

## CABINET

19 December 2011

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| <b>Title:</b> Sale of Land to Gurdwara Singh Sabha London East (Association), North Street, Barking   |   |
| <b>Report of the Cabinet Member of Regeneration</b>   |   |
| <b>Open Report</b>  | <b>For Decision</b>   |
| <b>Wards Affected:</b> Abbey  | <b>Key Decision:</b> no   |
| <b>Report Author:</b> Jennie Coombs, Regeneration Manager   | <b>Contact Details:</b><br>Tel: 020 8227 5736<br>E-mail: <a href="mailto:jennie.coombs@lbbd.gov.uk">jennie.coombs@lbbd.gov.uk</a> |
| <b>Accountable Divisional Director:</b> Jeremy Grint, Divisional Director of Regeneration   |   |
| <b>Accountable Director:</b> Graham Farrant, Chief Executive  |   |
| <b>Summary:</b><br><br>For some years the Singh Sabha Association in North Street, Barking have been trying to acquire additional land to the north of their site, owned by the Council, and formerly forming part of the Linton's Housing site (now known as William Street Quarter) on which to build enhanced community facilities.<br><br>This report recommends Cabinet to agree to a rationalisation of respective land ownerships between the parties including: <ul style="list-style-type: none"><li>• Sale to the Gurdwara of the Council's freehold interest in land north of the Gurdwara Singh Sabha London East (Association), shown on the map at Appendix 1 as Plot A; and</li><li>• Surrender by the Gurdwara of the long leasehold interest in the adjoining car park, shown on the map at Appendix 1 as Plot B; and</li><li>• Sale of the Council's freehold interest in the adjoining car park to the Gurdwara; and</li><li>• Rectification of site boundaries such that a portion of land in the area leased to the Gurdwara be returned to the Council; and</li><li>• Payment by the Gurdwara to the Council of £105,000 being combined premium for the plots.</li></ul><br>Plot A amounts to some 0.142 ha. and Plot B amounts to approximately 0.147ha,<br><br>The location of Plot A is such that it can only be developed by the Council as part of the William Street Quarter development or by Singh Sabha who have the only other access.<br><br>Plot B comprises a car park adjoining the existing Gurdwara premises and fronting the Northern Relief Road, Barking. Plot B is currently leased to Singh Sabha for a term of 125 years from 3 July 1995. Unfortunately, in error, the lease plan included land which was not intended to form part of the car park. This land now falls within the William Street Quarter housing development and is required for amenity land in conjunction with the development. |   |

The Council have approached the Gurdwara to seek to rectify the plan and they have indicated that they would be prepared to agree to the Council's request. They have expressed reluctance to sign the Deed of Rectification and are seeking disposal of the car park and adjoining site to them as discussed in this report.

This proposal will enable the Gurdwara to expand their facilities for the benefit of the local community. In addition it will enable a small parcel of land to be returned to the Council to assist the development of the William Street Quarter.

## **Recommendations**

The Cabinet is recommended to agree:

- (i) To agree to the surrender of the current lease for a term of 125 years from 3 July 1995 from the Council to the Gurdwara Singh Sabha London East (Association) shown as Plot B on Appendix 1;
- (ii) To sell the freehold interests in the land to the east of the Gurdwara (shown as Plot A on Appendix 1) and the area of land currently used as the Gurdwara car park (Plot B) to the Gurdwara Singh Sabha Association for a combined premium of £105,000 [including Council costs] for use as a community facility;
- (iii) To enter into a Deed of Rectification for the existing lease of the car park land (Plot B) to rectify the lease plan and exclude the area of land falling within the William Street Quarter development;
- (iv) To delegate authority to the Chief Executive, in consultation with the Head of Legal and Democratic Services, to negotiate terms and agree the necessary documentation to effect the above proposals;
- (v) To authorise the Head of Legal and Democratic Services or an authorised delegate on her behalf to execute all of the legal agreements.

## **Reasons**

For the local community, the proposal would be consistent with the Council's overall objective of 'Building a Better Life for all'. It will also deliver tangible benefits under all four core guiding themes in the Policy House, particularly the 'Better Together', 'Better Health & Well-Being' and 'Better Future' themes.

## **1. Introduction and Background**

- 1.1 Since 2005 the Singh Sabha Association has been in discussion with the Council about potentially buying some land adjacent to their property on North Street (see Appendix 1, Map).
- 1.2 Between 2007, when the Council started to decant the Lintons, and 2010 there was little direct discussion with the Association. This was due to officers at the time trying to establish a Local Housing Company and William Street Quarter was to be their first development.

- 1.3 In 2010 discussions with the Singh Sabha Association resumed. At this point the masterplan for the William Street Quarter had been clarified. The planning and design phase of WSQ Phase 2 has resulted in a piece of land 0.142ha in size in the north-west corner of the development site being safeguarded with a view to selling it to Singh Sabha.
- 1.4 Negotiations have now been concluded with the Gurdwara which will enable this transaction to happen.
- 1.5 The opportunity has also been taken to rectify the lease plan of the adjoining car park to exclude land occupied by the Council and forming part of the William Street Quarter development. This small parcel of land forms part of the proposed garden for the 10 storey flat block included within the WSQ phase 2 housing development. As part of the discussions, a Deed of Rectification in relation to the car park lease has been drawn up for the Association to sign.
- 1.6 Throughout consultation with the Association it is worth noting that officers have been clear that any proposal for activities on the site will still need to get planning permission from the Council's Development Control Board. The agreed sale of land to the Association does not provide permission for any activity on this site.

## **2. Proposal and Issues**

- 2.1 The Council proposes the following:
- Sell Plot A and Plot B shown to the Association for a premium of £105,000; and
  - Deed of Rectification to exclude land required for the WSQ Phase 2 development which was mistakenly demised in the existing car park lease.
- 2.2 The purchaser is to provide details of the proposed development to the Council and confirmation of adequate funding streams for approval prior to seeking planning consent.
- 2.3 The proposal by the Association is for community use, for, but not exclusive to, the following activities:
- Children's nursery
  - Elderly provision
  - Fitness studio
  - Multi-purpose hall
  - Learning centre
- 2.4 The proposed heads of terms for the sale will include:
- The requirement of the Association to submit a planning application for any proposal new development on the site; and
  - The Deed of Rectification to be signed by the Association within four weeks of confirmation of Cabinet approval; and
  - Before the sale of the land is finalised, the Council will grant a licence for the area of land not already used (Plot A), to be used by the Association for a temporary car park. This will be approved once the Deed of Rectification is signed by the Association.

## **Disposal of land to Religious Organisations:**

- 2.5 It is important that the disposal of this site is on par with the disposal of other sites to religious bodies. In December 2008 the Assembly agreed a policy for places of religious worship. This policy set out that any land identified by the Council as being suitable for community facilities shall be offered to community groups through the Faith Forum. The Faith Forum will invite tenders and recommend the most suitable group to the Council. The Council will provide support to the group on how to establish and manage community facilities but will not provide land at a reduced value or peppercorn lease.
- 2.6 It is suggested that an exception to this policy is made in this case because the land is directly adjoining the Association's Gurdwara and there is a clear synergy between their existing and proposed activities.
- 2.7 Officers have discussed this exception with the Faith Forum who have confirmed that they are supportive of a disposal to the Association for the reasons outlined.

### **3. Options Appraisal**

- 3.1 **Do nothing (i.e. not selling the land):** While this is a valid option, the portion of land was never included in the most recent design and feasibility studies for the residential development of WSQ. It would be very difficult and expensive to re-introduce the land back into the development and would not necessarily result in the best use of the land.
- 3.2 **Selling the land at peppercorn value or gifting the land:** This would contravene Council policy that was introduced in 2008 as follows:

*“(3) In the context of limited financial resources and Government guidance on single group funding, the Council will not provide revenue or capital funding to support the provision of places of religious worship”*

- 3.3 **Selling the land to a different party other than the Association:** This is not a viable option. Due to the size and location of the land it is only able to be developed either by the Council as part of the WSQ development, or by the Association as access can be gained through their existing access points. The piece of land is small (0.142ha) and is only suitable for ancillary uses.

### **4. Consultation**

- 4.1 Consultation has taken place internally with the Council's finance and legal teams. Local Ward Councillors have been consulted. The Council's Property Services team has been involved in securing a valuation from the Council's consultant surveyors.
- 4.2 As part of this consultation, the Barking and Dagenham Faith Forum were consulted on the reason why the Council will not follow the agreed policy for the sale of this land. The Barking and Dagenham Faith Forum are in support of this land being sold to the Singh Sabha Association in connection with the Gurdwara and are in support of an extension of community facilities that this proposal will achieve.

## **5. Financial Implications**

Implications completed by: Martin Henwood, Interim Finance Group Manager

- 5.1 The sale of this land will generate a capital receipt of approximately £105,000.
- 5.2 The Council would lose the use of an asset (the land), however there is minimal opportunity cost to this, as the land is currently vacant and no income is generated from the site. In terms of potential use, the land could only be used by the Association or by the Council in the WSQ development.
- 5.3 Development on this site by the Association would generate income under the new Community Infrastructure Levy (CIL), which is levied in respect of all net new development. Development prior to 01.04.13 would only attract the mayoral CIL element (which would be collected by the Borough and passed on to the Mayor of London); and for applications determined after 01.04.13 the Council's own CIL would also be charged, which would generate funds for capital development by the Authority.
- 5.4 Development on the site could also affect the saleable / market values of properties on the WSQ development. There could be upward pressure on the value of properties to the extent that there will be increased community / leisure facilities and amenities in the immediate area. There could also potentially be downward pressure on particular spots, if the new building were to hinder views or increase congestion. These issues would need to be determined through the normal planning application process / Development Control Board.

## **6. Legal Implications**

Implications completed by: Eldred Taylor-Camara, Legal Group Manager

- 6.1 The report seeks the disposal of the Council's freehold interest in the car park land and adjoining site for £105,000. It also seeks agreement for the rectification of an existing lease entered into between the Council and Singh Sabha Association. The location of the sites are such that only the Singh Sabha Association (who currently occupy one of the sites) are likely to express an interest in purchasing the sites hence dispensing with the need to advertise the proposed sale.
- 6.2 The report indicates that the freehold disposal will be at less than best consideration. Section 123 Local Government Act 1972 provides local authorities with powers to dispose land in any manner with the consent of the Secretary of State if for consideration less than the best that can reasonably be obtained.
- 6.3 The General Disposal Consent (England) 2003 gives consent for local authorities to dispose land at undervalue in specified circumstances provided that the undervalue (as assessed) does not exceed £2m. The combined value of the sites is £122,000. The undervalue does not exceed £2m and the disposal will fall within the General Consent.
- 6.4 The report indicates that the Council will not seek to impose conditions relating to the development scheme / be a party to any related development agreement. However the purchaser will be required to seek planning permission for the

proposed development. The sale conditions will also restrict the use of the land to community purposes.

## **7. Other Implications**

- 7.1 **Risk Management** – While there is a risk that the Association may struggle to raise the funds required for any proposed extension to the Temple, the temporary use of the site as a car park will ensure that there is activity on the land in the meantime.

The proposal by the Association will have to be for community purposes. Initially there were discussions around a small housing development on the site, but the Council has firmly opposed these, given the land-locked nature of the site, and its proximity to William Street Quarter. The agreement for this sale is for community purposes only, and will rely on the Association obtaining planning permission.

While the sale of the land to the Association does not adhere to the policy agreed by Assembly in 2008, we have set out the reasons why this policy was not considered relevant for this proposal in sections 2.5 – 2.8 of this report. As the Faith Forum have been consulted and are on board with the proposal, we do not think this policy needs to be further considered.

- 7.2 **Contractual Issues** - The Legal Implications section contained in section 6 of this report fully set out the Council's powers in relation to this transaction and entering into this agreement with the Association. The Legal Practice Team will be fully consulted and assist with the preparation of all the necessary legal agreements.
- 7.3 **Staffing Issues** - There are no staffing implications arising from this report, the transaction can be dealt with by officers from Regeneration, Legal Practice and Property Services and Asset Management in the course of their normal duties.
- 7.4 **Customer Impact** - The delivery of the Singh Sabha's proposed Community Facilities on this site will have a positive impact on the local Community, and the Business Plan clearly indicates that the Facility will provide activities for all sections of the Community.
- 7.5 **Safeguarding Children** - Whilst there are no direct Safeguarding issues for the disposal of the site, the Business Plan for the Facility proposes the possible inclusion of Nursery and Crèche, it has been indicated to the Gurdwara that this must be provided in full consultation with the Council's Children's Services Department.
- 7.6 **Health Issues** - Whilst there are no direct health issues arising from the disposal of the site, again the proposed inclusion of a Fitness Studio and Multi Purpose Hall that can accommodate activities such as Martial Arts classes would have a positive impact on Health.
- 7.7 **Crime and Disorder Issues** - Section 17 of the Crime and Disorder Act 1998 places a responsibility on local authorities to consider the crime and disorder implications of any proposals. Levels of crime and disorder will be taken into consideration at the Planning stage of any new development to address the design of the built environment to improve community safety. Improved facilities for young people will also provide new opportunities for education, recreation and

employment directing them away from crime. Specific types of violence such as domestic violence can be helped by social aspects of the regeneration programme such as better access to services based in local community centres, as well as better quality housing.

**7.8 Property / Asset Issues** – The masterplan for the William Street Quarter set aside an area of land with a view to disposing to the Gurdwara Singh Sabha Association to extend their building and provide community facilities, including a nursery, elderly facilities, education and exercise facilities. As an individual site, the Council's consultant valuers have expressed the value of the freehold interest as in the region of £60,000.

However, this transaction is more complex than originally envisaged. The Gurdwara wish to use the opportunity to rationalise their assets by surrendering their long lease in the adjoining car park and acquiring the freehold interest for long-term consolidation and growth of the on-site community facilities. The Council's valuers consider that the value of the surrender/re-grant of the freehold is in the region of £62,000.

Although, on the face of it, the proposal is for the Council to enter into a transaction with a value of £122,000 for a consideration of £105,000 (i.e. less than best consideration), the Gurdwara consider that the small parcel of land which they will relinquish has value and this is reflected in the offer price of £105,000.

In drawing a conclusion whether this is 'best consideration' as required by section 123 of the 1972 Act there are a number of different considerations that members may wish to consider; these include:-

- Acquiring the parcel of land in this way will avoid legal action in the Courts which would carry with it high costs
- The Gurdwara command the only vehicular access to the land
- The land at William Street Quarter is held in the General Fund and the Local Government Act 1972 provides in subsection 1 that, subject to the provisions of section 123 of the 1972 Act a local authority may dispose of land held by them in any manner they wish.
- In addition, the General Disposal Consent (England) 2003 gives consent for a local authority to dispose of land for less than the best consideration that can reasonably be obtained if the local authority considers that the purpose for which the land is to be disposed is likely to contribute the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
  - A the promotion of improvement of economic well-being;
  - B the promotion or improvement of social well-being;
  - C the promotion or improvement of environmental well-being; and

the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2 million.

- The intention in this case is that the land will be sold with a restrictive Covenant that the site shall be used for D1 uses and the development of community facilities. The use as a Banqueting Suite is expressly excluded. Any sale on this basis would therefore be on a severely restricted basis.

**Background Papers Used in the Preparation of the Report:**

- Places of Religious Worship and Associated Community Facilities Policy Scrutiny Panel – Final Report. Assembly 10 December 2008.

**List of appendices:**

**Appendix 1:** Map of Plot A, Plot B, WSQ and Gurdwara Land