 <p><b>Brent</b></p>	<p align="center"><b>Cabinet 24 August 2015</b></p> <p align="center"><b>Report from the Strategic Director of Regeneration and Growth</b></p>
<p align="right">Wards affected All</p>	
<p><b>Disposal of loft spaces</b></p>	

\*Appendix 1 is not for publication.

## **1.0 SUMMARY**

- 1.1 This report seeks approval to proceed with the disposal of the Council's loft spaces within the Housing Revenue Account (HRA) at 72b Purves Road, London NW10 5TB, 38b Wendover Road, London NW10 4RT and 31b Sellons Avenue, London NW10 4HJ, for capital receipts.
- 1.2 The Constitution currently delegates powers in relation to the disposal of property to the Strategic Director, Regeneration and Growth and the Operational Director of Property and Projects. The report seeks approval from Members to delegate powers to the Strategic Director, Regeneration and Growth where these powers apply to enter into property transactions for un-demised areas, such as the disposal of loft spaces and basements. Such transactions require the granting of new rights under deeds of variation or new leases, but which are generally not of significant monetary value in themselves.
- 1.3 While the number of loft and basement sale enquiries per year from leaseholders has historically been relatively low, the last few years have seen a marked increase in the number of applications. The length of time it takes to obtain Member approval for such disposals can affect the number of applications that actually progress through to completion. Ideally, such transactions should complete within 3 months of the valuation date. However, various factors such as the length of time it takes to negotiate the premium and the requirement for Member approval can contribute to such disposals falling through.

- 1.4 Therefore, delegated powers for such disposals would ensure that opportunities which are in the best interest of the Council can be progressed within a timely and efficient manner without the need for further Cabinet approval on each and every case.

## **2.0 RECOMMENDATIONS**

- 2.1 That Members approve the disposal of the Council's loft spaces, as set out in paragraph 3.8, for capital receipts.
- 2.2 That Members delegate authority to the Strategic Director, Regeneration and Growth to finalise and agree the terms of the loft space disposals as set out in paragraph 3.8 in accordance with the premiums set out in appendix 1.
- 2.3 That Members agree to waive the limitation of the Officer delegated authority limit where this applies to the disposal of undemised areas such as loft and basement sales, in order that the Strategic Director, Regeneration and Growth may, in consultation with the Lead Member for Regeneration and Growth, approve such disposals. In such transactions, the leasehold term that is required to be granted exceeds the delegated authority limit, but the value of the premium is generally relatively low. Such approvals would be subject to the value of the premium falling within the delegated authority limit.

## **3.0 DETAIL**

- 3.1 The Council receives a number of enquiries from leaseholders in street properties within the HRA wishing to acquire the un-demised areas of land or property above or neighbouring their flats in order to extend their existing flats. The number of enquiries can vary from one year to the next but generally does not exceed 10-15 enquiries per year.
- 3.2 No formal written policy or framework is currently in place to deal with these types of leaseholder enquiries. Instead, each case is reviewed on a case-by-case basis and in the context of the practical, legal and technical reasons in relation to each property. The Council's general approach is set out below.
- 3.3 The Council is not legally required to dispose of areas of land and property which are not demised, such as loft spaces and basements, to adjoining leaseholders. However there is the potential to generate capital receipts for the Council from these types of disposals and potentially allow development to take place to increase the number of habitable rooms in the borough.
- 3.4 When an enquiry is received from a leaseholder wishing to acquire an un-demised area of land or property, the Council will consult with Brent Housing Partnership (BHP), who manages the properties, about the feasibility of the disposal and to set out the procedure and timescale for

investigating whether we would be agreeable to the sale to the leaseholder.

- 3.5 The Council may agree in principle to the disposal except in the case where we would wish to retain the un-demised area of land or property within the HRA, or if there are other practical or technical reasons against the disposal. It must be emphasised that each case must be viewed on its own facts and merits because of the legal and technical complexities inherent in some property ownership structures.
- 3.6 The Council or BHP will appoint an external Chartered Surveyor to carry out a valuation on behalf of the Council. The valuation will assess the amount of premium we would seek for the disposal of the un-demised area of land or property. The valuation will take into account any potential development value. In addition to the premium payable, the leaseholder will be required to pay any reasonable legal or surveyor fees incurred by the Council in relation to the transaction.
- 3.7 If the premium and costs being sought are agreed with the leaseholder and the necessary approvals obtained by Officers, a deed of variation or new lease will be executed which will include the un-demised area of land or property in the new lease. The disposal is conditional on the leaseholder bearing the sole responsibility and risk for obtaining the necessary licence for alterations, planning permission, building regulations and any other consent that may be necessary for development.
- 3.8 The subject flats are:
- Loft space above first floor flat at 72b Purves Road, London NW10 5TB
  - Loft space above first floor flat at 38b Wendover Road, London NW10 4RT
  - Loft space above first floor flat at 31b Sellons Avenue, London NW10 4HJ
- 3.9 The properties comprise terrace houses within mature and well-regarded residential locations that have been converted to provide two self-contained flats, one at ground floor and one at first floor levels. The proposed loft conversions are immediately over the leaseholders' first floor flats. The Council owns the freehold interest in the properties.
- 3.10 In the case of the subject flats, Council officers have reviewed the cases with BHP and have agreed in principle to the disposal of the loft spaces with the leaseholders, subject to agreeing the final terms.
- 3.11 The basis of valuation, which is a standard valuation approach, is as follows. Considering that a potential loft conversion is likely to increase the value of the flat, the resulting estimated net increase in value

(additional value arising from the conversion less development costs) is divided between the parties under negotiation to arrive at a valuation for the disposals. The premiums being sought by the Council for the loft spaces in relation to the subject flats, which have been agreed by the leaseholders on a without prejudice and subject to contract basis, are shown in appendix 1.

- 3.12 It is assumed that the leaseholders have satisfied themselves that full planning consent would be available for their proposed use and the Council's valuations are on that basis.
- 3.13 The deeds of variation or new leases will set out the new ownership details and the responsibility for the management and maintenance of the roofs and loft spaces under the new arrangements. It is generally a condition of sale that when a loft area under the main roof is sold the purchaser takes on the full responsibility of the whole roof.
- 3.14 The proposed loft spaces are entirely over the subject flats and there is little risk posed to the occupiers of the ground floor flats. However, it will be necessary for the leaseholders to obtain the Council's or BHP's consent for any technical work and the precise construction detail of any redevelopment, particularly where such work may have an impact on the ground floor flats.
- 3.15 The leaseholders of the subject flats will be required to obtain all statutory consents prior to works, including full development licences and indemnity for the Council to complete the works at the leaseholders' expense in the event of default.
- 3.16 The leaseholders will also be required to obtain the Council's consent (as landlord) for any alterations or change of use. The Council will review such applications in conjunction with BHP and in accordance with existing policies in relation to property management. This is to ensure that there is no adverse impact to the infrastructure of the subject buildings or other occupiers.

#### 4.0 **Options Appraisal**

##### *Recommended option*

Option 1 – Dispose of the loft spaces to the first floor leaseholders (regarded as special purchasers) at an open market valuation, for a capital receipt

- 4.1 The loft spaces are currently vacant and can only be accessed through the first floor flats that are privately owned and this is therefore a strong factor in favour of the disposals.
- 4.2 The disposals will provide capital receipts for the Council and this is a strong factor in favour of the disposals.

- 4.3 Regular maintenance expenditure on specific building elements will be passed to the leaseholders and this is a strong factor in favour of the disposals.

*The discounted options are shown below*

Option 2 – Do nothing

- 4.4 The current loft spaces are not being utilised by the Council. The disposal of the loft spaces will provide for additional habitable rooms within the borough if the purchasers subsequently develop the loft spaces. Otherwise the loft spaces will remain vacant and unused.

4.5 Option 3 - Open market sale

Not applicable because the loft spaces can only be accessed by the leaseholders of the first floor flats and could not be reasonably sold to any other purchaser. However, the premium being sought is based on an open market value and therefore satisfies the best consideration requirement.

## **5.0 FINANCIAL IMPLICATIONS**

- 5.1 The estimated gross capital receipts on the disposals are given in Appendix 1.
- 5.2 There is no annual rent loss to the HRA under the proposal because no rent is being received on the vacant loft spaces.
- 5.3 The Council's reasonable transaction costs for the disposals are to be covered by the leaseholders.
- 5.4 The Council's general policy is that receipts arising from the disposal of land and properties are used to support the overall capital programme.

## **6.0 LEGAL IMPLICATIONS**

- 6.1 Under Section 123 of the Local Government Act 1972 the Council has a general power to dispose of properties including by way of the sale of the freehold or the grant of a lease. The essential condition is that the Council obtains (unless it is a lease for 7 years or less) the best consideration that is reasonably obtainable.
- 6.2 Disposal at market value to the leaseholders of the first floor flats will satisfy the best consideration requirement.
- 6.3 Where the leasehold flats are extended by loft spaces then the parties execute a deed of variation to the existing leases or a new lease is drawn up. The terms of the existing leases will not be extended.
- 6.4 The proposed transactions are 'without prejudice' and 'subject to contract'.

6.5 In most cases, the value of the premium being sought for the disposal of un-demised areas would be within the Officer delegated authority limit. However, the term of the lease being granted under a new lease or deed of variation in such cases would exceed the limit. Therefore Member approval is being required for each and every case on a technicality rather than on the monetary significance of the transaction.

6.6 It is therefore proposed that Members approve to waive the Officer delegated authority limit where this applies to the granting of a new lease or deed of variation in relation to the disposal of un-demised areas, such as loft and basement spaces. This will enable Officers in consultation with the Lead Member for Regeneration and Growth to approve such disposals. Such approvals would be subject to the value of the premium falling within the delegated authority limit.

## **7.0 EQUALITY AND DIVERSITY IMPLICATIONS**

7.1 There are no negative equality and diversity implications indirectly or directly arising from this proposal because the loft spaces being sold are unused and vacant and can only be accessed via the leaseholders' first floor flats.

## **8.0 STAFFING/ACCOMMODATION IMPLICATIONS**

8.1 As per main body of the report.

## **9.0 ADDITIONAL INFORMATION**

Appendix 1: Valuation and premium [below the line]

Appendix 2: Loft plans

### **Contact Officers**

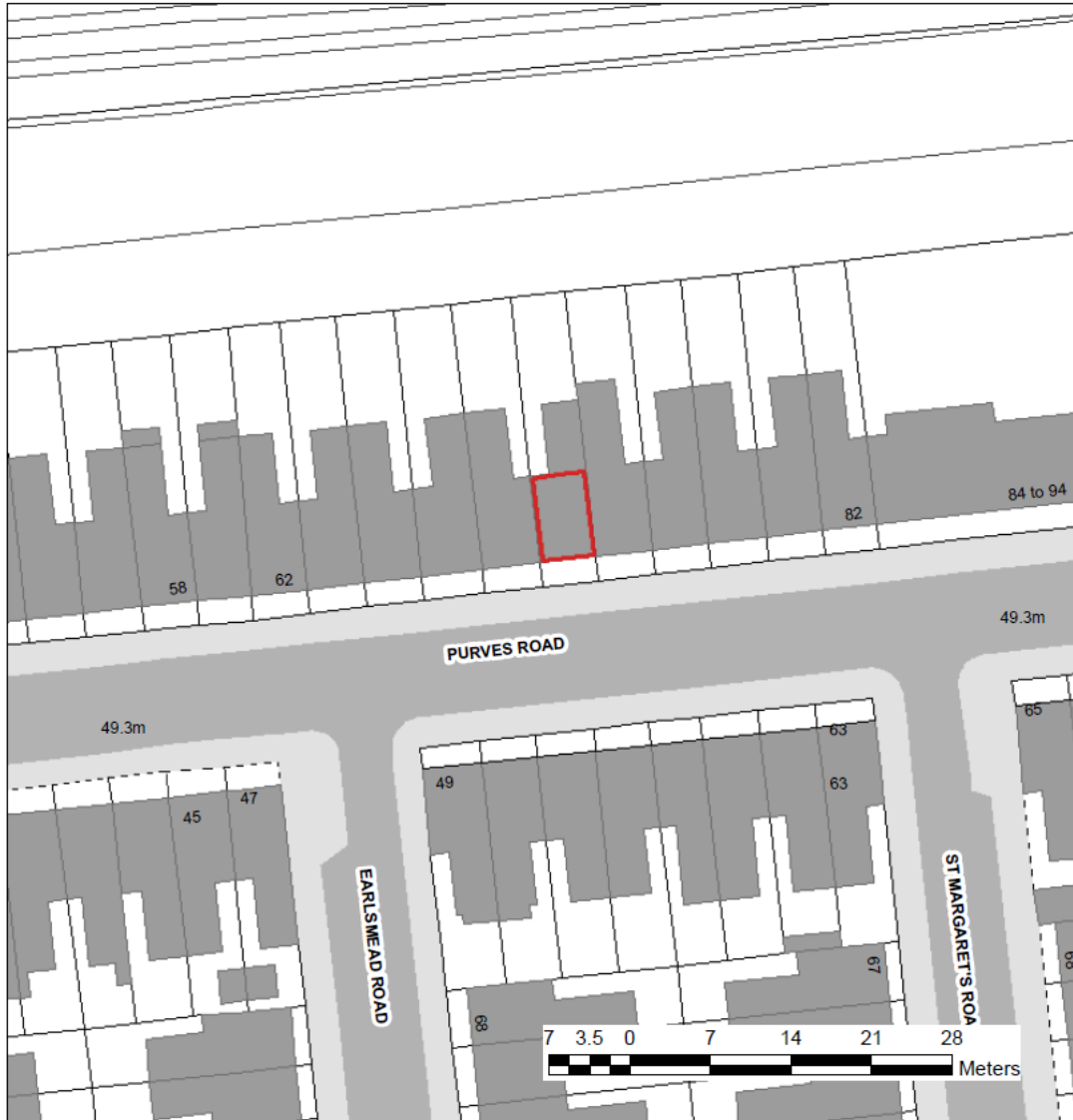
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Appendix 2: Loft plans (indicative)

# Loft Space, 72 Purves Road, London, NW10 5TB



**Brent**

**1:500**

Plan to stated scale if printed at A4.

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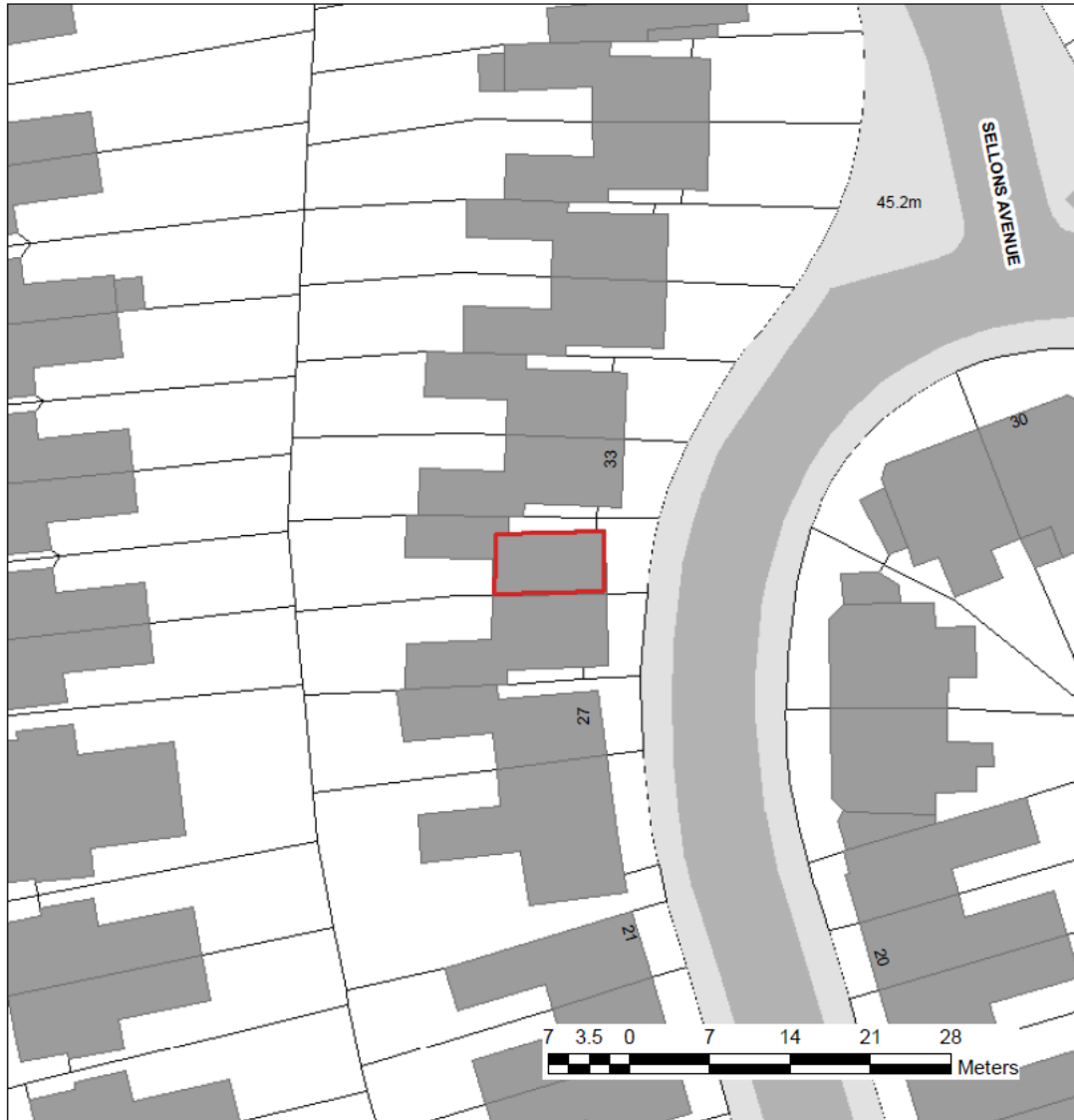
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NORTH



# Loft Space, 31 Sellons Avenue, London, NW10 4HJ



**1:500**

Plan to stated scale if printed at A4.

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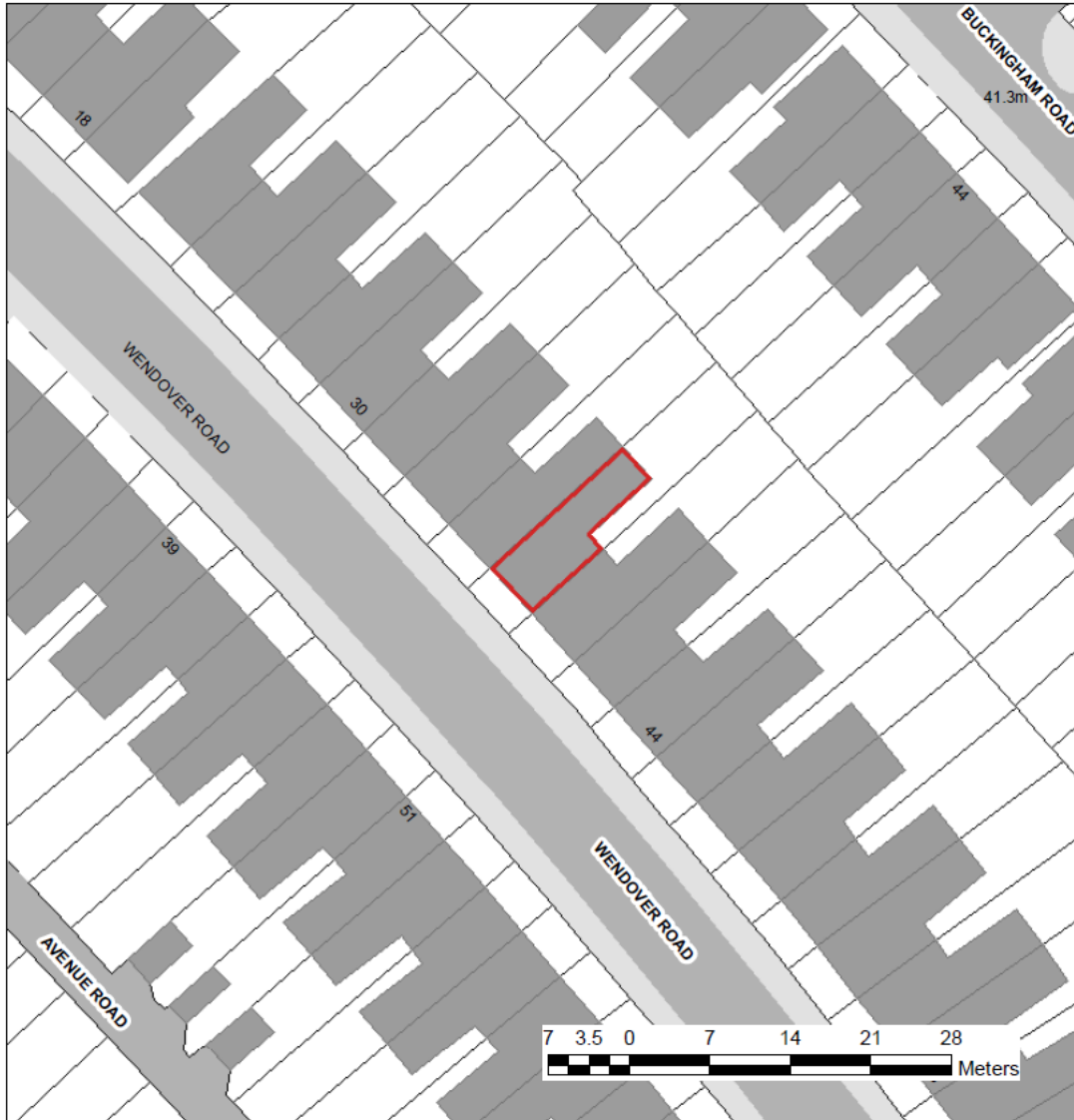
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# Loft Space, 38 Wendover Road, London, NW10 4RT



**Brent**

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