

## CABINET

17 March 2020

<b>Title:</b> Barking Riverside Land Transfers	
<b>Report of the Cabinet Member for Regeneration and Social Housing</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> Thames	<b>Key Decision:</b> No
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<b>Summary</b> <p>Thames Road forms the main element of the Barking Riverside Gateways Housing Zone. As such this is a priority site for the Council and Be First's regeneration aspirations for the area. The first development proposal coming forward at Thames Road is 12 Thames Road which is proposed to be developed for a co-location scheme including ground floor industrial units and upper floor residential units. Following positive public consultation in late 2019, a planning application for the development was submitted in December 2019. The 12 Thames Road site is in the ownership of the Council however there is a thin strip of land in the freehold ownership of Barking Riverside Limited (BRL) that is included within the planning application red line.</p> <p>BRL Ltd have previously agreed to an acquisition of the land by the Council for a price to be decided via a red book valuation. Initial Heads of Terms were issued in 2019 for the Council to purchase the land in question to facilitate the development. Since that date further discussions have taken place and an opportunity has arisen for a land swap benefitting both parties. As such it is now proposed that a nil payment land swap is agreed between the parties with each party covering their own legal costs.</p> <p>In return for the land adjacent to 12 Thames Road, it is proposed that the Council surrender part of their leasehold interest in the land on the south of Ripple Nature reserve that forms part of the wider land under title number EGL358735. This land is shown shaded orange on appendix 2.</p> <p>The Council currently has a leasehold interest in this land, with the freehold being owned by BRL. The southern part of this land is planned as part of the Barking Riverside development and it is intended to locate BRL's district energy centre on this part of the site. This is part of the approved masterplan and outline planning permission for Barking Riverside. By surrendering the Council's leasehold on the southern part of Ripple Nature Reserve, this will allow BRL to continue with their planned development.</p> <p>The land adjacent to 12 Thames Road (shown in appendix 1, edged in red) currently consists of unused open land, is approximately 0.25 acres and forms part of a wider freehold land title under Title Number EGL334572.</p>	

Both pieces of land have value to the purchaser but would be difficult to formally value given their size or land use constraints, therefore the proposed solution benefits both parties unlocking development and regeneration benefits.

### **Recommendations**

The Cabinet is recommended to:

- (i) Agree to the land swap arrangements with Barking Riverside Limited on the terms set out in the report, whereby the Council shall acquire the freehold interest in the land shown edged red in Appendix 1 to the report in exchange for surrendering the Council's leasehold interest in the land shown shaded orange in Appendix 2 to the report; and
- (ii) Authorise the Director of Law and Governance, or an authorised delegate on her behalf, to execute all the legal agreements, contracts and other documents necessary to implement the arrangements on behalf of the Council.

### **Reason(s)**

- To facilitate the planned development at 12 Thames Road and support the Barking Riverside Ltd development.
- Delivery of new affordable homes within the Borough

## **1. Introduction and Background**

- 1.1 Thames Road forms the majority of the Barking Riverside Gateways Housing Zone, with Barking Riverside to the South and Thames View to the industrial users to the east, west and north. It is proposed to redevelop significant parts of Thames Road for a mix of residential and employment uses.
- 1.2 The first development proposed is at 12 Thames Road. This site is 2.25 acres in size with 0.25 acres owned by Barking Riverside Limited (BRL). The freehold interest of 12 Thames Road was purchased by the Council in January 2017 with the view to redevelop for housing.
- 1.3 In July 2018, Be First brought plans for the site (Gateway 2) to the LBBDD Investment Panel and were granted approval. The scheme is in the Be First Business Plan.
- 1.4 The proposed 12 Thames Road scheme was approved at Gateway 3 in December 2019, and a planning application was submitted on 20<sup>th</sup> December 2019 with full support of the case officer, design officer and a positive reaction at the public consultation. The application seeks to provide 153 affordable residential units and 4,510m<sup>2</sup> of new industrial space.
- 1.5 The site sits within a Strategic Industrial Location (SIL) and the Barking Riverside Gateways Housing Zone. A masterplan for the area is being prepared by the planning policy team at Be First.

## 2 Proposal and Issues

- 2.1 While it was previously agreed with BRL to purchase their freehold land adjacent to the 12 Thames Road site, the opportunity to enter into a nil payment land swap has presented itself benefitting both parties.
- 2.2 This land is crucial to delivering the current development proposal at 12 Thames Road. Shown below is the proposed ground floor plan of the development at 12 Thames Road and the corresponding BRL land is shown edged in red (please note this is a rough location plan for illustration purposes only)



Ground Floor

- 2.3 By agreeing to the proposed land swap, the Council will both be able to facilitate the development at 12 Thames Road and also support the development at Barking Riverside.
- 2.4 The land shown in appendix 2 was transferred on a leasehold basis to the Council as part of a larger area to be used as a nature reserve. No other use is permitted. This element of the site however has not been used as a nature reserve for a significant period and has been taken back into use by BRL. The orange area is c 1.5ha.

### **3 Options Appraisal**

- 3.1 Cabinet are being asked to consider the “land swap” arrangement with BRL. Below sets out different options and potential outcomes;
- 3.2 The ‘Do Nothing’ option would lose the opportunity to carry out the current iteration of the planned development at 12 Thames Road. There may be a potential to create a new planning application which does not include the BRL land, however this would cost time and money. It would also cause further constraints on the land and planning potential
- 3.3 Another option would be to purchase the land adjacent to 12 Thames Road based upon a red book valuation. This was the option being pursued but would require funding from the Council to purchase. It would also mean retaining the current land in Ripple Nature reserve. As the council is not current using this land, it is providing LBBD with no benefit. If LBBD retained the leasehold on the land would cause serious issues for the Barking Riverside development which would hamper efforts to regenerate the local area.
- 3.4 The recommended option is to facilitate a “land swap” with BRL where the council’s leasehold interest is surrendered on the land on the south of Ripple Nature reserve (shaded orange on appendix 2) and the freehold interest in land adjacent to 12 Thames Road (edged on appendix 1) is transferred to the council. This would result in a nil payment exchange with both parties covering their own legal costs.

### **4. Consultation**

- 4.1 This proposal has been discussed at the Barking Riverside Steering Group. It would also need to be agreed by the Barking Riverside Board.
- 4.2 There has been pre-planning public consultation on the 12 Thames Road proposals which were broadly positive. The formal planning process underway involves consultation. The Barking Riverside development has seen significant public consultation and has an approved outline permission.

### **5. Equalities**

- 5.1. The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics namely: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Section 149 of the Equality Act 2010 places the Council, as a public authority, under a legal duty ("the public sector equality duty"), in the exercise of all its functions, to have due regard to the need to:
  - Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act;
  - Advance equality of opportunity between persons who share a "relevant protected characteristic" (i.e. The characteristics referred to above other than marriage and civil partnership) and persons who do not share it; and
  - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.2 Both developments have their own Equality assessment which is more relevant than this specific land swap.

## **6. Financial Implications**

Implications completed by David Dickinson, Investment Fund Manager

6.1 The report proposes a land swap with BRL where the council's leasehold interest is surrendered on the land on the south of Ripple Nature reserve and the freehold interest in land adjacent to 12 Thames Road is transferred to the council.

6.2 The transfer will be a nil payment exchange although there will be legal costs.

6.3 As outlined in the report, by agreeing to the proposed land swap, the Council will both be able to facilitate the development at 12 Thames Road and also support the development at Barking Riverside.

6.4 The land swap would benefit both parties, with the transfer to the Council facilitating the development of 12 Thames Road and the transfer of the land south of Ripple Nature reserve allowing BRL to use the land for their energy centre in line with approved planning approvals.

## **7. Legal Implications**

Implications completed by Ann Towndrow, Property Solicitor

7.1 In accordance with section 120 Local Government Act 1972 (LGA), a principal council may acquire by agreement any land, whether situated inside or outside their area for the purpose of any of their functions under this or any other enactment or for the benefit, improvement or development of their area.

7.2 Under s123 of the LGA a local authority may dispose of land subject to a duty to obtain the best consideration reasonably obtainable (includes the grant of a lease). A disposal may be at an undervalue if the transaction will contribute to the social and economic well-being of its area.

7.3 In addition:

i. The general power of competence under section 1 of the Localism Act 2011 provides the Council with the power to do anything that individuals generally may do.

ii. Section 111 of the Local Government Act 1972 enables the Council to do anything which is calculated to facilitate, or is conducive to or incidental to the discharge or any of its functions, whether or not involving expenditure, borrowing, or lending money, or the acquisition or disposal of any rights or property.

7.4 The Council's Constitution, Part 4, Chapter 4 sets out the Land Acquisition and Disposal Rules. In accordance with paragraph 2.1, all strategic decisions about the use, acquisition and disposal of land and property assets is within the remit of the Cabinet.

## **8 Other Implications**

- 8.1 **Risk Management** - The recommendation results in a nil payment exchange. This requires no borrowing and the only costs would be legal costs (under £5,000) which would need to be spent under the existing proposal. The council is being requested to surrender their interests in part of a current leasehold. It is believed that this currently is not in use by the council and so risks associated with the surrender are very low.
- 8.2 **Corporate Policy and Customer Impact** – The proposal helps facilitate two schemes which deliver corporate policy objectives and deliver benefits for residents in the form of affordable homes and new jobs.
- 8.3 **Safeguarding Children** – Future redevelopment proposals offer the chance to consider improvements which assist with improving safeguarding opportunities.
- 8.4 **Health Issues** – Future redevelopment offers the chance to address health and wellbeing issues which would be considered as part of the proposals.
- 8.5 **Crime and Disorder Issues** - Section 17 of the Crime and Disorder Act 1998 places a responsibility on councils to consider the crime and disorder implications of any proposals. Future redevelopment of the site offers the opportunities for making any improvements which address crime and disorder issues.
- 8.6 **Property / Asset Issues** – This proposal involves a land swap whereby the Council releases a leaseholder interest in favour of a new freehold interest. It would be a challenge to formally value each site – each party has a very specific interest in the land they want but limited interest in the land they would forego.

**Public Background Papers Used in the Preparation of the Report:** None

### **List of Appendices:**

Appendix 1: Site Plan – Land to the east of 12 Thames Road

Appendix 2: Site Plan – Land at the Southern Part of Ripple Nature Reserve