

CABINET

15 October 2019

Title: Redevelopment of former Woodward Library Site, Woodward Road, Dagenham	
Report of the Cabinet Member for Regeneration and Social Housing	
Open Report	For Decision
Wards Affected: Mayesbrook	Key Decision: Yes
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Accountable Strategic Leadership Directors: Claire Symonds, Chief Operating Officer, and Graeme Cooke, Director of Inclusive Growth	
Summary	
<p>In January 2017 Cabinet approved the acquisition of Greig Hall (shown in the plan in Appendix 1). Cabinet also approved that an Initial Demolition Notice (IDN) is served on the tenants living at 2 Stamford Road, a 3-bedroom detached house adjacent to Grieg Hall, with the aim of facilitating the comprehensive redevelopment of the Woodward Road site (shown in the site plan in Appendix 1). The acquisition was completed in March 2017, and an IDN has been served on the tenants at 2 Stamford Road.</p>	
<p>The January 2017 Cabinet report noted that a further report will be presented to Cabinet if the land purchase is secured, setting out proposals for the future use of the site. The purpose of the report is to set out the Council's proposals.</p>	
<p>Woodward Road is included in the Be First Business Plan 2019-2024 list of sites approved by Cabinet, which forecasts completion of the development in financial year 2022/23.</p>	
<p>Feasibility work has been undertaken, which has identified that Woodward Road is suitable for development to provide new housing and community space. The site has been earmarked as a potential location for a new Police Operational Hub as part of the community space offer.</p>	
<p>It is proposed that the site is redeveloped to provide:</p>	
<p>a) 56 affordable homes comprising a mix of</p> <ul style="list-style-type: none">- 70% Affordable Rent (AR) up to 80% of Market Rent (39 units)- 30% London Affordable Rent (LAR) (17 units)	
<p>b) c.651m² of community space</p>	
<p>The proposals have been reviewed by the Investment Panel, and approved as a viable investment proposition. Following Investment Panel approval, public consultation has</p>	

been carried out on the proposals. Pre-application discussions have also commenced with planning case officers.

The estimated total project costs of delivering the proposals are £20,821,302. It is intended that £15,533,302 would be met via borrowing within the General Fund from the Public Works Loan Board.

The intention is to meet the remaining costs through GLA Grant and/or Right to Buy Receipts.

The funding is proposed to be provided through a loan agreement between the Council and any Reside Registered Provider it may set up (or an existing entity within the Barking & Dagenham Reside structure) to develop and manage the new Affordable Housing units.

As it is envisaged that the ownership will be within the Reside structure, which is outside of the Housing Act, an appropriation of the land shown in Appendix 2 under section 122 of the Local Government Act 1972 from the Housing Revenue Account to the General Fund would be required.

Recommendation(s)

The Cabinet is recommended to:

- i. Approve that, subject to the grant of an acceptable Planning Permission and receipt of satisfactory construction tender prices, this project will be financed and held within the residential asset class of the Investment and Acquisition Strategy;
- ii. Approve the site is redeveloped to provide, subject to planning:
 - a. 100% Affordable Housing of which:
 - 70% Affordable Rent (AR) up to 80% of Market Rent (39 units)
 - 30% London Affordable Rent (17 units)
 - b. c.651m² of community space
- iii. Agree the estimated Total Scheme Development costs of £20,821,302;
- iv. Agree to allocate up to £3,998,754 (inclusive of the £842,284 acquisition cost already incurred) from the Investment & Acquisition Budget to fund the pre-development costs:
- v. Approve that the land assembly costs of £842,284 be repaid to the Land Acquisition budget at award of construction contract; and transfer of the required legal interest to the Reside entity;
- vi. Agree to the principle of borrowing up to £15,533,302 within the General Fund from the Public Works Loan Board to finance the development and ownership of the affordable rent homes via a loan agreement made between the Council and the affordable rent Special Purpose Vehicle;
- vii. Delegate authority to the Director of Inclusive Growth, in consultation with the Director of Law and Governance, the Chief Operating Officer and the Cabinet

Members for Finance, Housing and Regeneration, to negotiate terms and agree the contract documents to fully implement and effect the project;

viii. Authorise the Director of Law and Governance, or an authorised delegate on their behalf, to execute all the legal agreements, contracts and other documents on behalf of the Council; and

ix. Approve in principle the appropriation of the land, as shown edged red in the plan at Appendix 2 to the report, under Section 122 of the Local Government Act 1972 from the Housing Revenue Account to the General Fund;

Reason(s)

The recommendations are aligned to the following elements of the new Council vision and priorities namely:

- Regeneration and development of the borough
- Provision of affordable housing
- Community and social benefits

1. Introduction and Background

- 1.1 Woodward Road has been identified as suitable for development, intensifying the use of the site to deliver new housing together with new community space. A site plan and aerial photo is provided in Appendix 1.
- 1.2 The site has historically played an important community role. It was originally built-out in the 1930's and 1960's to provide a range of local community facilities. These included a council-owned community centre (Woodward Hall), library and associated council house (2 Stamford Road), as well as a Shaftesbury Society meeting hall (Greig Hall), which was purchased by the Council in March 2017 in order to enable the comprehensive redevelopment of Woodward Road.
- 1.3 The site also includes a former library building. Whilst the building is not listed it is of local historical and architectural importance. The building is currently occupied by a furniture manufacturing company.
- 1.4 Vacant possession has been secured for Woodward Hall and Greig Hall, and planning consent has been secured to demolish these buildings. It is proposed that the former library building is retained.
- 1.5 At the centre of the site is a 1960's NHS-owned medical centre (the Julia Engwell Clinic), which currently provides GP services. The NHS has advised that they wish to continue to provide GP services from the site for the foreseeable future. Consequently, this land is not included within the development proposals.
- 1.6 The development of Woodward Road will optimise the use of land and maximise the long-term regeneration benefit for the local community, building on its role as an important local community facility, as well as providing new good quality housing. There is also an opportunity to set up a new operational hub for the Metropolitan Police at the site.

1.7 Woodward Road is included in the Be First Business Plan 2019-2024 list of sites approved by Cabinet, which forecasts completion of the development in financial year 2022/23.

2. Proposals

Options Analysis

2.1 Feasibility work has been undertaken assessing a range of options including whether to incorporate the NHS owned land within the development, and whether to refurbish or redevelop the former library building.

2.2 The NHS has confirmed that they wish to continue to operate their existing GP facility from the site for the foreseeable future. Consequently, this land is excluded from the development proposals.

2.3 The former Library building is of local importance in terms of its Special Architectural Interest and Historic Merit. Furthermore, the building has previously been used for community purposes, with the potential for community use in the future. In addition, the extra quantum of development that could be achieved by demolishing the building is limited. Consequently, it is proposed that the former library building is retained for future community use.

2.4 It is therefore proposed that the Council-owned land comprising Woodward Hall, Grieg Hall and 2 Stamford Road is redeveloped, and the former library building is refurbished, to provide c.56 new affordable homes (70% Affordable Rent, and 30% London Affordable Rent), and c.651m² of community space.

2.5 Consideration was given to include private sale and market rent units. However, this has been discounted in order to optimise the amount of affordable housing on the site, which is considered to be a higher priority.

Financial Summary

2.6 The investment metrics for the proposals are summarised as follows:

1 st year surplus	£104,000
Internal Rate of Return	6.1%
Net Present Value (3.5% discount rate)	£15,535k
Yield on Cost	4.0%

2.7 The total development costs are estimated at £20,821,302, c.£3,998,754 of which would be incurred to secure planning permission and procure the contractor, prior to works commencing on site.

Planning Policy Considerations

Community Uses

2.8 At both a regional and local level, planning policy strongly resists the 'unnecessary loss' of Class D1 community facilities. Local policy states that development

proposals which result in the loss of a community facility will be accepted if one (or more) of the following criteria is met:

- i. The facility is replaced within the new development;
- ii. The facility is relocated, or a better facility is provided in a more appropriate building and/or location, or;
- iii. The Council is satisfied that the facility is no longer needed and there are no reasonable prospects of re-use despite marketing for 12 months.

2.9 A policy compliant approach on this site would involve the complete re-provision of all the existing Class D1 spaces (Woodward Hall and Greig Hall). Policy also encourages community uses to be part of mixed-use development, and an argument could be made that a modern, fit-for-purpose community facility is acceptable in policy terms.

2.10 The total quantum of Class D1 space across the site is 689m² (Woodward Hall and Greig Hall). A net reduction of Class D1 floorspace could be justified on the grounds that the new space is fit for purpose and better quality, which is a material planning consideration.

Non-designated heritage asset (former Library Building)

2.11 The former Barking Library building is included on the 'Local List of Buildings of Special Architectural Interest or Historic Merit'. Initial advice from the Urban Design Officer is that the demolition of the library building would not be supported given its architectural and heritage value.

2.12 The existing furniture manufacturing use is Sui Generis. There are no planning policies which specifically protect Sui Generis uses. Given that the site is allocated for a mix of residential and community (health) uses, it is considered that the replacement of the furniture manufacturing use with a residential and/or community use would be acceptable in principle.

Residential

2.13 CS Policy CC1 expects residential development of 10+ units to provide a minimum of 40% family accommodation, subject to site specifics. In relation to tenure mix, the Draft London Plan policy stipulates 30% rented (social rent or LAR), 30% intermediate, and 40% as being flexible, subject to Local Planning Authority requirements.

Recommendation

2.14 The recommended option is to redevelop Woodward Road to deliver:

- c.56 affordable homes of which 70% are AR, and 30% LAR
- c.651m2 of community space, comprising 377m2 of refurbished space retaining the former library building, and 274m2 of new space for the Metropolitan Police.

2.15 This option is recommended as it:

- Optimises the affordable housing offer, whilst delivering a financial return to the Council.
- Delivers the Client Brief for Woodward Road, in terms of housing (specifically affordable housing), community space and place making objectives.
- Meets planning policy requirements, particularly in relation to the requirement for a minimum of 50% affordable housing on public sector land (including a minimum of 30% LAR units) retaining the community uses within the site, and protecting the former library building.
- Meets programme requirements in accordance with Be First's Business Plan targets.

3. Delivery Arrangements

3.1 It is proposed the scheme is delivered by Be First, who will progress the project through the planning process, and manage the delivery of the works. It is proposed that a contractor for the works is procured through the Be First construction framework.

Programme

3.2 The key dates are summarised in the following table:

Gateway Progress Dates	Date
Demolition	October 2019
Planning Submission	December 2019
Contract Award	May 2020
Start on Site	July 2020
Practical Completion	July 2022

Funding

3.3 The estimated development costs are c.£20,821,302 to be funded through a combination of GLA Grant funding/Right to Buy receipts and borrowing, broken down as follows:

Grant funding (Right to Buy or GLA grant)	£5,288,000
Council borrowing	<u>£15,533,302</u>

Total £20,821,302

3.4 It is proposed that the development and ownership of the new affordable homes is financed through borrowing up to £15,533,302 within the General Fund from the Public Works Loan Board. The funding is proposed to be provided through a loan agreement between the Council and the Reside Registered Provider (or an existing appropriate entity within the Barking & Dagenham Reside structure) established to develop and manage the new Affordable Housing units.

4. Consultation

4.1 A public consultation event was held on site on September 24th, seeking local residents' views on the development proposals (illustrated in Appendix 3). Ward councillors were also invited to the event.

4.2 Twenty-six people attended the event, 23 of whom expressed their support for the proposals, which they considered would improve the local environment, and provide good quality housing. Specific comments included:

- Encourages investment into the Becontree area to improve the quality of the environment.
- Provision of good quality affordable housing
- Designing a 'mews' type development will create a friendlier, community feel
- The massing is considerate, particularly minimising overlooking of the houses to the north of the site
- Retains the heritage of the former library for a community use
- Brings some life and activity to this part of Becontree

4.3 Elements of the design people raised concerns about primarily related to car parking and safety/security. Specific comments included:

- More open space
- The boundary treatment with the houses to the north of the site
- Safety and security (inclusion of CCTV)
- Clarification on the management of the car parking

4.4 People were also asked their views on how the community space could be used. Suggestions included:

- Youth groups, and groups for Older people
- Re-instate the library use
- Community cafe

4.5 These comments will be addressed as the design develops in more detail, prior to the submission of the planning application.

4.6 A dedicated website has also been set up where people can view the proposals and post comments on-line.

Stakeholder Engagement

4.7 Discussions have been held with the NHS, Metropolitan Police and residents of 2 Stamford Road.
NHS

4.8 The NHS advised that they wish to retain the GP operation at the Julia Engwell Clinic for the foreseeable future. They also advised that in the long-term they may wish to redevelop their existing site at Woodward Rd to create a larger GP facility.

Metropolitan Police Service

4.9 Initial discussions have been held with the Metropolitan Police Service, who have confirmed that a new facility in a standalone building to the east of the former library building could meet their operational requirements.

Residents at 2 Stamford Road

4.10 2 Stamford Road is a 3-bedroom property occupied by an elderly couple under a Council tenancy agreement. Notice has been served on the residents, who have been placed on the bidding register. Discussions are ongoing to identify a suitable property for the couple to relocate to.

5. Financial Implications

Implications completed by: David Dickinson, Investment Fund Manager

5.1 Woodward Road, RM9 4SJ forms part of the 44 schemes agreed as part of the Investment and Acquisitions Strategy in 2017. The site consists of Woodward Hall, Grieg Hall and 2 Stamford Road. The report proposes an entirely affordable scheme, of which 70% is Affordable Rent and 30% is London affordable Rent.

5.2 The proposed options produces a lower financial return in comparison with a 50% private option, producing a year 1 surplus of £104k and a negative year 6 yield of £39k. Year 6 returns are an important indicator of the viability of a scheme as in year 6 is when all costs, including debt, management and lifecycle costs are included. The current forecasts include a high level of contingency and it is important that the development costs are closely managed and monitored to ensure a positive return is forecast for year 6.

5.3 The number of units proposed in the report is 56 residential units, which is 7 units less than the proposed in the 2019/20 Be First Business Plan. However, it should be noted that the overall quantum of residential development (in terms of area) has increased slightly relative to the Business Plan assumption, due to the increase in the average size of the units, in order to accommodate larger family homes within the development.

5.4 As the completion date is in October 22, this will provide an income stream in 2022/23 based on the current assumptions, which is two months earlier than the proposed date in the 2019/20 Be First Business Plan.

6. Commissioning Implications

Implications completed by: Graeme Cooke, Director of Inclusive Growth

- 6.1 The proposed tenure mix would help to meet the Council's goal of achieving a significant net increase in the number of homes available to those on the housing register (at London Affordable Rents) across the Be First programme. An increase in the number of homes at these rents across the programme will help to manage the cost of temporary accommodation to the general fund. The homes at 80% of market rent also help increase the housing offer to local working households on average incomes.
- 6.2 The scheme will require GLA grant and/or Right to Buy receipts to fund the different tenure types. Any units with GLA grant will need to be held by the Reside Registered Provider while those funded with Right to Buy receipts will need to be held by Weavers LLP. Early work on the layout of the blocks shows that this holding structure would be achievable.
- 6.3 As the report notes, discussions have been underway with the police to clarify their requirements in this scheme. Officers from the Council and Be First will need to continue to work with the police to clarify the terms of their occupation and the exact financial nature of the deal with the police.

7. Legal Implications

Implications completed by: Paul Feild, Senior Governance Lawyer, Legal

Introduction

- 7.1 This report proposes the development of a site at Woodward Road. The Council has ownership subject to a single Council secure periodic tenancy and an NHS facility health clinic which is operational and expected to remain so for the foreseeable future. A feature on the site is the former Woodward library which has been identified to have heritage qualities. The development and uses proposed for the site are consistent with the area.

Property

- 7.2 The majority (0.6 hectare) of the 0.72-hectare site is in the freehold ownership of the Council. A title search did not reveal any issues that would prevent the development. The remaining 0.12-hectare central site of the health clinic is in the ownership of a third party (NHS Property Services Ltd). Woodward Hall is currently occupied (by the Trustees of Church of God Mission International Dagenham Ltd) on a Tenancy at Will expiring in July 2019. The former library is occupied by a furniture manufacturing co. Their existing lease has expired, and a new lease is being negotiated (which will exclude Landlord and Tenant Act 1954 security of tenure rights).
- 7.3 The Council secure tenancy (2 Stamford Road) is a 3-bedroom property. It is currently occupied by tenants of the Council. They have a legal right to be consulted on major housing management issues which includes any proposal to be displaced and measures including demolition.

Council Powers

- 7.4 The Council's power to pursue the preferred option to deliver the scheme is the general power of competence under section 1 of the Localism Act 2011, which provides the Council with the power to do anything that individuals generally may do. Section 1(5) of the Localism Act provides that the general power of competence under section 1 is not limited by the existence of any other power of the authority which (to any extent) overlaps with the general power of competence. The use of the power in section 1 of the Localism Act 2011 is, akin to the use of any other powers, subject to Wednesbury reasonableness constraints and must be used for a proper purpose.
- 7.5 Whilst the general power of competence in section 1 of the Localism Act 2011 provides sufficient power for the Council to participate in the transaction and enter into the relevant project documents further support is available under Section 111 of the Local Government Act 1972 which enables the Council to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any of its functions, whether or not involving expenditure, borrowing or lending money, or the acquisition or disposal of any rights or property.
- 7.6 In exercising the power of general competence and in making any investment decisions, the Council must also have regard to the following:
- i. Compliance with the Statutory Guidance on Local Government Investments;
 - ii. Fulfilling its fiduciary duty to taxpayers;
 - iii. Obtaining best consideration for any disposal;
 - iv. Compliance with Section 24 of the Local Government Act 1988 in relation to giving financial assistance to any person (which either benefits from a general consent or requires express consent by the Secretary of State);
 - v. Compliance with any other relevant considerations such as state aid and procurement;

Consultation

- 7.7 Section 105 of the Housing Act 1985 provides that the Council must consult with all secure tenants who are likely to be substantially affected by a matter of Housing management this will include demolition of dwellings by the housing authority. In this case there is a single household. Such consultation must inform the tenants of the proposals and provide them with an opportunity to make their views known to the Council within a specified period. The legislation further requires that before making any decisions on the matter the Council must consider any representations from the secure tenants arising from the consultation.
- 7.8 The courts have determined that consultation must be carried out at a formative stage that means before a final decision has been made. In carrying out the consultation the consultees will need to have explained to them what the options are the Council has in mind and it shall invite observations. After the responses

have been received, they need to be considered and weighed up objectively so as to ensure that relevant observations are taken into account.

Achieving Vacant Possession

- 7.9 Assuming the recommend option is adopted, consultation will be carried out with the tenants. It is understood that a dialogue has started, and the decant process has commenced seeking to find reasonable alternative accommodation. As far as the non-residential tenancies are concerned the tenancy at will can be terminated by notice and the user of the former library can be offered a lease without security of tenure.
- 7.10 As observed above the residential tenants have a legal right under the Housing Act 1985 to be consulted if there are envisaged by the landlord Council to carry out major changes to their tenancy including where demolition is being contemplated.
- 7.11 Where a property has been earmarked for demolition, the preferred route to vacant possession is by decanting being carried out on a consensual negotiated basis to ensure that there every prospect of agreement of agreement. This has proved to be a more cost effective and swifter means of achieving vacant possession than by the formal legal process. To ensure there is no exercise of the right-to-buy there will need to be service of *Demolition Notices* explained below.
- 7.12 Demolition Notices serve the purpose of preventing Council tenants who are within the site boundary, exercising their right to buy within sites earmarked for regeneration under the provisions of the Housing Act 2004. At the time of such notices there must be a clear and firm intention to redevelop. The Council is empowered to serve Demolition Notices where areas have been identified for estate renewal, regeneration and redevelopment. The purpose of the Demolition Notice to address the issue of a tenant who seeks to exercise the Right-to-Buy. There is a prescribed notification process:
- firstly, the service of an Initial Demolition Notice which is valid for up to five years, and can be extended to a maximum of seven years, an Initial Demolition Notice will prevent named properties from being acquired from the Council through Right-to-Buy as the Council is not obliged to sell the properties to the tenants;
 - followed by the Final Demolition Notice which is valid for up to two years (with possible extension subject to Government permission).
- 7.13 The Council is required to notify tenants affected by the decision to demolish, and to give reasons and the intended timetable for demolition. Furthermore, to inform tenants of the right to compensation and also to publicise decisions by placing a notice in a newspaper local to the area in which the property is situated, in any newspaper published by the landlord, and on the Council's website.
- 7.14 Final Demolition Notices cannot be served until the arrangements for acquisition of any premises to be demolished alongside the properties as part of a demolition scheme are finalised. This means that Compulsory Purchase issues for leasehold premises must also have been resolved before a Final Demolition Notice can be served.

- 7.15 The Council can make an application to the Secretary of State during the 24-month period for that period to be extended, but if no application is made, it will be unable to serve any further demolition notice in respect of these properties for five years without the Secretary of State's consent. On receipt of an application, the Secretary of State can direct that the period be extended, but he may specify further notification requirements that the Council must comply with in order for the exception to the Right to Buy to continue.
- 7.16 Finally, If the Council subsequently decides not to demolish the property, it must serve a revocation notice upon affected tenants as soon as is reasonably practicable. If it appears to the Secretary of State that a landlord has no intention of demolishing properties subject to a Final Demolition Notice, he may serve a revocation notice on affected tenants.

Human Rights Act 1998 Considerations

- 7.17 The Human Rights Act 1998 ('the HRA 1998') effectively incorporates the European Convention on Human Rights into UK law and requires all public authorities to have regard to Convention Rights. In making decisions officers and members, therefore, need to have regard to the Convention.
- 7.18 The service of a Demolition Notice on existing secure tenants potentially engages certain human rights protected under the HRA 1998. The HRA 1998 prohibits unlawful interference by public bodies with European Convention rights. The term 'engage' simply means that human rights may be affected or relevant.
- 7.19 The Demolition Notices should contain specific information relating to the Right to Buy to clarify any compensation that may be payable for certain reasonable expenditure, if incurred in respect of pre-existing Right to Buy claims/applications, but also to protect the Council from unnecessary compensation claims in the event that tenants incur unnecessary costs once notices have been served.
- 7.20 The rights that are of significance to the decision in this matter are those contained in Article 8 (right to respect for private and family life) and Article 1 of Protocol 1 (peaceful enjoyment of possessions). Article 8 provides that there should be no interference with the existence of the right except in accordance with the law and, as necessary in a democratic society in the interest of the economic wellbeing of the country, protection of health and the protection of the rights and freedoms of others. Article 1 of the 1st Protocol provides that no-one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law although it is qualified to the effect that it should not in any way impair the right of a state to enforce such laws as it deems necessary to control the uses of property in accordance with the general interest.
- 7.21 In determining the level of permissible interference with enjoyment the courts have held that any interference must achieve a fair balance between the general interests of the community and the protection of the rights of individuals. There must be reasonable proportionality between the means employed and the legitimate aim of regeneration. There must be reasonable proportionality between the means employed and the aim pursued. The availability of an effective remedy and compensation is relevant in assessing whether a fair balance has been struck.

7.22 Therefore, in reaching a decision, the Council needs to have regard to the extent to which the decision may impact upon the Human Rights of the residents who may have a demolition notice served upon them and to balance this against the overall benefits to the community, which the proposed redevelopment would bring. They will wish to be satisfied that interference with the rights under Article 8 and Article 1 of Protocol 1 is justified in all the circumstances and that a fair balance would be struck in the present case between the protection of the rights of individuals and the public interest.

Funding and Borrowing

7.23 Section 15 of the Local Government Act 2003 requires that the Council have regard to statutory guidance in relation to exercising its borrowing and investment powers. The relevant Statutory Guidance on Local Government Investments (3rd Edition, issued on 1 April 2018). The Guidance is relevant to the extent that a loan may be necessary to the Reside Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) in order to facilitate delivery of the development. In accordance with the Guidance (paragraphs 33 and 34), A local authority may choose to make loans to local enterprises, local charities, wholly owned companies and joint ventures as part of a wider strategy for local economic growth even though those loans may not all be seen as prudent if adopting a narrow definition of prioritising security and liquidity provided that the overall Investment Strategy demonstrates that:

- i. The total financial exposure to such loans is proportionate;
- ii. An expected 'credit loss model' has been adopted to measure the credit risk of the overall loan portfolio;
- iii. Appropriate credit controls are in place to recover overdue re-payments; and
- iv. The Council has formally agreed the total level of loans by type and the total loan book is within self-assessed limits.

Loan and Grant Agreements

7.24 As observed in the body of the report is an intention to access loans and grants from the GLA. The power to do so has been identified above. Such arrangements will need to be examined to ensure that the terms are compliant with the aims of this project and as mentioned the terms will need to reflect commercial market terms to ensure that there are no State Aid implications.

State Aid

7.25 As local government is an emanation of the state the Council must comply with European law regarding State Aid. Therefore, local authorities cannot subsidise commercial transactions such as for example low cost finance or financial assistance to its own companies if such transactions are capable of distorting competition in the EU. In this transaction, State Aid law is relevant in the context of the funding being provided and the price at which the Council's land interest is disposed of to the Reside Registered Provider (see below). For the loan not to

amount to State Aid, it must be made on 'market terms' in order to satisfy the "Market Economy Investor Principle" which means a proper valuation of the land must be

Appropriation of HRA Land & Use of Right to Buy Receipts

- 7.26 It is envisaged in the report that ownership of the completed development / units will be within the Reside structure which is outside the Housing Act. There will need to be an appropriation of the land shown in Appendix 2 under Section 122 of the Local Government Act 1972 from the Housing Revenue Account to the General Fund.
- 7.27 In addition, in deciding whether the Reside vehicle is suitable, consideration must be given to the impact of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (as amended) which from April 2013 placed restrictions on the use of Right to Buy (RTB) receipts in conjunction with other funding provided by the GLA for the purposes of building affordable housing. In other words, RTB receipts cannot be combined with funds provided by the GLA to build the required replacement unit/s if those funds have come from the GLA to build affordable housing. Officers and decision makers must be satisfied that combining funds in the manner envisaged is acceptable and within the rules. Although, consideration is given to relaxing the rules around use of RTBs this has not yet taken place.
- 7.28 Any disposal of the land to a Reside Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) must comply with the requirement for best consideration and/or within the parameters of any general consents available from the Secretary of State. This is likely to necessitate a loan on market facing terms and interest from the Council to the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) to facilitate such a transaction. Where the Council provides financial assistance to the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) by:
- (a) granting or loaning it money,
 - (b) acquiring share or loan capital in the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure),
 - (c) guaranteeing the performance of any obligations owed to or by the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure), or
 - (d) indemnifying the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) in relation to any liabilities, losses or damages and the financial assistance is in connection with the provision of housing accommodation to be let by the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) , the Council must use its power under section 24 of the Local Government Act 1988 (the 1988 Act) to do so.
- 7.29 The exercise of this power is subject to consent by the Secretary of State. The details of such consents will need to be carefully considered to ensure any transactions and mechanism needed to facilitate delivery of the scheme are within those parameters.

Other Matters

- 7.30 There may be displacement of utilities and services as well as installations such as a new electricity substation to be constructed plus gas and water mains with changes to highways and facilities, which may necessitate leases and licenses. These will be familiar matters in a development context, and should not, if managed, raise challenging legal issues, though each will have its cost. Early planning will minimise costs and risks of delays.
- 7.31 The gateway Report desktop assessment observes that there is a low to moderate risk of contamination and as the construction of dwellings is envisaged it will be necessary to carry out on site sampling of soil and groundwater to properly assess the environs.

8. Other Implications

Equalities and other Social / Customer Impacts

- 8.1 An Equalities Impact Assessment Screening Report has been produced for this project, which concluded that a full EIA is not required at this stage. Should the engagement with affected residents bring to light any further equality issues, this position will be reviewed, and a full EIA will be carried out prior to the submission of the planning application if required.
- 8.2 The Equality and Diversity Strategy identifies the need to provide new housing and sustainable growth by improving the physical environment and widening the choice of housing. In order to achieve this, it highlights that the future planning of homes, infrastructure, and business is done holistically balancing physical regeneration and social regeneration.
- 8.3 The Borough Manifesto, which sets out the long-term vision for the borough, identifies Housing as a top priority with an aspiration to be a place with sufficient, accessible and varied housing.
- 8.4 The Woodward Road project seeks to respond to these priorities by diversifying and improving the quality of the housing offer on the site, supported by improvements to the public realm and provision of new modern community space in order to provide a sustainable community.
- 8.5 The development will also contribute towards the Councils' health and wellbeing priorities for example by:
- Improving the quality of housing, specifically affordable housing.
 - Improving the quality and safety of open spaces, encouraging people to make more use of outside spaces for recreational purposes, and discouraging antisocial behaviour.
 - Achieving higher sustainability standards, for example through renewable energy and green roofs.
- 8.6 It is therefore considered that the overall impact of the project is positive, with the benefits of the new development outweighing the impact on existing residents.

9. Risk Management

Delay to securing vacant possession.

- 9.1 There is one residential tenant, who has specific housing requirements. We are working with them to find suitable alternative housing. If necessary, court proceedings will be initiated in order to secure vacant possession. In the meantime, the demolition contract will be phased to allow maximum time to secure vacant possession of 2 Stamford Road. Vacant possession of Greig Hall and Woodward Hall has already been secured. A new lease is being negotiated with the furniture manufacturer occupying the library, that will enable vacant possession to be secured when required for refurbishment.

Not securing RtB Receipts and/or GLA Grant

- 9.2 As set out above, the project will need around £5.3m of subsidy through either the Council's RtB allocations or GLA grant. The project is currently not included within Council RtB allocations, nor was it included in the Council's initial bid for GLA grant. Discussions have been held with the Council's finance department to ensure RtB funding is available for the project. The Council is in regular dialogue with the GLA around grant and will seek to bid for additional grant for the Woodward Rd project. If this is not possible, additional RtB receipts may be required to deliver the desired tenure mix.

Planning permission not being granted.

- 9.3 The recommended option complies with key planning policies in relation to affordable housing, retention of community uses and heritage assets. Initial massing and layout concepts have been prepared, which have been discussed with the Development Management officers to gain early feedback.
- 9.4 Public consultation has been carried out on the proposals in order to seek to gain people's view and their secure their support prior to the submission of the planning application.
- 9.5 Regular discussions will be held with the Development Management Team during the pre-application process.

Cost increases above the project budget

- 9.6 The current costs are based on the initial design concept and desktop site analysis. Given the early stage of the project a high level of contingency has been allowed for in the project costs provided by the QS.
- 9.7 This will be continuously monitored as the project progresses through detailed design and procurement. Intrusive site investigation will be carried out prior to submission of the planning application so that a robust cost estimate of the scheme, reflecting the site constraints, is undertaken prior to seeking planning permission. There will be continuous dialogue with the Client to ensure that Client Brief requirements are reflected within the design and costs.

- 9.8 Furthermore, costs will be reviewed with the Client prior to entering into contract at the various stages of the development process, including at the appointment of the design team and the demolition contractor.

Site constraints inhibiting/delaying scheme delivery

- 9.9 A desktop ground condition study and risk assessment has been undertaken which concludes that there is a low to moderate level of contamination risk. There are existing services within the site that will need to be diverted, and a new transformer may be required to service the new homes. Furthermore, power and utilities services will need to be maintained for the Julia Engwell Clinic during and post construction of the development.
- 9.10 The design allows for an open area to the rear of Julia Engwell to accommodate services.
- 9.11 Vacant possession of the majority of the site has been secured to enable demolition and intrusive site surveys to be undertaken during the planning process.
- 9.12 Continuous dialogue with the NHS and adjacent residents will be maintained during the design and construction process.

Public Background Papers Used in the Preparation of the Report:

- Cabinet report dated 17 January 2017 on purchase of Greig Hall

List of appendices:

- Appendix 1: Site Plan and Aerial Photo
- Appendix 2: Land Appropriation Plan
- Appendix 3: Design Concept