

Cabinet Member Delegated Decision 06 August 2019

Report title: Land Acquisition in the Camberwell Area

Wards: All

Report Authorised by: Bayo Dosunmu, Strategic Director, Resident Services

Portfolio: Cllr Andy Wilson, Cabinet Member for Finance and Performance

Contact for enquiries:

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Report summary

The report seeks approval for an agreement to secure funding of £20.85m towards the purchase of a building for the purposes of providing temporary accommodation (TA) to homeless households in satisfaction of the Council's statutory duties under Part VII of 1996 Housing Act.

The purchase of the premises would ensure that the property is secured to provide much needed local and affordable TA to a large number of families.

Finance summary

The proposed capital funding requirement will be £20.85m and will be funded by:

- (a) Borrowing - £14.595m
- (b) Right to Buy (RTB) 1-4-1 Receipts contribution - £6.255m

Further detail on the finance is contained in the exempt Part II report.

Recommendations

- (1) To purchase the freehold of the building for use as Temporary Accommodation and
- (2) To allocate £20.85m for purchase and associated acquisition costs to be funded from retained Right to Buy receipts (£6.255m) and capital borrowing (£14.595m).

Reasons for Exemption from disclosure

The accompanying part II report is exempt from disclosure by virtue of the following Paragraphs of schedule 12A to the Local Government Act 1972:

Paragraph Two: Information relating to any individual.

Paragraph Three: Information relating to the financial or business affairs of a particular person (including the authority holding that information).

Context

- 1.1 Lambeth has, along with the rest of London, seen the number of households in TA rise steadily since 2013. There are presently over 2200 households now occupying TA, 85% of which are families with children, resulting in a net cost to the Council of approximately £10m annually. The costs are largely attributed to a shortage of affordable units for long term lease in the PRS and an increased reliance and usage on expensive nightly paid “annexe” accommodation. There are over 1200 households occupying annexe accommodation at an average annual cost to the Council of about £7,000 per household/unit.
- 1.2 Whilst Lambeth is one of the best performing Councils in London in preventing homelessness (over 1400 preventions were made during 2015/16) this alone will not be enough to substantially reduce the number of households in TA and the associated costs it brings. Furthermore, with more welfare changes being imposed the demand on homelessness services is likely to increase over the next 2-3 years.
- 1.3 Ongoing pressures will mean the Council will need a large supply of TA for the foreseeable future. It is clear however that in order for this to be financially sustainable, and to reduce budget pressures in the long term, there needs to be an increase in the number of both affordable and Council owned TA.
- 1.4 Reducing TA and tackling homelessness remains one of the Council’s key priorities and supports Lambeth Borough Plan outcomes in *Reducing inequality* and to *prevent homelessness, placing people in suitable, affordable, permanent homes as quickly as possible*.
- 1.5 There is a significant risk to the Council if it fails to pursue one of the options now on offer as not only would it have a duty to have to transfer a large number of families into what would be substantially more expensive TA, potentially out of borough, but it would also require significant resource cost to do so. Moving households to alternative TA encourages legal challenge from individuals which could come at great expense to the Council.

2. Proposal and Reasons

- 2.1 Lambeth’s TA strategy’s main objectives are in the short term to maintain business as usual by preventing homelessness, managing TA occupation levels and reducing costs. Whilst in the longer to develop an ambitious Build, Invest and Buy (BIB) programme in an attempt to secure a large number of more affordable Council owned and managed units of TA.
- 2.2 As part of the BIB strategy Council has to date secured approximately 270 units of TA though a number of initiatives including an investment of £30m into a Social Investment Fund. There are a further 200 units in the pipeline through a variety of other purchase and redevelopment opportunities.
- 2.3 The property in question is one in which the Council has an existing relationship with, but with limited security of tenure and as such, it is imperative, to secure the long term interest of the Council, that the freehold is acquired.
- 2.4 The property originally built in the late 1960s extends to three storeys with rooms on the ground floor typically measuring around 279 sq ft and those on the second floor around 185 sq ft. The property benefits from triple glazing and gas central heating. It is generally in reasonable condition and future repairs and maintenance have been identified in the form of a Planned Preventative Maintenance Schedule undertaken by the Council’s agents.

- 2.5 A valuation of the property was carried out by the Council's agents, Lambert Smith Hampton on 12th November 2018 and details of their valuation report are included in the exempt Part II to this report.
- 2.6 Following a full and thorough financial appraisal it is considered that the best financial fit for the Council in this instance would be to purchase the freehold of the property rather than a long term lease

3. Finance

- 3.1 This acquisition will be financed by the Council's general fund and the related future income and expenditure will be accounted for within the Council's general fund.
- 3.2 The report proposes the investment of a sum of £20.85m comprising the purchase price of £18m, a £2.7m allowance for stamp duty land tax and a £150,000 allowance for agents, legal fees and surveys. The proposed capital funding requirement will be funded by borrowing (£14.595m) and right to buy receipts (£6.255m). The right to buy funding comprises 30% of the total cost which is the maximum amount permitted.
- 3.3 Borrowing has been assumed to incur finance cost at a rate of 3% which would need to be funded alongside repayment of the principal borrowing. For this purpose, it has been assumed that the existing revenue budget used to fund the annual licence cost to the Council less an appropriate allowance for management and maintenance of the premises and servicing the accommodation will be used for this purpose. The Council will no longer incur licence fees in the event of an acquisition, but will take on the management and maintenance of the premises and services provision which are currently funded by the existing owner. Details of the payback period adopting these assumptions is included at part II of the report.
- 3.4 At the end of the payback period there would be an ongoing saving to the Council's general fund in the form of the licence fees that the Council is no longer required to pay less an allowance for management and maintenance of the premises and cost of provision of cleaning and security services which the Council would take on at the time of acquisition. The Council will also own an asset of significant value which it would not have under a licence or lease scenario.
- 3.5 In the event that the Council leased rather than acquired the premises it is expected that the existing revenue budget used to fund the annual licence cost could be used to fund the annual lease cost. The lease arrangement could result in a surplus or deficit over and above existing revenue budgets having regard to the likely annual lease rent, the cost of management and maintenance of the premises and services provision. It is however more likely to result in a deficit.
- 3.6 Under the lease arrangement the Council would not have the benefit of acquiring a valuable asset, nor would it derive the eventual saving after borrowing has been repaid.
- 3.7 In the event that the Council neither acquires nor leases the premises and another 3rd party acquired the premises it is expected that alternative arrangements for the existing occupants would incur a higher annual revenue cost, resulting in further pressure on existing revenue budgets.
- 3.8 If the Council were not to acquire the premises, this would require an additional revenue budget of £200,000 per annum to fund a more expensive alternative, whereas acquiring the premises would require additional revenue budget of a similar amount to fund repayment of the capital borrowing.

Under the latter approach however the Council would have acquired an asset with the potential for capital growth.

4. Legal and Democracy

- 4.1 The Council's Constitution provides that the authority to acquire or dispose of property or land over £10m is delegated to the Cabinet Member for Finance and Performance in consultation with the Leader.
- 4.1 Section 120 of the Local Government Act 1972 authorises local authorities to acquire land by agreement for any of their functions under that Act or any other enactment whether the land is situated within or outside their area.
- 4.2 Section 1 of the Homelessness Act 2002 places a duty on local housing authorities to have a Homelessness Strategy which is a strategy formulated for the purpose of preventing homelessness in its district and securing that sufficient accommodation is and will be available for people in its district who are or who may become homeless.
- 4.3 Under Part VII the Housing Act 1996 the Council is under various duties to arrange for temporary accommodation to Homeless Applicants.
- 4.4 The purpose of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE"), is to preserve continuity of employment and to safeguard employment rights of all employees whose employment transfers to a new employer as a result of a relevant transfer.
- 4.5 In brief TUPE will apply where there is a transfer of a business involving the transfer of an "economic entity" that retains its identity upon transfer, or when there is a service provision change under which services are either contracted out or brought back in-house.
- 4.6 There is an obligation under TUPE to inform and consult with trade unions in good time before a transfer takes place.
- 4.7 In reaching decisions on these matters, the Cabinet members are bound by the general principles of administrative law. Lawful discretions must not be abused or fettered and all relevant considerations must be taken into account. No irrelevant considerations may be taken into account, and any decision made must not be such that no reasonable authority, properly directing itself, could have reached.
- 4.8 Authority to acquire or dispose of property in the core or non-core estate or any land or any other asset is subject to approval from the Cabinet Member for Finance and Performance in consultation with the Leader of the Council If the value is greater than £10m
- 4.9 This proposed key decision was entered in the Forward Plan on 28 January 2019 and the necessary 28 clear days' notice has been given. In addition, the Council's Constitution requires the report to be published on the website for five clear days before the proposed decision is approved by the Cabinet Member. Any representations received during this period must be considered by the decision-maker before the decision is taken. A further period of five clear days - the call-in period – must then elapse before the decision is enacted. If the decision is called-in during this period, it cannot be enacted until the call-in has been considered and resolved.

5. Consultation and co-production

5.1 Not required for the purposes of the purchase of this property.

6. Risk management

6.1 The risk of legal challenge and associated costs which would be incurred in attempting to move households would be mitigated if the property was secured

7. Equalities impact assessment

7.1 An Equalities Impact Assessment has previously been completed for clients in TA to consider the impacts of transferring and discharging duty and “out of borough” TA placements. The policies contain sufficient safeguards to ensure that the Council doesn’t displace families who are most vulnerable and there are thorough suitability assessments undertaken.

8. Community safety

8.1 None

9. Organisational implications

9.1 Environmental

None.

9.2 Staffing and accommodation

The current owner employs 5 staff to provide management, cleaning and security services. Eligibility for transfer under TUPE will be investigated as part of due diligence.

9.3 Procurement

None.

9.4 Health

Now more than ever is it essential that we help residents remain in their homes – key to this will be targeting reactive and prevention services to those households most at risk of homelessness. If this is no longer possible then we will assist in helping households into good quality accommodation most likely to be in the private sector. Housing and health are both intricately and intrinsically linked - having a good quality home and living in good housing conditions are key to good health and well-being.

10. Timetable for implementation

Activity	Date
Exchange of contract to purchase	5 th August 2019

Resolve outstanding TUPE issues	30 th August 2019
Put in place management and FM arrangements for property post completion	28 th August 2019
Completion of purchase	30 th August 2019

Audit trail				
Consultation				
Name/Position	Lambeth directorate/division or partner	Date Sent	Date Received	Comments in para:
Councillor Andy Wilson	Cabinet Member, Finance and Performance		26.07.19	
Bayo Dusonmo, Strategic Director Resident Services	Resident Services	15/07/19	26.07.19	
Greg Carson	Legal & Governance	04.07.19	04.07.19	4.1 – 4.8
Wayne Chandai , Democratic Services	Legal and Governance	08/07/19	15/07/19	
Andrew Ramsden	Finance and Resources	3/07/18	5/07/2018	3.1 3.4 Finance summary
Councillor Jack Hopkins	Leader of the Council		26.07.19	
Councillor Paul Gadsby	Cabinet Member: Housing	15/07/19	25.07.19	
Darren Levy	Interim Director Housing Services	04/07/19	05/07/19	

Report history	
Original discussion with Cabinet Member	26.01.19
Part II Exempt from Disclosure/confidential accompanying report?	Yes
Key decision report	Yes
Date first appeared on forward plan	28 January 2019
Key decision reasons	Expenditure, income or savings in excess of £500,000
Background information	Homelessness Act 2002 Housing Act 1996
Appendices	None

I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board and taken account of their advice and comments in completing the report for approval

Signature _____ Date _____

Candida Thompson - Assistant Director Housing Needs

I confirm I have consulted the relevant Cabinet Members, including the Leader of the Council (if required), and approve the above recommendations:

Signature _____ Date _____

Cllr Andy Wilson - Cabinet Member for Finance and Performance

Any declarations of interest (or exemptions granted):

Issue n- /a

Interest declared