
REPORT FOR: CABINET

Date of Meeting:	17 September 2015
Subject:	Gayton Road Development Proposals
Key Decision:	Yes
Responsible Officer:	Caroline Bruce, Corporate Director of Environment and Enterprise
Portfolio Holder:	Councillor Keith Ferry, Deputy Leader and Portfolio Holder for Business, Planning and Regeneration Councillor Glen Hearnden, Portfolio Holder for Housing Councillor Sachin Shah, Portfolio Holder Finance and Major Contracts
Exempt:	No, except for Appendix 1 which is exempt under paragraph 3 of Schedule 12A to the Local Government Act 1972 (as amended) in that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information)
Decision subject to Call-in:	Yes, except where the decisions are reserved to Council
Wards affected:	Greenhill Ward
Enclosures:	Appendix 1 Exempt information - Schedule Appendix 2 Site Plan

Section 1 – Summary and Recommendations

This report sets out the options for the development of Gayton Road car park and the site of the ex-Gayton library in conjunction with Fairview Enfield Ltd (“Fairview”), the owners of the land that sits between the two aforementioned areas of land.

Recommendations:

- 1) Delegate authority to the Corporate Director of Environment and Enterprise, following consultation with the Deputy Leader and Portfolio Holder Business, Planning and Regeneration, to agree flexible terms and enter into contracts for the development of Gayton Road surface level car park and the site of the ex Gayton Road Library to include the property situated between them known as Sonia Court. The development to include a number of private housing units for sale or private rent to be owned by the Council, or a corporate vehicle wholly owned by the Council, and the acquisition of social affordable residential units within the proposed development as per option 3 of this report provided that it remains in the Council’s best interests to do so.

The development will be subject to:-

- (i) Council approval of the funding of the arrangements for both the social affordable and the private housing elements; and
 - (ii) planning approval.
- 2) Delegate authority to the Corporate Director of Environment and Enterprise and the Corporate Director of Resources following consultation with the Deputy Leader and Portfolio Holder Business, Planning and Regeneration to:
 - (i) agree the structure of an appropriate delivery vehicle or vehicles in which to hold the respective assets to secure a flexible and optimal position for the Council, to include the option of deciding to retain the ownership of the social affordable residential units directly by the Council; and
 - (ii) that Cabinet recommend to full Council the approval of a capital budget of up to £15m for the social affordable and private housing elements as per option 3, and
 - (iii) That Cabinet recommend to full Council the approval of additional borrowing of up to £15m to fund the capital expenditure in (i) above, and
 - (iv) That Cabinet authorise the Director of Finance following consultation with the Portfolio Holder Finance and Major Contracts to negotiate and finalise loan arrangements between the Council and the preferred delivery vehicle of sums up to £1.65m, being the estimated requirement plus a 10% tolerance.

3) That Cabinet note that the proposals contained in the report support the Council's commercialisation agenda.

Reason: Option 3 produces the highest net revenue contribution to the Medium Term Financial Strategy (MTFS) as well and provides much needed affordable and market housing for Harrow's residents.

There is a shortage of housing generally in the borough, and in particular a shortage of "affordable" housing for those on low incomes. The position has been made worse as a result of the impact of welfare reform on household incomes, which has also adversely impacted on the willingness of local landlords to let their properties to low income households. This has greatly increased the number of families at risk of homelessness, and despite the work of the Housing Needs team in preventing homelessness in many cases, has resulted in a significant increase in B & B usage.

The proposals in this report will assist in meeting the demand for both market rented and affordable housing within the Borough and will assist the Council in controlling homelessness costs.

Section 2 – Report

Introductory paragraph

The Council owns the freehold of the Gayton Road surface level car park and the site of the ex Gayton Library. Sonia Court, a small block of flats with adjacent garages is situated between the two Council sites and is owned by Fairview. See attached plan. In combining the site it is possible to deliver a comprehensive development scheme which would produce approximately 200 more residential units than would be the case if the sites were developed separately.

On 14 December 2006, Cabinet authorised officers to enter into negotiations with Fairview Homes Ltd ("Homes"), on an outline proposal to deliver a new combined library, performing arts and exhibition centre on the Gayton Road site, which would replace the existing library as part of a wider development of the whole site for housing and a new town centre car park, consistent with the existing Town Centre Development Strategy.

In July 2007, the completion of more detailed feasibility and costing work indicated that the programme was not affordable in the light of the Council's constrained budget position. Officers identified an opportunity to relocate the Gayton library on an interim basis to Garden House, a five storey building located conveniently in the heart of Harrow town centre almost directly opposite a large department store.

The rationale for the partnership with Homes was reviewed at that stage with the assistance of specialist valuers. On 8 November 2007 Cabinet delegated authority for a contract for sale to Fairview at best consideration.

Subsequently a planning application was submitted and the Homes scheme was granted planning permission on 2 October 2009, following completion of a S106 legal agreement. It comprised:

- 383 flats, 102 of which were affordable (26.6% of units) in 5 blocks ranging in height from 4 to 10 storeys. 61 of the affordable units were social rented, the majority (35 in total) providing larger 3, 4 and 5 bedroom accommodation, whilst the shared ownership provision was for 41 smaller 1 or 2 bedroom units. 34% of habitable rooms – the conventional way of measuring compliance with planning policy - were affordable.
- 200 public car parking spaces and 81 resident parking spaces, in a semi basement arrangement

There were however concerns by Members and the general public over the scale and particularly height of this proposed development and accordingly this proposal was ultimately rejected by the Council as landowner.

Further discussions took place with Homes in respect of a revised scheme and on 17 October 2013 Cabinet approved the disposal.

Jones Lang LaSalle were instructed to advise as to whether the consideration for the proposal was the best that could be reasonably obtained pursuant to the requirements of section 123(2) of the Local Government Act 1972 and their report confirmed that the revised scheme met the necessary requirements.

It is considered that the recommended Option 3 meets the requirements of Section 123(2) of the Local Government Act 1972, but officers intend to instruct external valuers to provide the necessary reports and confirmation prior to the Council exchanging contracts conditional *inter alia* on planning. It is proposed that the terms of any contract will require the Council as landowner to agree the form of the planning application prior to its submission.

The proposal will generate an income stream to contribute to the MTFS . In addition it will bring forward a substantial number of housing units, both social rented and private, whilst bringing the site of the ex Gayton Road library back into beneficial use.

Options

Option 1

The Council accepts a capital receipt from Fairview and sells the freehold of the ex-library site and car park to Fairview outright on a contract conditional on the grant of planning consent, reserving the right to approve the planning application as landowner, prior to submission.

This option generates a revenue benefit based on the interest saved on borrowing not required as a result of the capital receipt. It should be noted that this benefit would accrue sooner than the other options but is a one-off receipt.

Option 2

The Council transfers the freehold of the two sites to Fairview at nominal consideration in exchange for an agreed number of new private housing units for either sale or operation as private rented housing. In addition, 33 underground parking spaces, retail/café space and community space would also be given to the Council.

The Council would reserve the right to approve the planning application as landowner, prior to submission.

Net revenue benefits from this option are greater than Option 1.

Option 3

The Council transfers the freehold of the two sites to Fairview , at nominal consideration in exchange for (1) the Council or its chosen SPV acquiring an agreed number of new private housing units for either sale or operation as private rented housing at nil consideration; separately (2) the same chosen SPV (or the Council) will purchase the social affordable element of the development scheme.

Both the SPVs' interests (or the Council if it decides to retain [either] the social affordable [or the private rented]units directly) will be held under long (999-year) leases. The Council will reserve the right to approve the planning application as landowner, prior to its submission.

This option provides the highest net revenue stream and whilst the benefit is delayed by some 20 months when compared to option 1 the ultimate value is substantially higher and there is far greater flexibility associated with it.

Option 4

Develop the ex-Gayton Road library site and surface level car park separately and exclude Sonia Court. This option produces a significantly lower number of housing units and a smaller capital receipt and/or other revenue benefits.

Option 5

Do nothing. This is not considered to be appropriate as the ex-library has been demolished and the site is derelict.

Under **Option 3** it is estimated that the first social rented units would be delivered 16 months from the commencement of development works on site at the rate of 12 per month and the private units 22 months from their build commencement at a rate of 8 per month. It is envisaged that the entire scheme would deliver in the region of 358 housing units (subject to prior landowner approval of the scheme and subject to planning).

It should also be noted that under **Option 3** that if the Council should choose not to purchase the social affordable element then this will still be delivered to a Registered Provider of social housing (formerly known as a 'housing association') with nomination rights to the Council under the planning consent which allow the council to nominate specific homeless households to occupy the affordable rented units. The Council normally requires the right to

nominate to 100% of the affordable rented units on initial let, and to 75% of subsequent relets, for a period of sixty years.

Staffing/Workforce

If a social affordable scheme and/or private rented sector scheme is progressed the residential units would either be managed by a wholly owned council company or internally using existing structures.

Performance Issues

The recommended option contributes significantly to the provision of rented, social and private housing within the borough.

Environmental Implications

The development scheme will have a positive impact and contribute to the Council's Climate Change Strategy by:

- Improving energy efficiency and reducing CO2
- Achieving a suitably high Sustainable Building Code
- Incorporate a CHP

Risk Management Implications

Risk included on the Directorate risk register? NO

Separate risk register in place? Yes

There are significant risks as a result of the development, but they will be managed and mitigated as necessary. The main risks are identified in the table below.

Risk	Mitigation
Delays in exchanging contracts	Progress closely monitored, regular scheduled meetings
Delay in submitting planning application	Regular progress meetings and Fairview to enter into planning performance agreement
Legislative changes, including extension of Right To Buy to housing associations	Lobbying with other local authorities (e.g. London Councils), prior to exchange; opportunity to renegotiate social affordable element Flexibility has been drafted into the contract for sale to ensure the Council's investment is secure in the event of changing market conditions or legislation by providing under various scenarios alternative options for either selling on the PRS and / or the SA or alternatively not

	proceeding with the purchase of the SA. Additionally if necessary different tenure and ownership models could be exploited.
Rental market declines	Sell the private rental units
Delay in completion of PRS and/or social rented units	Contract/development agreement to provide for monitoring and penalties
The developer becomes insolvent	The Contract/s are being guaranteed by Fairview Holdings Limited. The Council in addition would expect to receive the usual step-in rights under Fairview's intended sub-contract arrangements.
Enhanced SDLT liability	The construction of the appropriate documents to mitigate tax liability

Legal Implications

1. Pursuant to the provisions of section 123(2) of the Local Government Act 1972 the proposals comprised in Option 3 as outlined above would need to satisfy the requirements of that section insofar as the consideration which the Council expects to receive for the transaction or its constituent elements must represent the best consideration that the Council could reasonably obtain.
2. It is proposed that the Council becomes a member of and invests in by way of capital contribution to a Limited Liability Partnership (LLP) vehicle. The LLP members will be the Council and a wholly owned subsidiary of the Council. The Council has taken independent advice to confirm that such an arrangement can be lawfully created and entered into. .
3. The Council has power to establish and participate in an LLP where:
 - (i) it is done to facilitate or is conducive or incidental to the discharge of any of its functions (s. 111(1) of the Local Government Act 1972; and
 - (ii) it is done other than for commercial purpose (s. 1 of the Localism Act 2011)

The Council is able to establish an LLP for the purposes of owning housing where the creation of such is linked directly to one of its functions.

4. The Council has statutory authority to hold property for a variety of purposes including those mentioned in section 120(1) of the Local Government Act 1972 which include for the benefit, improvement and development of their area. The contractual arrangements with Fairview allow the Council to either nominate that Fairview grant the initial

headlease/s back to the Council or such other party as they shall nominate. The intention is that the Council will thereafter grant subleases to the LLP of the private rented and social affordable units.

The nature of the proposed transaction with Fairview Enfield to deliver the scope and type of works that the Council is expecting to receive will need to be structured so as to address any EU procurement risks normally associated with development of a similar nature, whilst ensuring that the Council's position going forward is not compromised.

Latest figures providing by the Harrow town centre car parking Future Options Study June 2015 highlighted that Gayton Road has 294 car spaces where average weekday parking occupancy was 48% and 24% at weekends. It is considered that the other central Harrow Car parks have spare capacity to absorb the loss in parking particularly Queens House where the Council have 450 spaces and where current occupancy rates are 35% on weekdays and 27% at weekends.

Financial Implications

The full financial implications are set out in the Part II exempt appendix.

The proposed option would produce significant revenue streams for the Council over time, and is currently being viewed as a long-term investment for the purposes of the financing arrangements as it is expected to deliver long-term benefits to the Council. The Council will have the option to dispose of part or all of these properties in the future, but may need to consider the potential implications or early loan repayment penalties as part of any options appraisal, depending on the Council's treasury management requirements at the time.

The revenue from Gayton Road car park was £145,869 in the year 2014/2015. As highlighted above it is anticipated that the loss of revenue from the surface level car park would potentially be offset by increased revenue streams at the Council's other car parks in the town centre.

As set out in the appendix, Cabinet would need to recommend to full Council that a capital budget be established to cover the costs of the proposal, that additional borrowing be taken out in order to finance this expenditure, and that approval be given to negotiate any necessary loans to third-party companies that form part of the ownership arrangements.

Equalities implications / Public Sector Equality Duty

Section 149 of the Equality Act 2010 requires that public bodies, in exercising their functions, have due regard to the need to (1) eliminate discrimination, harassment, victimisation and other unlawful conduct under the Act, (2) advance equality of opportunity and (3) foster good relations between persons who share a protected characteristic and persons who do not share it.

Was an Equality Impact Assessment carried out? - No

There is no requirement to carry out an equalities impact assessment for the Gayton Road Development proposals, the subject of this report, because the impact of implementing the proposals is consistent with Corporate Estates existing strategy for the disposal of land and buildings which has been subject to an equalities impact assessment and which identified no adverse equality impact issues.

Council Priorities

The Council's vision:

Working Together to Make a Difference for Harrow

This proposal will contribute positively to the Council's vision for Harrow *Working together to Make a Difference for Harrow* and the council's priorities in the following ways:

Making a difference for the vulnerable and families by providing a range of good quality housing units for:

- Affordable social rental
- Private rental
- Private purchase

Section 3 - Statutory Officer Clearance

Name: Dave Roberts	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 17 August 2015		
Name: Ian Goldsmith	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 17 August 2015		

Ward Councillors notified:	YES
EqIA carried out:	NO , See main body of report
EqIA cleared by:	N/A

Section 4 - Contact Details and Background Papers

Contact: Andrew Connell, Senior Professional,
Estate Development
D/L 0208 424 1259
email: Andrew.connell@harrow.gov.uk

Background Papers: None

**Call-In Waived by the
Chairman of Overview
and Scrutiny
Committee**

NOT APPLICABLE

*[Call-in applies, except where
the decision is reserved to
Council]*