



Report to:	Strategy & Resources Committee	Date:	17 July 2017
Report title:	Wallington Public Hall - Site Disposal		
Report from:	Gerald Almeroth, Strategic Director for Resources		
Ward/Areas affected:	Wallington South		
Chair of Committee/Lead Member:	Councillor Ruth Dombey, Leader of the Council/Councillor Simon Wales Deputy Leader of the Council		
Author(s)/Contact Number(s):	Ade Adebayo, Assistant Director, Resources Directorate (Asset Planning, Management & Capital Delivery) 020 8770 6109		
Corporate Plan Priorities:	<ul style="list-style-type: none"> • A Fair Council • A Smart Council 		
Open/Exempt:	Appendix B is exempt on the basis of Paragraph 3, Schedule 12A of the Local Government Act 1972		
Signed:		Date:	05 July 2017

1. Summary

- 1.1 This report notes the progress made to date by Sutton Living in bringing forward viable proposals for the development of this site. Site constraints have limited the quantum of development that is viable for the site. It is currently proposed that a mixed use scheme with 27 residential units and a commercial shop unit be built. This will require less than half of the area of the site and represents a change from the scheme on which the Strategy & Resources Committee decision in September 2015 was based. Additionally, it is also proposed that a condition of the disposal to Sutton Living should be that 40% of the units should be affordable housing with the Council granted nomination rights to them.
- 1.2 This report sets out the implications of the changes to the previous development proposals for site and recommends a new basis for its disposal to Sutton Living.

2. Recommendations

The Strategy & Resources Committee is recommended to:

- 2.1 Agree that, subject to achieving planning consent, Sutton Living be granted a 125-year lease for a mixed use development consisting of 27 residential units and a ground floor commercial unit, for the land described as Site A on the attached site plan at the former Wallington Public Hall.
- 2.2 Agree that the commercial shop unit is acquired by the Council and added to its Investment Property Portfolio



- 2.3 Agree that disposal to Sutton Living is to be on the basis that 40% of the residential units on the scheme are developed for affordable housing and that the Council is granted nomination rights to the affordable housing units
- 2.4 Agree that, in consultation with the Deputy Leader, the Strategic Director for Resources is delegated authority to agree a revised sale price if required by any amendments to these proposals for the scheme that obtains planning consent, with the agreed price based on a valuation by an independent firm of chartered surveyors.
- 2.5 Delegate authority to the Strategic Director for Resources to negotiate and agree terms for the lease and complete all legal documents for the transfer to Sutton Living, including any changes required to the boundaries of Site A to fit with the consented scheme.

3. Background

- 3.1 Strategy & Resources Committee of the 28 September 2015 declared the Wallington Public Hall site surplus to Council requirements. It also approved as its preferred future use for the site, redevelopment for residential use by the Council's DevCo (now Sutton Living) and provision of 40 public car parking spaces.
- 3.2 The options considered included (a) open market disposal, (b) redevelopment by Sutton Living for sale and (c) redevelopment by Sutton Living for rent. Each option included retention of 40 public car parking spaces and a ground floor commercial unit on the Stafford Road frontage. The development site (0.54Ha/1.34acres) included both the footprint of Wallington PH and the public car park at the rear.
- 3.3 The proposed development comprised 34 residential units - 20 x 1 bed 2-person flats, 12 x 2 bed 4-person flats and, 2 x 3 bed 5-person flats with a retail unit at the Stafford Road frontage.
- 3.4 The site was valued at [1/para 3]. This was based on a scheme developed for outright disposal with 7 of the units (2 x 1 bed and 5 x 2 bed) being developed as affordable housing.
- 3.5 The proposed development had not at that stage been the subject of pre-application discussions. The report noted that the exact tenure mix within the development was to be established by Sutton Living during the design development stage of the project which would include the production of scheme viability appraisals.

4. Issues

- 4.1 Sutton Living has produced number of development options for the site and has held pre application discussions with the Council's Development Control Service to establish how development of the site could be maximised. Due to site constraints, Sutton Living has concluded that full development of the rear of the site is not viable and is consequently proposing a 27 unit residential development with a ground floor commercial unit located to the front of the site. This scheme has not yet been submitted for planning permission and as such may still need to be revised in line with any consent granted for the development.



- 4.2 The current scheme proposes - 7 x 1 bed 2 person flats, 5 x 2 bed 3 person flats, 13 x 2 bed 4 person flats and 2 x 3 bed 5 person flats of which 11 are proposed for affordable rent. The land required for this revised proposal (0.22Ha/0.56acres) is shown as Site A on the plan attached as Appendix A. The remainder of the site - Site B (0.32Ha/0.79acres) - is not required for the residential development and will remain in Council ownership and can continue to be used for public car parking. This will provide more than the required minimum of 40 public car parking spaces.
- 4.3 To support the Council's wider objective of increasing the level of affordable housing in the borough, it is proposed that a requirement should also be placed on this disposal which requires 40% of the units to be affordable with nomination rights to the affordable units granted to the Council.
- 4.4 By making nomination rights part of the conditions for disposal, the Council will secure access to 11 units on this development to which it can nominate economically active residents currently housed in homeless accommodation.
- 4.5 The tenure proposed contributes to the economic and social well-being of the area by providing a mix of tenure types within the same building (market and intermediate). In particular the intermediate rent product is intended for households who cannot afford to purchase due to insufficient savings.
- 4.6 The Council could therefore agree a nominations agreement with Sutton Living Limited giving the Council more flexibility to source its own nominations and also to set additional priorities for allocation to suit the Council's requirements. Those priorities could be, but are not limited to: economically active; initial marketing to existing renters in Sutton borough only; targeting economically active households currently in temporary accommodation
- 4.7 In disposing of land, local authorities are required under s123 of the Local Government Act 1972 to secure the "best consideration that can be reasonably obtained". Local Authorities are also required to have regard to the European Union State Aid rules which are designed to prevent the territories giving a subsidy in whatever form or guise that results in an organisation or organisations from that territory having an unfair advantage over others from other territories in relation to commerce and industry.
- 4.8 The test for the Council in meeting best consideration requirements is whether having set conditions in line with the Council's planning and housing policies - 40% affordable housing and nomination rights - the sum of the value of the site, plus the commercial benefits of the conditions imposed exceed the open market value of the site, had it not imposed the conditions.
- 4.9 Similarly with the State Aid requirements, the key test in this case is whether the sale price to Sutton Living in acquiring the site (with the conditions imposed on the disposal) is the same as any other commercial organisation will also pay.

- 4.10 The Council has consequently commissioned independent valuation of the site from an established firm of Chartered Surveyors - Montagu Evans - to establish the following values:
- Market value of the whole site (Sites A & B without any conditions imposed)
 - Market value of Site A with 27 units (without any conditions imposed)
 - Market value of Site A (27 units and 40% affordable housing)
 - Market value of Site B (12 units with 40% affordable housing)
 - Market value of the shop unit (included in all the valuations above except Site B)
 - A valuation of the nomination rights was also carried out by the Council's Head of Housing Enabling and Development using the Council's standard methodology. This valued the nomination rights to the 11 affordable units included in this development over a 25 year period.
- 4.11 There is a monetary value to the Council that can be applied to the nomination rights. The calculation is not an exact science. The formula used is based on the assumption that if the Council did not have nomination rights, it would have to accommodate more families in emergency accommodation. The method calculates the expected revenue cost to the Council of placing a household in emergency accommodation assuming that 95% of the cost is charged to the occupant. In this case, the value of 11 nominations is £1,148,117 over 25 years.
- 4.12 The Council intends to acquire the shop unit to add to its Investment Property Portfolio. The independent valuer advises that the Council could achieve a rent of about [2/para 4] per year for the unit.
- 4.13 For the Council to meet State Aid rules, it is proposed that Site should be offered to Sutton Living for [3/para 4], which together with the value of the shop unit of [4/para 4], means that the Council will achieve the market value of [5/para 4] advised through the independent valuation.
- 4.14 The Council can also demonstrate that it is achieving the "best consideration that can be reasonably obtained" as the sum of the commercial value of the condition imposed on the sale, plus the market value of the site is greater than the open market value of the site without any conditions. This tabulated in the confidential appendix B.
- 4.15 The valuation of site and the disposal sum recommended in this report are based on a 27 unit development. Depending on the outcome of the development control process, the number of residential units may change. This will affect value. As such, disposal to Sutton Living is proposed to be made subject to planning, with the final value based on an independent valuation of the approved scheme, if the scheme changes.

5. Options Considered

- 5.1 A number of options were considered when the Strategy & Resources approved disposal to Sutton Living for the mixed use scheme described in this as its preferred option.



6. Impacts and Implications

Financial

- 6.1 Disposal of Wallington Public Hall (with a requirement of 40% affordable housing units) for [6/para 6] is a reduction in the estimated capital receipt of [7/para 6] from the budgeted [8/para 6] that was to be available for the capital programme. How to fund this shortfall will need to be considered as part of the 2018-22 capital programme review. Disposal of the site to Sutton Living, however means that through the Council's sole ownership, it retains the asset and any capital appreciation over the life of the building. The Council will also benefit from nomination rights on the affordable housing units, which has been estimated to have a monetary value of £1.148m.

Legal

- 6.2 The prohibition against State Aid is a concept emanating from the EU. Basically it is a set of rules designed to prevent the territories giving a subsidy in whatever form or guise that results in an organisation or organisations from that territory, or from another, having an unfair advantage over others in relation to commerce and industry.
- 6.3 Commerce and industry can encompass the activities of local authorities in providing housing. It is not a simple concept and whether or not a particular course of action constitutes state aid cannot be reduced to a something as empirical as a mathematical equation. However, there are four tests that have to be applied and "passed" to establish if particular assistance / subsidy constitutes State Aid and they are:
- The assistance is granted by the state or through state resources;
 - It favours certain undertakings;
 - It distorts or might distort competition ; and
 - It affects trade between Member States
- 6.4 If the assistance that is being given, in this case by Sutton falls within the above criteria as explained below, then it may well be State Aid.
- 6.5 However, we note from the report that the purchase price for the land is what one would expect a private company to pay because of the restrictions as to use and disposal. If that is the case, then there would be no assistance/subsidy and no State Aid.
- 6.6 The committee report identifies a number of issues and comments have been made in relation to the various valuations. However, if the sale with the restrictions of affordable housing/nomination rights at [9/para 6] represents the best price reasonably obtainable in the open market then as mentioned above there should not be an issue with State Aid, provided that there are no other financial accommodations that could amount to subsidy.

7. Appendices and Background Documents

Appendix letter	Title
A	Site Plan (A & B)
B	Schedule of Exempt Items

Background documents
None

Audit Trail		
Version	Final	Date: 5 June 2017
Consultation with other officers		
Finance	Yes	Lyndsey Gamble
Legal	Yes	John Cheetham/Rowenna Warburton
Housing Enabling	Yes	Gill Daw
Equality Impact Assessment required?	No	N/A