

<b>REPORT FOR:</b>	<b>CABINET</b>
<b>Date of Meeting:</b>	15 July 2010
<b>Subject:</b>	Boxtree Public House, Boxtree Lane Harrow Weald
<b>Key Decision:</b>	No
<b>Responsible Officer:</b>	Andrew Trehern, Corporate Director Place Shaping
<b>Portfolio Holder:</b>	Councillor Thaya Idaikkadar, Portfolio Holder for Property and Major Contracts
<b>Exempt:</b>	No
<b>Decision subject to Call-in:</b>	Yes
<b>Enclosures:</b>	Plan – for illustrative purposes only

## Section 1 – Summary and Recommendations

This report sets out proposals for the disposal of the freehold interest in the Boxtree Public House for affordable housing. A separate Part II information report gives further details in relation to financial matters.

### Recommendations:

Cabinet is requested to authorise the Corporate Director Place Shaping in consultation with the Portfolio Holder for Major Projects and Property to negotiate and conclude the disposal of the freehold interest in The Boxtree Public House for best consideration subject to the restriction that the site is to be used for the development of affordable housing the development mix to be agreed with the Council's Housing Department.

### Reason: (For recommendation)

The disposal will generate a capital receipt for the Housing Revenue Account and provide much needed social housing for the Borough thereby fulfilling one

## **Section 2 – Report**

### **Introductory paragraph**

1. The Council owns the freehold interest in the land upon which The Boxtree Public House in Boxtree Lane, Harrow Weald was built. It is located on the corner of Boxtree Lane and Hutton Lane and let on a ground lease for 80 years from 25<sup>th</sup> December 1955 at an annual rental of £150. The lease expiry date is 2035. The approximate extent of the property is shown for illustrative purposes only edged [in red] on the enclosed plan.
2. This site is held in the Housing Revenue Account (HRA).

### **Current Situation**

3. The Boxtree has been closed and vacant since January 2007 with little prospect of it ever opening again as a Pub as officers consider that there is no commercial demand for the premises in their existing current use.
4. Since it has been vacant it has been attracting antisocial behaviour and fly tipping and this situation is likely to continue whilst the premises remain vacant.
5. The lease however restricts the use of the premises to a Public House and the tenant's options are extremely limited without reaching agreement with the Council for an alternative use or, as proposed in this report, an agreement to jointly dispose of the parties' respective interests to a third party free of the restriction on use as a Public House.
6. The Tenant has accordingly agreed subject to contract to transfer its lease to a third party housing association, who propose also taking a transfer of the Council's freehold interest. The parties intend that the site can then be redeveloped for affordable housing by the housing association. Any agreement in respect of the purchase of the site by a housing association will be conditional on planning permission being granted for the development.
7. The Council has confirmed to the tenant its requirement for the site to be developed for affordable housing as it is held in the HRA fund. As a result the tenant contacted social landlords with a view to finding a purchaser of the site. A Housing Association have offered the best price for a development which will comprise 100% affordable housing in a format acceptable to our Housing Department who will then take up nomination rights in respect of the newly developed units.

8. Due to the contractual arrangement between the tenant and the Council there is marriage value in combining the two interests. This is because the value of the freehold interest to a single party with vacant possession is greater than the aggregate of the two existing property interests held by different parties, on account that the terms of the lease effectively tie the land up for a further twenty five years with an uneconomic use.
9. In such circumstances there are clear financial advantages in reaching agreement to merge the interests for an alternative use or for redevelopment.
10. In this instance it has been agreed that the best alternative use is to sell the site with vacant possession to a housing association for affordable housing.
11. Officers are of the view that this reflects best consideration and is the most appropriate use for the site given its size and particularly its location.
12. Ward Councillors have been consulted.

## Options considered

13. **Do Nothing** – there is little likelihood of the property being brought back into meaningful use as a Public House and so it is likely that the site will remain vacant and a target for antisocial behaviour for the foreseeable future.
14. **Seek to acquire the leasehold interest** – This will require the Council to fund the acquisition and take the risk of disposing of, or developing, the site.
15. **Complete the sale** – by agreeing jointly to the sale of the property to a housing association the tenant and the Council will share equally an enhanced capital receipt in excess of the aggregate market value of their respective property interests, thereby capturing the marriage value. The contract for sale will restrict the use of the site to social housing with Harrow Council having contractual nomination rights with the preferred housing association.
16. A capital receipt is ensured and the Council as a result does not take on any development risk.

## Recommendation

17. It is recommended that the Corporate Director Place Shaping in consultation with Portfolio Holder for Property and Major Projects is authorised to negotiate and conclude the disposal of the freehold interest in The Boxtree Public House for best consideration subject to the restriction that the site is to be used for the development of affordable housing the development mix to be agreed with the Council's Housing Department.

18. The benefit to the Council of this proposal is its negotiating strength in being able to determine the alternative use of the site with the added benefit of achieving an enhanced capital receipt.

## **Implications of the Recommendation**

### **Legal Implications**

19. The Council has the power, under section 32 of the Housing Act 1985, to dispose of land held for housing purposes provided that it first obtains the consent of the Secretary of State.
20. In Part E of the General Housing Consents 2005 the Secretary of State grants consent to the disposal of housing land at the best consideration that can reasonably be obtained provided that any existing dwelling house included in the disposal:
  1. is vacant
  2. will not be used as housing accommodation
  3. will be demolished

The stipulation at 2. does not prevent the land, once any existing buildings have been demolished, being used for new housing.

21. The affordable housing use restriction imposed on the buyer in the transfer document will be expressed to bind both the buyer and any future owners, subject to the statutory rights of any future tenants of the new units to acquire their own home.

### **Community safety**

22. By selling the freehold interest and permitting the redevelopment of this site the Council will remove a site that will attract antisocial behaviour and secure the development of the site for social housing.

### **Financial Implications**

23. The sale of this site will generate a capital receipt to the Council in excess of the open market value of its freehold interest. There will however be a loss of annual rent of £150 upon surrender of the lease.
24. The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003, obliges the Council to pay over 50% of the Capital receipts derived from the sale of interest in Housing land. However, the provisions of paragraphs 12-18 of the said Regulations, allow the Council to reduce the amounts payable to the Secretary of State under these regulations. The reduction in the amount payable can be determined by the Council which will be able to retain the full 50%, but the sums must be used as a contribution towards Affordable Housing or Regeneration projects to be decided at the Council's

discretion. It is envisaged that the Council will use the capital receipt for this purpose.

## **Performance Issues**

25. No BVPIs, or KPIs will be impacted by this proposal. National Indicator NI 155 relates to the number of affordable homes delivered (gross). The rationale for this indicator is the promotion of an increase in the supply of affordable housing. The development of affordable units on this site will contribute towards Harrow's performance in relation to this indicator.
26. The development of the site will provide much needed family sized affordable housing accommodation in the Borough,

## **Environmental Impact**

27. The Boxtree is currently a vacant property which is likely to attract anti-social behaviour. By pursuing the redevelopment of the site the Council will secure the use of the premises for affordable housing. The above proposal does not conflict with relevant Environmental Legislation and no Environmental Impact assessments are considered necessary.
28. The proposed development offers the opportunity to build properties to modern standards with good insulation, renewable energy technologies, and efficient heating, heating controls and lighting. This would result in lower carbon emissions and reduced running costs.
29. Similarly, the proposed development should seek to install water efficient equipment wherever possible to minimise demand for potable water. This would reduce running costs and help to minimise additional demand for water in an area of the country that is classified as water-stressed by the Environment Agency.

## **Risk Management Implications**

30. No risk implications have been identified with this proposal.

## **Equalities implications**

31. No Equality Impact Assessment was carried out as the proposal is consistent with Corporate Estates existing Disposal of Property Policy which has been subject to an Equalities Impact Assessment and which identified there to be no adverse equality impact issues.

## Corporate Priorities

- 32 The report incorporates the Corporate priority to deliver cleaner and safer streets by removing a redundant building which has been attracting anti social behavior and improving support for vulnerable people by initiating a development for affordable housing.

## Section 3 - Statutory Officer Clearance

Name: Kanta Hirani	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 28 June 2010		
Name: Matthew Adams	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 30 June 2010		

## Section 4 – Performance Officer Clearance

Name: Martin Randall	<input checked="" type="checkbox"/>	on behalf of the Divisional Director (Development and Performance)
Date: 5 July 2010		

## Section 5 – Environmental Impact Officer Clearance

Name: John Edwards	<input checked="" type="checkbox"/>	Divisional Director (Environmental Services)
Date: 28 June 2010		

## **Section 6 - Contact Details and Background Papers**

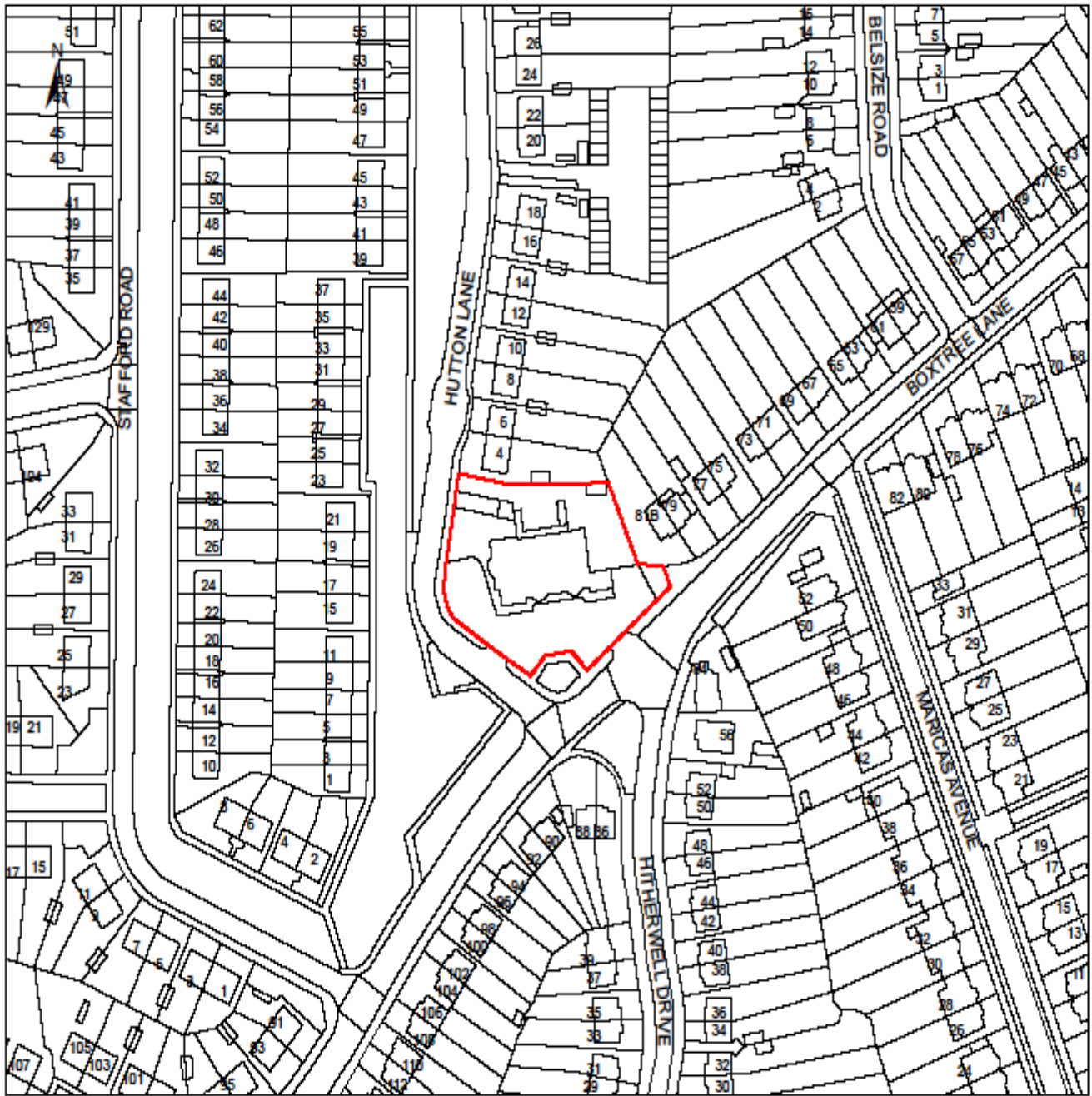
Contact: Andrew Connell - Corporate Estate Ext: 2259  
andrew.connell@harrow.gov.uk

Background Papers: None

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

**NOT APPLICABLE**

*(for completion by Democratic  
Services staff only)*



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**TITLE**  
 Boxtree Public House  
 Boxtree Lane  
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 Middlesex  
 HA3 6JH

Drawn  
 MV

File No.

Scale  
 1:1,250

Date  
 15/08/10

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