



Executive
11th December 2006

**Report from the Director of
Housing & Community Care and
Director of Finance &
Corporate Resources**

For Action

Wards Affected:
Brondesbury Park, Dudden Hill,
Kenton, Kilburn, Queens Park,
Wembley Central,

**Approval of Local Authority Site Disposals for Non HRA
Housing & Social Care PFI Project**

Forward Plan Ref: H&CC-0607-24

Appendices to this report are not for publication. as they contains the following category of exempt information as specified in the Local Government Act 1972, namely:

Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

1.0 Summary

- 1.1 This report recommends the disposal of Council properties to the Brent Coefficient Consortium (the Consortium) in order to develop the sites to provide housing and residential accommodation under the Council's Non HRA Housing & Social Care PFI project. Disposal of these Council properties is recommended in two tranches and approval for the disposal of properties identified in the first tranche is required to be made by end of December 2006. This allows the Consortium to commence with securing planning approval for development schemes on these sites in order to achieve financial close on the PFI contract with the Council by end of July 2007. The report also asks members to agree to indemnify the Consortium in respect of its abortive development costs in certain cases where the Council gives and then later withdraws its approval of sites to be included in the scheme.

2.0 Recommendations

That the Executive:

- 2.1 Authorises the Head of Property & Asset Management to negotiate and arrange for the disposal of properties identified in this report for disposal under Tranche 1 and 2 (see paragraphs 3.8 and 3.9) to the Brent Coefficient Consortium at market value (save for the Melrose House and Homelea House sites which are to be disposed of at nil value), for the purposes of housing and residential development under the Council's Non HRA Housing & Social Care PFI project provided that any future changes to the valuations stated in Appendix 3 to this report, based on external verification, do not alter the valuations by more or less than 10% (save in respect of the Melrose House and Homelea House sites). The disposal of Melrose House is subject to rehousing the residents in alternative accommodation, the form of which is subject to ongoing consultation.
- 2.2 Notes that the Director of Housing & Community Care in consultation with the Lead Member will approve each development site being brought forward by the Consortium in accordance with the Project Agreement and will agree the terms of the affordable housing and social care requirements for each site.
- 2.3 Agrees that the Brent Coefficient Consortium is re-imbursed for reasonable development costs which have been incurred by it in respect of sites which have been agreed by the Council and the Consortium to be included in the project but in relation to which the Council subsequently withdraws agreement unreasonably.
- 2.4 Authorises the Director of Housing and Community Care to agree the final terms of this abortive cost indemnity subject to the approval of the Borough Solicitor.

3.0 Detail

3.1 Background

The Brent Non HRA Housing & Social Care Private Finance Initiative (PFI) project allows the Council to deliver the additional affordable housing and the re-provision of accommodation for people with learning disabilities, using £26.3m worth of PFI "credits" awarded by the Department for Communities and Local Government (DCLG).

- 3.2 The Executive appointed the Brent Coefficient Consortium as the preferred bidder for the Non HRA Housing & Social Care PFI Project on 13th October 2006, and authorised the Director of Housing & Community Care to enter into detailed negotiations with the Consortium in respect of the delivery of:
 - Up to 300 affordable homes
 - Up to 200 dwellings for letting to homeless households at market rents
 - Up to 20 registered care homes places
 - Up to 15 supported living units
 - Up to 15 respite care beds

- 3.3 Legal and commercial close is scheduled for 30th March 2007, with financial close being anticipated to be achieved by the end of July 2007. Recommendations on the award of the contract to the Consortium will need to be presented to the Executive in February 2007, and if the Consortium is appointed, a final business case will need to be submitted to the DCLG by the end of February 2007. Following the contract award (if made), there will be a mandatory 10 day standstill period before any Contract can be entered into. The Council and the Consortium are, in accordance with the Project Agreement, required to agree the sites to be included in the project but in order to meet the timetable indicated above the Council and the Consortium need to jointly agree the sites which are capable of delivering the first 250 dwellings by December 2006, to allow the Consortium to proceed with securing planning approval for these sites by the Financial Close deadline. The PFI Project Board would be the appropriate forum for discussion by the Council of the sites being put forward but it will ultimately be the Director of Housing and Community Care's decision pursuant to his delegated powers.
- 3.4 The Consortium has identified two third party private sector sites which are capable of delivering around 200 dwellings under a mixed tenure scheme. In addition the Consortium has one site in ownership which can provide around 80 dwellings. It is important to note that although the Consortium have identified these sites the number of affordable dwellings they will be able to achieve on these sites will be determined by the unit and tenure mix that will be permitted under the planning process. Given this, the Consortium will still need to identify sufficient sites from their development pipeline (which are mainly private third party sites) to ensure that the overall total affordable housing and residential care units can be delivered.
- 3.5 Upon selection of sites for inclusion within the project the Consortium will begin to incur costs associated with the drawing up of detailed designs and the submission of planning applications. Appendix 1 sets out the indicative costs per site which will be incurred by the Consortium in drawing up such detailed designs with a view to submission of full planning applications.
- 3.6 The Executive are asked to approve that the Council indemnify the Consortium in accordance to the detail presented within the confidential element of report. The Executive is asked to give delegated authority to the Director of Housing and Community Care to negotiate the final terms of the indemnity but subject to the approval of the Borough Solicitor. An indicative form of indemnity is included in Appendix 2.
- 3.7 As part of the PFI process, the Council has encouraged the Consortium to include a number of Council owned properties which could be used to develop housing and residential accommodation. This report requests the Executive's approval for the Head of Property & Asset Management to proceed with negotiations to dispose of the council sites within two tranches to the Brent Coefficient Consortium to deliver the Brent Non HRA Housing & Social Care PFI scheme. The current valuations for these sites are provided in Appendix 3. The numbers of dwellings that can be developed on these sites are indicative and will be subject to further work by the Planning service in consultation with the Consortium.

3.8 **Tranche 1 Sites**

3.8.1 **Brentholme, 9 Willesden Lane, Brondesbury Park**

The site is a current social service care resource and day care facility. The site area is 0.04 hectares and has the potential to provide 11 dwellings for the project. Brentholme is currently included in the Council disposal programme (2006/07 to 2009/2010).

3.8.2 **John Wilson House, 167 Willesden Lane, Brondesbury Park**

This site is a day care facility which is due to move to Brondesbury Road in July 2007 once permanent building works have been completed. The site area is 0.15 hectares and has the potential to provide 19 dwellings for the PFI project. John Wilson House is currently included in the Council disposal programme (2006/07 to 2009/2010). This building is locally listed.

3.8.3 **Homelea House, 191 Willesden Lane, Brondesbury Park**

This site was earmarked at an early stage of the PFI for inclusion at nil cost to the PFI provider, as part of the arrangement to provide alternative residential accommodation for people with learning disabilities. The site is currently vacant and was closed down due to structural problems. However, current indications are that development potential is severely limited by various Tree Preservation Orders (TPO's), and disposal for incorporation into the adjoining private development may yield a better financial output.

3.9 **Tranche 2 Sites**

3.9.1 **Winkworth Hall, 215 Chevening Road, Brondesbury Park**

The site comprises a former Adult education services facility and Hopscotch day nursery (lower 2 floors). The site is 0.15 hectares. The proposal is for disposal to be agreed subject to the Consortium's approval to re-provide a nursery, for letting at Market Value if required by the Council, as part of a phased development offering continuity of nursery use. It may be that the nursery will instead relocate itself independently or enjoy re-provision elsewhere as part of Children's Centres Phase 2. The 'Community use' which the nursery is said to provide may instead be represented on site by a new Children's Centre. Around 21 dwellings should be achievable on site. The upper two floors are now reserved for temporary use by The Avenue School/Islamia, as a result of the various Statutory Notices served affecting the Council, for occupation until 2010 (estimated). It may be that these factors will make it difficult to guarantee that the proposed development takes place within Tranche 2, and the Children's Centre decision to participate or not has yet to be finalised

3.9.2 **Melrose House, Dollis Hill**

This site was also earmarked at an early stage of the PFI for inclusion at nil cost to the PFI provider, as part of the arrangement to provide alternative residential accommodation for people with learning disabilities. The site is currently occupied and residents will be re-housed once their new provision has been built. Given this, the disposal of this site is more suited for tranche 2. The site area is 0.35 hectares and has the potential to provide 20 dwellings.

3.9.3 Clock Cottage, Kenton Road.

The site area is 0.1879 Ha, comprising existing scout hut and nursery premises, both of which would require re-provision on suitable terms as part of a redevelopment. A 10 dwelling scheme is potentially feasible. The remainder of the site is subject to ongoing disposal discussions with St Luke's Hospice, and will be the subject of an Executive Committee report in 2007.

3.9.4 Other sites will need to be added to Tranche 2 and these will be put before members at future Executive meetings as sites arise.

3.10 It is recommended that Melrose House and Homelea House be disposed of at nil value. It is considered that this can be justified under the general consent referred to in paragraph 5.3 since the re-provision of these sites under the project for the accommodation of people with learning difficulties will secure the improvement of the social well-being of the Borough. Melrose House and Homelea House had been ear-marked at an early stage of the PFI process for disposal, at nil cost to the PFI provider, as part of the arrangement to provide alternative residential care for people with learning difficulties. Both properties are not fit for purpose. Homelea House was decanted in May 2005 due to structural cracks and Melrose House does not meet the design standards set by the Commission for Social Care Inspection (CSCI). Under the PFI arrangement the Consortium will need to take into account the on going consultation about the proposed design model and location of the permanent units. The report presented to the Executive on 9th October 2006 gives further detail on care services accommodation, and a further report will be presented to the Executive on the final detail in February 2007.

4.0 **Financial Implications**

4.1 The Non-HRA Housing and Social Care PFI provides the opportunity for the Council to access PFI credits of £26.3m. If these PFI credits were not available, the Council would have to use its own capital resources to deliver the affordable housing and social care facilities that will be delivered as part of the PFI, which would result in a significant increase in the Council's borrowing and resulting debt charges.

4.2 The Consortium bid for the PFI made certain assumptions about the value and quantity of land that would be required to deliver the required number of affordable homes and the social care facilities.

4.3 Following the appointment of the Consortium as preferred bidder, it has become clear that the amount, and consequently value, of land that will be required for the PFI will exceed what was included within the original bid, based on the likely interpretation of UDP policies in relation to the planned developments. This is likely to have an impact on:

- a. the overall cost of land included in the PFI, and therefore on the Council contribution to it. At this stage the level of risk cannot be assessed because it depends on decisions taken in relation to planning issues but it could be significant;
- b. the number of sites that have to be identified prior to financial close to give the Consortium confidence that they can deliver the PFI within the agreed unitary charge.

- 4.4 The potential additional cost of the PFI, referred to in para 4.3(a) is something members will need to consider when reaching a final decision on whether or not to go ahead with the PFI.
- 4.5 It is therefore in the Council's interests (1) to facilitate identification of suitable sites; and (2) to ensure that the Consortium proceeds at an early stage with applications for planning permission and detailed design.
- 4.6 The identification of additional sites does have implications for resourcing of the capital programme. Apart from Melrose and Homelea, which it has been agreed will be included in the PFI at nil value, all other Council sites which may be included in the PFI could potentially be disposed of on the open market. There is therefore a potential loss of capital receipt which would otherwise have been used to help meet the Council's receipt target in the capital programme. At this stage, it has been agreed with the Consortium that any Council properties included in the PFI (apart from Homelea and Melrose) will be paid for by the Consortium at market value. If, at a subsequent stage, a decision is taken not to require the Consortium to pay market value, this will result in a corresponding and compensatory reduction in the PFI unitary charge made by the Consortium to the Council.

5.0 Legal Implications

- 5.1 If the Council disposes of properties that are currently being used for housing purposes, the Council has the power to dispose of these properties subject to obtaining Secretary of State's consent under section 32 of the Housing Act 1985 unless a general consent applies as the specific consent of the Secretary of State.
- 5.2 For all other properties the Council has power to dispose under Section 123 of the Local Government Act 1972 which allows the local authority to dispose of the properties in any manner they wish provided that the consent of the Secretary of State is obtained if the consideration is less than can be reasonably obtained.
- 5.3 The Secretary of State has issued a general consent under section 123 of the Local Government Act 1972 (Circular 06/03: Local Government Act 1972 General Disposal Consent (England) 2003 Disposal of Land for less than best consideration that can reasonably be obtained) which removes the requirement for authorities to seek specific consent from the Secretary of State for any disposal of land where the difference between the unrestricted value of the interest to be disposed of and the consideration accepted ("the under value") is £2million or less and the authority considers that the disposal will help to secure the promotion of the economic, social or environmental well-being of its area. Unless therefore the general consent applies the Council will need specific disposal consent from the Secretary of State.
- 5.4 If the abortive cost indemnity is agreed then the Council will be in a position to minimise the financial risks associated as the indemnity will only be able to be relied on if the Council withdraws its previously given approval for a site going forward. The Council is therefore in control of the circumstances and will have before it the associated costs of withdrawing the agreement before it takes the decision to do so.

6.0 Diversity Implications

- 6.1 The implications have been considered previously. The mental health strategy identifies the need to improve access to community resources, hence the development of a community network approach with access to a service at Brondesbury Road. The development of new provision for people with Learning Disabilities has also been a long term part of the housing strategy and will improve the range of services available for people with a range of needs due to a learning disability.

7.0 Staffing Implications

- 7.1 Staff at Melrose may be subject to TUPE should an alternative care provider be sought to provide services for the replacement residential care units. If a new care provider is not required, then the staff will transfer to the new units and discussions will be held on the change of role and job descriptions as required.
- 7.2 Staff at John Wilson House are already being consulted on the different ways of providing the service, and new job descriptions are currently being discussed. Staff at 9 Willesden Lane will be involved in a similar consultation process or will be transferred to other mental health care sites.

8.0 Environmental Implications

- 8.1 All properties developed on sites being disposed of by the Council to the Consortium will achieve the Eco Homes Very Good standard and will be built to Lifetime Homes standards.
- 8.2 All sites being disposed of are existing brownfield sites and will be for the reprovision of housing and residential care units.

Background Papers

- Outline Business Case – Non HRA & Accommodation for People with People With Learning Disabilities 27/01/03
- Report to Executive 14th November 2005
- Report to Executive 09th October 2006 – Approval of the Selection of the Preferred Bidder for the Non HRA Housing & Social Care PFI Project
- PFI Project File

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