 2	£100 half day	£50 half day
Committee Rooms 1 & 2	£200 full day	£100 full day
Meeting Room 1	£50 half day	£25 half day
Meeting Room 1	£100 full day	£50 full day

4.6 The room availability may need to be reviewed with the implementation of the Town Hall Delivery Project.

5 Reasons for Recommendation

5.1 The Council needs to rationalise its support to the voluntary and community sector, so the support needs to be targeted to those organisations that support the Council's priorities and support our most vulnerable residents.

5.2 The Council also need to ensure that the processes that it puts in place are fair, consistent and transparent to all organisations.

6 Consultation

6.1 The draft Funding Strategy went out to consultation on 21 June 2013. The consultation was sent via email and was available on the Council's website. The consultation included local community groups, voluntary sector organisations, Brentwood Council for Voluntary Services, Brentwood Health and Wellbeing Board, Clinical Commissioning Group for Brentwood and Basildon, members of the public, local schools, local councillors, Parish Councils, Brentwood and Ongar MP and other partners organisations. Any feedback was presented at Strategy and Policy Board in November 2013 as part of the report. In addition there

were face to face meetings with each of those organisations which are currently in receipt of direct grant funding. In summary the majority of organisations were in support of the new approach to funding that the Council is taking in respect of the Community and voluntary sector, ensuring that funding is targeted to support the community more effectively. There was caution around any disproportionate reduction in funding to the voluntary sector in relation to the Council's other spending. There were also a number of new initiatives that could be introduced to support the development of a Community Hub as part of the Town Hall development project.

6.2 An Overview and Scrutiny Task and Finish Group also focussed on the In Kind support as one of the key areas of support to the voluntary and support.

7 References to Corporate Priorities

7.1 The In Kind Policy will ensure that the support for the Voluntary and Community Sector is both targeted, supports the Council's priorities and provides effective support for the local community.

8 Implications

8.1 Financial Implications

Name & Title: Christopher Leslie, Financial Service Manager (S151 Officer)

Tel & Email: 01277 312542/christopher.leslie@brentwood.gov.uk

The current cost of maintaining the Town Hall is met from the General Fund and there is limited revenue from other occupiers/external users.

8.2 Legal Implications

Name & Title: Philip Cunliffe-Jones, Solicitor

Tel & Email: 01277 312703/ philip.cunliffe-jones@brentwood.gov.uk

Any existing legal commitments that the Council has entered into with regard to any voluntary or community organisation, will need to be examined before any changes could be implemented. The effect of the In Kind Policy also needs assessment.

8.3 Equality and Diversity implications –

The In Kind Policy will target support to voluntary and community organisations that best support the Brentwood community regardless of age, disability, gender, gender reassignment, pregnancy and maternity, race religion and sexual orientation.

9 Background Papers

Funding Strategy 2013-16 as agreed at 21 November 2013 Strategy and Policy Board

10 Appendices to this report

None

Report Author Contact Details:

Name: John R Parling, Strategic Asset Manager
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27 March 2015

Asset & Enterprise Committee

The Depot, Eagle Way, Warley, Brentwood

Report of: *John Parling, Strategic Asset Manager*

Wards Affected: *Warley*

This report is: *Public*

1. Executive Summary

- 1.1 The Depot adjoins a number of other Council owned land holdings which are leased out including, a car park, workshop, Hall and Scout Hut. Details of the Depot and other holdings are set out in Appendix A.
- 1.2 This report examines the scope for the redevelopment of the current Depot and adjoining land to provide a capital receipt and or improved revenue stream to the Council

2. Recommendation(s)

- 2.1 That further investigations are carried out into the viability of the redevelopment of the Depot and adjoining land and the relocation of existing activities and thereafter recommendations are presented to the Asset & Enterprise Committee for its consideration.**
- 2.2 That a budget of up to £25,000 is allocated to meet the costs of the further investigations and any consultants fees to progress the project.**

3. Introduction and Background

- 3.1 The Depot is used for Streetscene to provide various services including, refuse collection, grounds maintenance, vehicle maintenance, and waste storage. The majority of the buildings are physically obsolete in poor repair and the open storage and circulation areas are heavily pot holed

- 3.2 The Workshop & Service premises comprises relatively modern buildings have been well maintained by the existing tenants.
- 3.3 The surface car park let to Ford is in a good condition.
- 3.4 The area let to the Royal British Legion Youth Band Practice Hall is in a good condition.
- 3.5 The Scout Hut is similarly in a good condition.
- 3.6 The current land holdings include the following currently provides the following car park spaces:

Plot	Area	Occupational Details	Comments
The Depot	1.67 hectares (4.13 acres)	Streetscene	
Workshop	0.31 hectares (0.766 acres)	Allen Ford Dealer ship	
Band Hut	0.135 hectares (0.33 acres)	British Legion	
Car Park	0.48 hectares (1.19 acres)	Ford	
Total	3.3 hectares (6.42 acres)		

3.7 Rateable Value

Area	RV
The Depot	£122,000
Workshop	£47,250
British Legion	£12,500
Car Park	n/a
Scout Hut	n/a

- 3.8 The total area of the plots site is approximately 3.3 hectares (6.42 acres). For the purposes of this initial exercise it has been assumed that all the plots are combined to provide a net developable site of 2.5 hectares (6 acres).

4. Issue, Options and Analysis of Options

4.1 Option 1: Residential

For the purposes of this exercise if the current planning density guideline is adopted of 30 units per hectare then the net site could accommodate circa 75 units, of which 24 units will be affordable. Residential land in this location is worth between £4m - £4.25m per hectare therefore the potential value of the site if residential planning permission is granted is circa £10m.

4.2 Option 2: Mixed Use (Office/Retail/Hotel/Residential)

A mixed use scheme on the site is possible however the residual site value pursued is likely to be significantly lower than that achievable as residential use.

4.3 Issues

- The relocation of the existing uses: in particular, Streetscene, British Legion and Scouts
- The loss of income: significant revenue is received from the 2 commercial lets
- Planning: The current 2005 Brentwood Replacement Local Plan allocates the site for general employment purposes. Proposals as part of the Council's emerging Local Development Plan suggested the site be re-allocated to provide for residential use. Although an average residential density has been assumed in option 1 above, the 2013 Preferred Options consultation proposed a higher density on site in order to maximise land. In this case 80 dwellings per hectare could provide 137 units, although consideration would need to be given to the appropriateness of increasing residential density in light of surrounding uses and existing densities.

4.4 It is proposed that further investigations are undertaken both to locate alternative sites for the current occupiers and also the development of potential schemes for the site.

4.5 It is recommended that a budget of up to £25,000 is allocated to resource the further investigations.

5. Reasons for Recommendation

- 5.1 To pursue further investigations to determine viability of promoting the development of this asset.
- 5.2 To demonstrate that the Council is innovative and entrepreneurial in its management of its assets.

6. Consultation

- 6.1 None

7. References to Corporate Plan

The key criteria for the disposal of the freehold to the site are linked directly to the Corporate Plan 2013-16, specifically:

A Prosperous Borough-

- a) the redevelopment of the site is a priority
- b) Set planning policy that supports discerning economic growth and sustainable development.

8. Financial Implications

Name & Title: Christopher Leslie, Finance Office (S151 Officer)

Tel & Email: 01277 312542 / christopher.leslie@brentwood.gov.uk

The budget of £25,000 to fund the cost of further investigation into the development of the site will be allocated from existing resources, which were set aside for such purposes.

9. Legal Implications

Name & Title: Philip Cunliffe-Jones, Solicitor

Tel & Email: 01277 312703 / phillip.cunliffe-jones@brentwood.gov.uk

At this stage there are no legal implications. The titles for land assembly have not been examined. When the recommendations are reported after further investigations are carried out, these should include whether the site should be appropriated to Part IX Town and Country Planning Act 1990. This is often a request by developers to have the benefit of overriding any easements or restrictive covenants affecting any part of the site if there is development carried out pursuant to planning permission. Section 237 of the 1990 Act applies to land held or appropriated to Part IX of the Act.

10. Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

None

11. Background Papers (include their location and identify whether any are exempt or protected by copyright)

None

12. Appendices to this report

Appendix A - Site Plan

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27 March 2015

Asset and Enterprise Committee

Brent Hall

Report of: *Adrian J Tidbury, Estates and Valuation Surveyor*

Wards Affected: *Warley*

This report is: *Public*

1. Executive Summary

- 1.1 This report considers the revised requirements from the owner of Brent Hall for an access to the property from Warley gap.

2. Recommendation(s)

- 2.1 That the consultation process through the Commons Act 2006 be undertaken in respect of the proposal submitted to upgrade the existing redundant access to Brent Hall subject to the full cost being borne by the applicant and subject to any planning permission being first obtained.**
- 2.2 That delegated authority be granted to the Strategic Asset Manager to enter into negotiation with the applicant on the successful conclusion of the consultation process for a 50% share in the uplift to the value of Brent Hall and that the valuation in question be derived at the applicant's cost by obtaining valuations from an RICS surveyor.**

3. Introduction and Background

- 3.1 Members will recall the decision of the 12th March 2014 Performance and Resources Board where Members resolved:
- To agree the commencement of the consultation process leading to the relocation of the existing access to the new location shown in the Appendix A of the report.

- That all costs including legal and associated consultation costs are funded by the applicant.
- 3.2 An amendment to the recommendation of the report was also agreed:
- To enter into negotiation with the applicant on the successful conclusion of the consultation process for a 50% share in the uplift to the value of the property. and that the valuation in question be derived at the applicants cost by obtaining valuations from three RICS surveyors.
- 3.3 Since that meeting officers commissioned an RICS surveyor to provide a valuation of the property however it was clear to the surveyor that the new access as requested had the ability to provide access to the site in general and not directly to Brent Hall alone.
- 3.4 Prior to commissioning the second and third valuation as requested by the Policy and Resources Board, it was clear to the surveyor following conversations with the land owner that future development was being considered on the land and that consideration was being given to closing the existing access to the site. The effect of these proposals would intensify the use of the proposal new access which clearly was not for the sole use of Brent Hall.
- 3.5 Therefore until clarity could be provided regarding any future development, valuation of the benefits that the proposal would provide could not be adequately quantified and Members consideration of a 50% share in the uplift not determined.
- 3.6 Officers are therefore currently awaiting details of such development proposals should they be forthcoming.

4. Issue, Options and Analysis of Options

- 4.1 Alongside these negotiations, officers have also received concerns from the owner of Brent Hall regarding the need for the new access and understanding the difficulties that the proposed access has revealed, now has indicated his preference for a direct access to the property utilising the existing disused access.
- 4.2 This existing access has been disused since the construction of Brent Hall with the access currently fenced off as it leads directly to the rear lawned gardens of Brent Hall. A pedestrian gate has been provided.

- 4.3 The access is in its current state clearly unusable although some of the original asphalt remains. The owner of Brent Hall recognises that significant reconstruction would be required in order for the access to be useable by motor vehicles.
- 4.4 Members will recall the reasoning provided by the applicant for the need of a new access which was due to the current nuisances that rendered the existing access difficult to use.
- 4.5 Members will be aware that these nuisances related to the use of the woods by youths with trial bicycles, crossing the access and causing a danger to themselves and those using the access in motor vehicles. Indeed the emergency services had been called on more than one occasion.
- 4.6 It will be clear therefore to Members that, in considering granting approval for the reinstatement of the access, works will be required to the adjacent wooded area to fill dips that make the area attractive to such individuals as it would be inappropriate to bring the access back into use without some accommodation measures being put in place to curtail the original nuisance leading to the argument for the relocation of the access.
- 4.7 The existing access currently runs through part of Little Warley Common which is in the Green Belt, A 'Special Landscape Area' and also designated a 'Country Wildlife Site'.
- 4.8 Members will recall the report to the 12th March 2014 Performance and Resources Board in that valuers were instructed to establish if an improved access enhanced the value of Brent Hall and they have advised that "Our understanding is that the Council are under no obligation to grant access and therefore are in a relatively strong negotiating position. Whilst this comment related to a new access, there would still be a similar benefit to improving the old now redundant access.
- 4.9 As the proposal would be considered as restricted works and therefore require a section 38 application or Section 16 Deregistration and Exchange application under the Commons Act 2006. Such an application will involve significant consultation with a number of different statutory consultees following an informal and formal consultation process which may lead to an inquiry or hearing.

5. Consultation

- 5.1 Ward members have been consulted on the change in direction regarding the access to Brent Hall.
- 5.2 One Ward Member has commented on the dangerous activities of the mountain bikers and illegal quad bikes in the area and commented "The present owner has the right to access to his house (Brent Hall) across the common over his legal right of way without relying on another route that is privately owned. We should make our land safe, repair the right of way and work with the residents to maintain the beauty of the common."

6. References to Corporate Plan

- 6.1 Value for Money: policies that invest in key services to create opportunity for all, provide better value for Brentwood's taxpayers and enhance the Borough's infrastructure whilst modernising and transforming Brentwood Borough Council. We will re-prioritise and focus our resources and be innovative in our approach.
- 6.2 Our Borough: Policies which promote our environment, support sustainable growth, and safeguard our high quality environment including heritage and countryside. We will provide responsive, accessible and forward thinking services for vulnerable residents, supporting people back into work and providing good quality housing making Brentwood our residents' Borough of Choice.

7. Implications

Financial Implications

Name & Title: Chris Leslie, Financial Services Manager (Section 151 Officer)

Tel & Email: 01277 312542/chris.leslie@brentwood.gov.uk

- 7.1 All costs associated with upgrading the access will be met by the applicant. Depending on negotiations and the valuation, the Council may receive a capital receipt from the increase in the property's value as a result of the upgraded access.

Legal Implications

Name & Title: Christopher Potter, Monitoring Officer and Head of Support Services

Tel & Email 01277 312860 / christopher.potter@brentwood .gov.uk

None directly arising from this report.

8. Background Papers (include their location and identify whether any are exempt or protected by copyright)

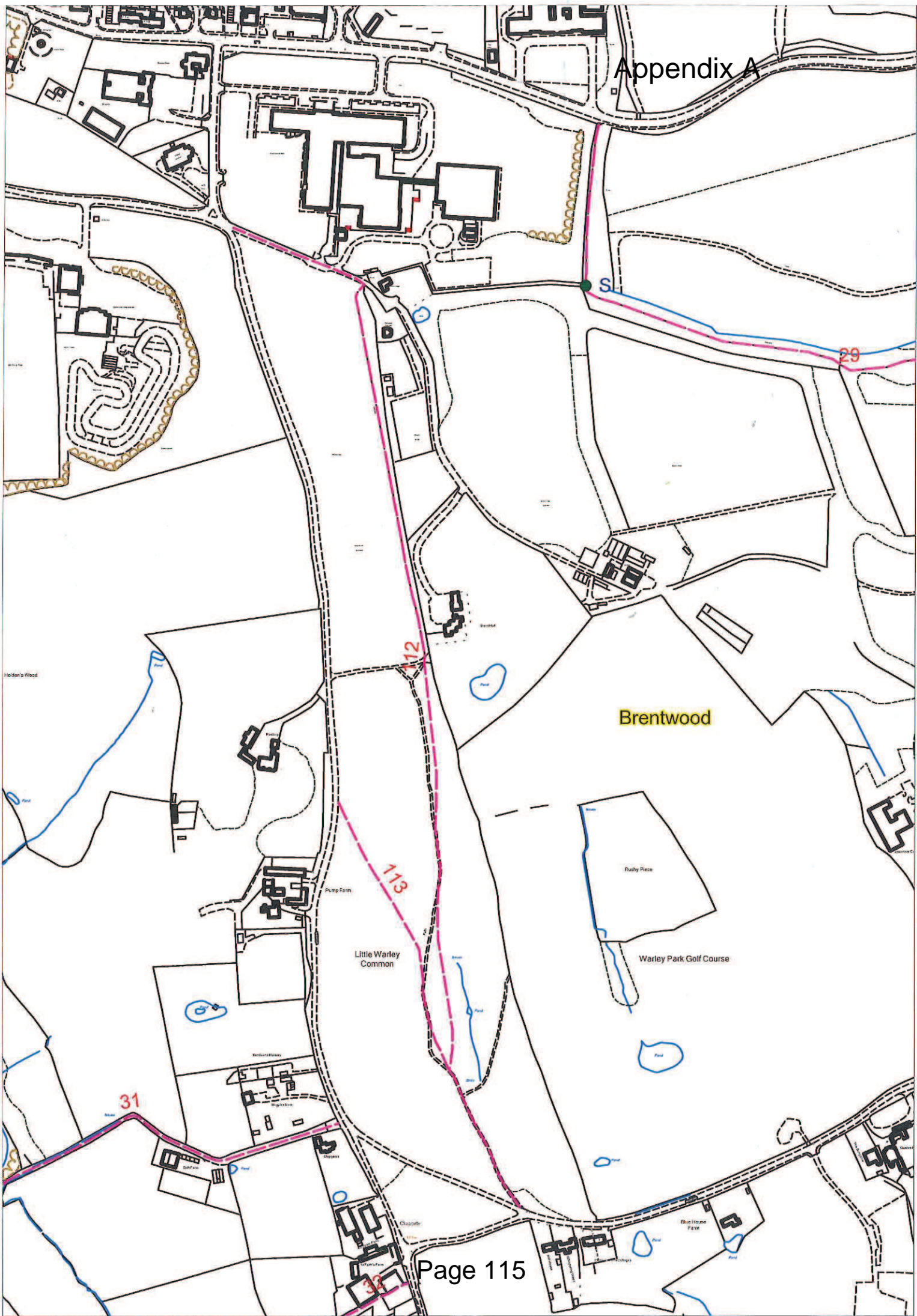
9. Appendices to this report

Appendix A - Location of the existing access

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27 March 2015

Asset and Enterprise Committee

Courage Playing Fields - Shenfield Cricket Club

Report of: *Adrian J Tidbury, Estates and Valuation Surveyor*

Wards Affected: *Shenfield*

This report is: *Public*

1. Executive Summary

- 1.1 This report considers the Courage Playing Fields and the deed of covenant as it relates to the Shenfield Cricket Club (SCC). The Management Agreement recommended, and summarised at paragraphs 4.3 – 4.5 is not a disposal of land but contains terms considered reasonable for the next 60 years.

2. Recommendation(s)

- 2.1 **That delegated authority be granted to the Strategic Asset Manager to negotiate and enter into a management agreement with the Shenfield Cricket Club for the use of the Cricket field as summarised in this report.**
- 2.2 **That delegated authority be granted to the Strategic Asset Manager to negotiate and enter into a lease with the Shenfield Cricket Club in respect of the land used for the provision of the pavilion, Score Box and the practise nets as approved under 14/00836/FUL and as summarised in paragraph 4.7 of this report.**
- 2.3 **That the Business and Town Centres Committee be recommended to add the Courage Playing Fields Car Park to the Council's Off Street Parking Places Order and publish a statutory consultation to include provisions which will achieve the recommendations set out in paragraphs 4.10 to 4.12 of this report.**
- 2.4 **That delegated authority be granted to the Strategic Asset Manager to take legal action to protect the Council's interests in the Courage Playing Fields if the Club do not agree to these terms.**

3. Introduction and Background

- 3.1 The Council received a letter from the agent to Mr E R Courage dated 26th January 1949 detailing the heads of agreement regarding the conveyance of the Courage Playing Fields to the Brentwood Urban District Council.
- 3.2 The Courage Playing Fields passed to the Council by deed of gift dated 27th February 1950 pursuant to section 268 of the Local Government Act 1933, to hold and administer the property for the purposes of Public Open Space, recreation grounds and playing fields.
- 3.3 A second deed of gift dated 5th October 1951 dealt with a smaller piece of land adjacent to the St Mary's School.
- 3.4 The Council has title to this land under registration No EX762070
- 3.5 The Council covenanted to:
- erect and maintain a fence around the well(s), reservoir and windmill pump;
 - allow the SCC to have use of the cricket ground situate upon the property for so long as SCC remains in existence and upon such reasonable terms as have been and as may from time to time be agreed between the Council and the SCC; and
 - will keep the hedges along T boundaries on good order and condition, properly trimmed and the ditches properly cleaned.
- 3.6 On 2nd August 1972, Planning permission was granted for an extension to the cricket pavilion for use as an equipment store by SCC only.
- 3.7 The Council received a letter of complaint from the adjacent Opticians dated 9th April 1996 that SCC had erected a barrier and increased the charges for parking in the car park.
- 3.8 On 31st March 1993 the Leisure Recreation and Arts Committee considered a request from SCC to develop an additional cricket facility on the fields. At the 7th July 1996 meeting of the Committee it resolved to approve the request provided it did not interfere with the use of the field by the St Mary's School and subject to consultation with local residents. At the 26th September meeting of the Committee it stipulated that the additional pitch could only be used once per weekend.

- 3.9 On 24th May 1996 the Council wrote to SCC informing SCC that the land is owned by the Council and that whilst the deed grants the right for the Club to use cricket ground, there were no express rights to develop and therefore they may require the Council's prior consent. The Council wrote seeking clarification to either indicate under what rights they had erected the gates/fences and were charging car parking fees on council land, or to remove all structures, gates, fences from Council land and restore to its previous condition and cease charging for car parking. SCC called to say the fences and gates were only temporary and that SCC does not charge a fee, but seeks a donation.
- 3.10 In 1996 the Council searched its planning records back to 1983 and found no reference to any restrictions on the use of the car park or planning permission for its construction. However, BRE/450/69 set the width of a driveway leading to a car park at 16 feet wide with the permitted development begun on or before 23rd September 1974.
- 3.11 The Council wrote to SCC on 20th June 1996 requesting a meeting with SCC regarding entering into a lease with the Council.
- 3.12 The 18th November Parks and Recreation Committee authorised the drafting of a lease to SCC. In response, SCC's legal advisers advised SCC not to enter into a lease.
- 3.13 In the letter dated 21st December 2005 SCC advised the adjacent vets that it had withdrawn permission for the use of the car park and that wheel clamping was now being used. There are signs currently present attached to the pavilion with the text "**Private car park authorised users only, wheel clamps in use**"
- 3.14 Additional complaints have been received since that time involving legal challenges regarding ownership of the car park and rights of access
- 3.15 Officers of the Council have met with SCC on a number of occasions regarding in particular the siting of the new practise nets which resulted in the recent planning approval.
- 3.16 Whilst planning approval has been granted for the new practise nets the Council as the Landlord has not yet given its approval to SCC to permit the works to take place on its land.

4. Issue, Options and Analysis of Options

4.1 Members will be aware that the relationship between SCC and its neighbours has not been ideal for many years, with little understanding the adjacent residents are not generally aware of the basis on which SCC have the use of the cricket field, the buildings on the land or even the adjacent car park and upon what basis SCC is able to use these facilities.

4.2 The Council proposes to deal with SCC's use of the site in three ways:

- The provision of a Management Agreement fulfilling the aspirations of both the letter dated 26th January 1949 from the agents acting for Mr E R Courage and the deeds of Covenant pertaining to the cricket field.
- A medium term lease of 7 years dealing with the pavilion, score box and practise nets.
- the car park is added to the Council's Off Street Parking Order with restrictions on parking for no longer than 4 hours and no return within four hours, with parking between 9 am to 6pm Monday to Friday.

4.3 **Management Agreement** - The Management Agreement covers the terms of the deed of gift dated 27th February 1950 and of 5th October 1951 and the use of the fields regulated in accordance with the Open Spaces Byelaws of 1983 to which byelaws 13, 14 and 18 apply. It deals with the cricket field only and not the provision of the pavilion, score box, practise nets or car park.

4.4 The agreement sets out the obligations of SCC with respect to the management of the land under the agreement. The salient points are:

- For 60 years or until SCC is dissolved whichever shall occur first.
- To allow access to the cricket ground at all times
- Maintain insurance of the cricket ground
- Maintain, repair, light and clean the cricket ground
- Not assign, underlet or charge any part of the cricket ground

4.5 The Agreement requires insurance to the ground and also covering personal injury or death arising out of or in the course of the use of the ground.

- 4.6 **Lease** - The proposed lease covers SCC's use of the Pavilion, Score box and the practise nets and reflects the fact that they have been provided by SCC. However, they are situated on land in the ownership of the Council and outside the benefits provided by the deeds of covenants.
- 4.7 Officers consider that a medium term lease would be an appropriate Agreement between SCC and the Council and the salient points are:
- Nil rental reflecting the clubs provision of the buildings
 - Tenant responsible for buildings and public liability
 - Permitted use as a cricket club with occasional events consistent with the aims and objectives of SCC
 - SCC to be responsible for the maintenance and repair of the building
 - No service charges to be required
 - SCC to be permitted use of the car park during evening matches after 6 pm and at weeks ends.
- 4.8 **Car Park** - The Council is aware that the use of the car park has been a contentious matter for some time. There are a number of agreements in place to which the Council have been party to concerning charges for parking although the Council receives no income from these agreements. There are notices on site attached to the pavilion suggesting that parking is enforced by SCC with the use of wheel clamping.
- 4.9 Officers propose that the car park be administered in the future through the Council's existing Off Street Parking Places Order and enforced in the same way as the Council's existing mainstream car parks.
- 4.10 The car park would be restricted to 4 hours limited waiting and no return within four hours and on a Monday to Friday 8am to 6pm basis thereby permitting SCC to use the car park, parking space permitting.
- 4.11 The existing agreements between SCC, the Council and car park users be terminated and replaced by the standard contract parking that the Council uses in its current public car parks.
- 4.12 The Ward member has requested that two disabled parking bays be marked within the car park and these could be provided following resurfacing of the car park surface the cost of this work is estimate to be £25,000 and need to be the subject of a future Capital project request.

- 4.13 Officers have now written to SCC providing the basis upon which their use of the Courage Fields will be based and that the Councils approval for the works to the practise nets will be provided on the successful completion of the lease and management agreement.
- 4.14 The provision of the management Agreement and of the proposed lease with the use of the car park will enable all users of this public open space to be clear on the defined use and responsibilities for SCC and of those responsibilities remaining with the Council, consistent with the aspirations set out by the Courage family when the deed of gift was put in place.

5. Consultation

- 5.1 No formal consultation has been undertaken although officers and Ward Members have had meetings with both representatives of SCC and also representatives of the adjacent residents to find an acceptable resolution to all parties concerned.

6. References to Corporate Plan

- 6.1 To work with the local community and voluntary organisations to develop the priorities for community development, raise awareness of activities and promote opportunities for residents,
- 6.2 To increase Community and Voluntary sector activity, initiatives and projects.

7. Implications

Financial Implications

Name & Title: Chris Leslie, Financial Services Manager

Tel & Email: 01277 31254 /christopher.leslie@brentwood.gov.uk

- 7.1 The Council would be responsible for the repairs and maintenance costs of the parking area and the enforcement of parking restrictions. It is anticipated that this will be offset by the additional income generated by the car park.

Legal Implications

Name & Title: Christopher Potter, Monitoring Officer and Head of Support Services

Tel & Email: 01277 312860/christopher.potter@brentwood.gov.uk

- 7.2 The Council has wide powers of land management subject to the relevant statutory provisions and any covenants affecting the land. In this instance the playing fields are public open space and the car park is an ancillary use. While the Shenfield Cricket Club has obtained planning permission it has declined the offer of a lease. The Council may authorise these works under Section 2 Local Authorities (Land) Act 1963 in the proper course of management.
- 7.3 Under the Road Traffic Regulation Act 1984 the Council may provide off-street parking places and may regulate how such off-street parking places are regulated. It may also impose charges for the use of such off-street parking places. The Council is fully entitled to require an off street car park in its ownership to be so regulated. The 1984 Act has a statutory consultation procedure.
8. **Background Papers** (include their location and identify whether any are exempt or protected by copyright)

9. Appendices to this report

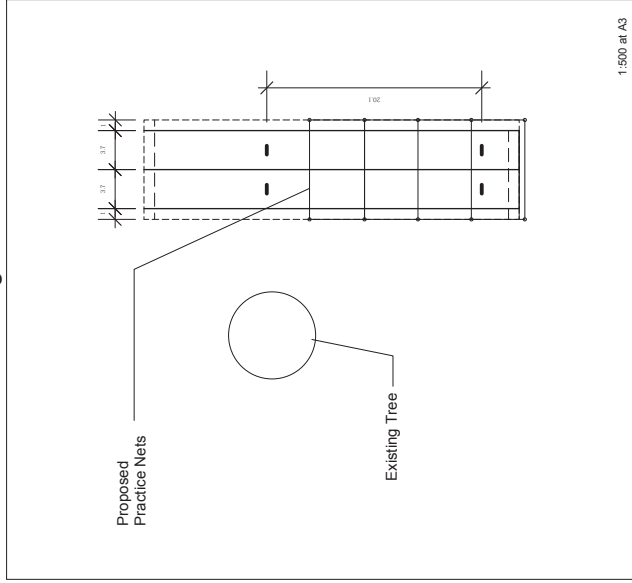
Appendix A - Plan

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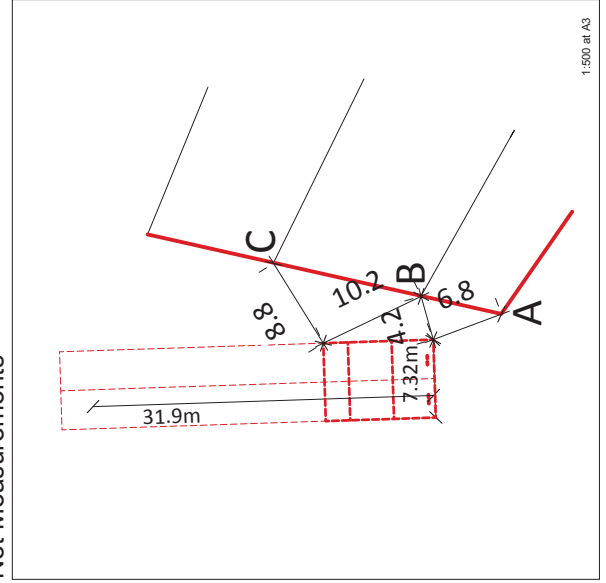
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Practice Nets Positioning

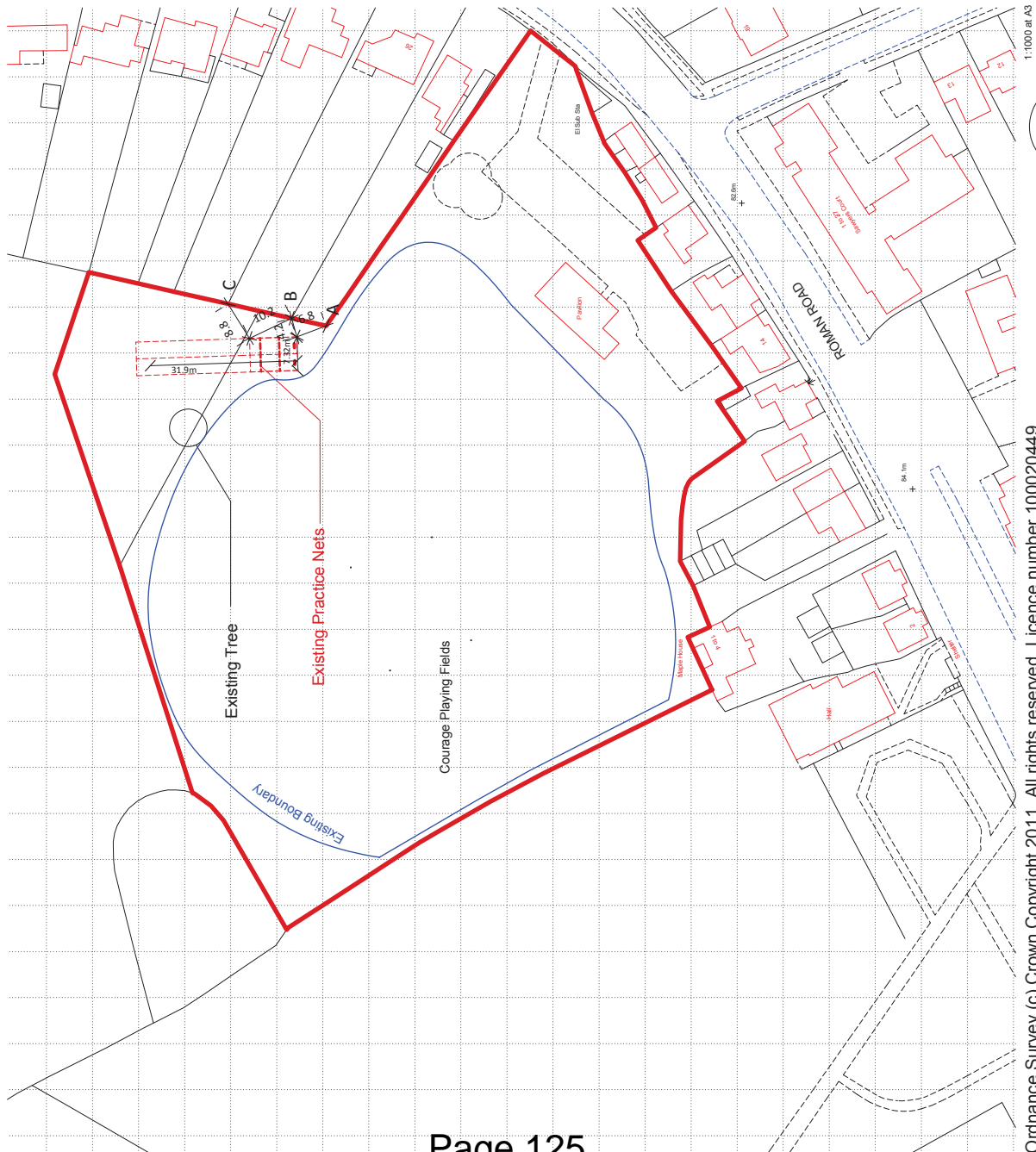


1:500 at A3

Net Measurements



1:500 at A3



1:1000 at A3

Note:

this is a preliminary design study based on the level of information available.
 Subject to measured survey, legal, structural, soil investigation, utilities survey and M&E consultation together with local authority negotiation.

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Members Interests

Members of the Council must declare any pecuniary or non-pecuniary interests and the nature of the interest at the beginning of an agenda item and that, on declaring a pecuniary interest, they are required to leave the Chamber.

- **What are pecuniary interests?**

A person's pecuniary interests are their business interests (for example their employment trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and asset including land and property).

- **Do I have any disclosable pecuniary interests?**

You have a disclosable pecuniary interest if you, your spouse or civil partner, or a person you are living with as a spouse or civil partner have a disclosable pecuniary interest set out in the Council's Members' Code of Conduct.

- **What does having a disclosable pecuniary interest stop me doing?**

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not :

- participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business or,
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

- **Other Pecuniary Interests**

Other Pecuniary Interests are also set out in the Members' Code of Conduct and apply only to you as a Member.

If you have an Other Pecuniary Interest in an item of business on the agenda then you must disclose that interest and withdraw from the room while that business is being considered

- **Non-Pecuniary Interests**

Non –pecuniary interests are set out in the Council's Code of Conduct and apply to you as a Member and also to relevant persons where the decision might reasonably be regarded as affecting their wellbeing.

A 'relevant person' is your spouse or civil partner, or a person you are living with as a spouse or civil partner

If you have a non-pecuniary interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

Asset and Enterprise Committee Terms of Reference

General Powers of Committees

This scheme of delegation sets out the functions of the Council to be discharged by its Committees and Sub- Committees and includes the terms of reference of statutory and non statutory bodies set up by the Council.

Each committee or sub committee will have the following general powers and duties:

- (a) To carry out the duties and powers of the Council within current legislation;
- (b) To comply with the Council's standing orders and financial regulations;
- (c) To operate within the budget allocated to the committee by the Council.
- (d) To guide the Council in setting its policy objectives and priorities including new initiatives, and where appropriate make recommendations to Council
- (e) To develop, approve and monitor the relevant policies and strategies relating to the Terms of Reference of the Committee;
- (f) To secure satisfactory standards of service provision and improvement, including monitoring of contracts, Service Level Agreements and partnership arrangements;
- (g) To consider and approve relevant service plans;
- (h) To determine fees and charges relevant to the Committee;

Asset and Enterprise Committee

The functions within the remit of the Asset and Enterprise Committee are :

- 1) To manage any lands or property of the Council and provide strategic property advice relating to the Council's Housing Stock

The Council's Asset Management Plan

- 1) The acquisition and disposal of land and property and taking of leases, licenses, dedications and easements.

- 2) The granting variation renewal review management and termination of leases licenses dedications and easements
- 3) Promoting the use of Council owned assets by the local community and other interested parties.
- 4) To manage any lands or property of the Council;
- 5) To include properties within the Council's Asset Management Portfolio including Halls etc.
- 6) To take a strategic approach to asset management, ensuring that the use of all of the Council' s Property assets achieves Value for Money and supports the achievement of the Councils corporate priorities.
- 7) To review the Corporate Asset Management Plan annually.
- 8) The acquisition of land in advance of requirements for the benefit, improvement or development of the Borough.
- 9) Disposal of land (including by lease) surplus to the requirements of any Panel or Committee.
- 10)Appropriation of land surplus to the requirements of a Committee.
- 11)Promote the use of Council owned assets by the local community and other interested parties where appropriate
- 12)Property and asset management, including acquisitions and disposals not included in the approved Asset Management Plan.

Enterprise

- 1) To take a strategic approach to commercial activity, both existing and new, ensuring the council realizes revenue generation opportunities and supports the achievement of the Council's corporate priorities.
- 2) Promoting a culture of entrepreneurialism and building the required skills and capacity.
- 3) To consider, and approve, business cases and commercial business plans for commercial activity.