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| <b>Cabinet</b><br><br>19 December 2018                            | <br><b>TOWER HAMLETS</b> |
| <b>Report of:</b> Ann Sutcliffe, Acting Corporate Director, Place | <b>Classification:</b><br>Unrestricted  |
| <b>Site at 20 Alton Street E14 6BZ</b>                            |   |

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|--|---|
| <b>Lead Member</b>                       | <b>Mayor John Biggs, Responsibility for Asset Management</b>                |
| <b>Originating Officer(s)</b>            | Richard Chilcott, Acting Divisional Director, Property and Major Programmes |
| <b>Wards affected</b>                    | Lansbury Ward   |
| <b>Key Decision?</b>                     | No  |
| <b>Forward Plan Notice Published</b>     | 26 June 2018 (originally)   |
| <b>Reason for Key Decision</b>           | N/A   |
| <b>Strategic Plan Priority / Outcome</b> | <b>A borough that our residents are proud of and love to live in</b>        |

### **Executive Summary**

Lansbury Estate Muslim Association (LEMA) have been using the site at Alton Street, as shown in Appendix A for over 8 years under a tenancy at will. They have now approached the Council to acquire a long leasehold interest in the site. It is proposed that the Council grant a 99 year lease to LEMA for the premium of £402,250.

## **Recommendations:**

The Mayor in Cabinet is recommended to:

1. Agree that the site at 20 Alton Street E14 be declared surplus;
2. Agree to the disposal of the site on a 99 year lease to Lansbury Estate Muslim Association at a premium of £402,250;
3. Delegate to the Acting Corporate Director of Place in consultation with the Corporate Director Governance the authority to agree the detailed heads of terms and, thereafter, enter into the legal documentation (including, but not limited to, a development agreement, agreement for lease and lease) in order to give effect to the decision
4. To note the Equalities Impact Assessment / specific equalities considerations as set out in Paragraph 4.1.
5. Note the result of the further investigations requested in July leading to the decision previously being deferred as set out in 3.14

## **1. REASONS FOR THE DECISIONS**

- 1.1 The site of 20 Alton Street is currently accepted in planning terms to be for community use so only an alternative planning consent for the site for other uses would change this designation. The Council have investigated an alternative development option but this would not be financially viable.
- 1.2 LEMA is an established charity involved in serving the community and has a long history in the area. The organisation wants to additionally invest in the area and have requested a long leasehold interest to support their vision for a permanent building.
- 1.3 The long leasehold interest will enable them to secure funding and have a long term strategy for the provision of a mosque and other community activities

## **2. ALTERNATIVE OPTIONS**

- 2.1 **Leave everything as is** – This is not an option as LEMA occupies the site on a tenancy at will and cannot deliver additional services on the basis of such a tenancy which provides no certainty. Additionally the group occupy porta cabins on the site that have come towards the end of their economic life
- 2.2 **Disposal on the open market** - If placed on the open market the site would struggle to sell for existing community use. Other community uses are possible but size constraints would impede the full range of community uses like schools and other uses so it is unlikely to generate a better capital receipt

- 2.3 **Grant a lease** – LEMA would like to redevelop the site and build a new purpose built mosque. A short lease would not support such investment.

### **3. DETAILS OF THE REPORT**

- 3.1 Alton Street is on the Lansbury Estate. The Lansbury Estate was transferred to Poplar Harca several years ago. The property comprises a number of interconnecting single storey prefabricated buildings (Porta cabin style) located on a fully enclosed site. The current buildings have a net internal floor area of 3,490 ft<sup>2</sup> (325 m<sup>2</sup>).
- 3.2 Lansbury Estate Muslim Association (LEMA) have been in occupation of this site for over 8 years on a tenancy at will and have established a strong community presence. The organisation serves the Lansbury Estate and its residents. There are no other suitable sites in the Lansbury ward to develop a mosque and community centre. A move to another area could result in a loss of members and some of LEMA's activities.
- 3.3 LEMA has approached the Council several times seeking to purchase the site at Alton Road. LEMA wish to redevelop the site and create a permanent structure which can only really be done if there is some long term guarantee of continuity of occupation. When negotiations for a long lease were commenced, the intention was to maintain a balance of services in a densely populated area.
- 3.4 It should be noted that the premium of £402,250 will be for a very restrictive 99 year lease where there will be no option of subletting and where the lease will have very tight user clause restricting uses to those falling under class D1 only. The valuation of the site is purely for D1 use and does not reflect any hope value or alternative uses
- 3.5 The open market value of the site on an unrestricted and freehold basis is estimated to be £1.2m. The most valuable use (if planning was forthcoming) would be for residential use. A feasibility study to develop the site for housing was procured which would also accommodate the re-provision of the mosque but this has not been pursued as the number of affordable units that could be generated is too few to make this viable and so would not be an effective use of the Council's resources.

3.6 Sale by negotiation is permitted under the Council's Lettings and Disposal Policy on the basis that LEMA has been considered to be a special purchaser in this transaction. A sale on the open market is therefore not required and this is on the basis that the Council's well-being powers justify this course of action. Under the well-being powers, the Council may look at the contribution an organisation makes to the area in terms of:

- A. the promotion or improvement of economic well-being;
- B. the promotion or improvement of social well-being;
- C. the promotion or improvement of environmental well-being.

3.7 LEMA is a registered charity who has undertaken to deliver adult education, Islamic teaching, the promotion of good health, promotion of racial harmony and provides support for youth services. LEMA is the first mosque in Tower Hamlets to become dementia friendly. This accolade will enable them not only to improve the lives of dementia sufferers but share best practice with other organisations. The work LEMA is doing fits in with the vision Poplar Harca has for the area for improving local residents' access to education and training, good health and social cohesion.

3.8 As the site is designated as HRA land and vacant (for the purposes of the General Housing Consent) the Council may dispose of it on the terms set out below. The Council may use the lease to protect the future community use. LEMA confirm they had no intention of using the site for any purpose other than as a Mosque and cultural centre (all within a D1 planning use) and wish to pursue the 99 year lease on that basis.

3.9 The summary of the heads of terms for the transaction are as follows:

|             |   |
|-------------|---|
| Term:       | 99 years from the completion of the lease   |
| Premium:    | £402,250. LEMA's solicitors confirm they have all funds including the Council's costs in place and are therefore able to proceed immediately with entering into any agreements. |
| Use:        | As a place of worship and ancillary D1 uses for LEMA  |
| Alienation: | Subletting prohibited and assignment confined to permitted use  |
| Repairs:    | LEMA to be responsible for all repairs  |

### 3.10 Match with Corporate objectives & Community Plan

Tower Hamlets Strategic and Community Plans set out a variety of issues in the borough and covers corporate priorities. LEMA's vision and objectives, as set out in their articles of association, aim to support several of the Council's objectives and assist in addressing some of the issues in the Borough.

| <b>TH Corporate strategy/Community Plan objectives</b>                                   | <b>LEMA Vision/Charitable Objectives</b>  |
|--|---|
| TH recognises that there is high levels of persistent unemployment in the Borough        | LEMA will work with the community to relieve unemployment and will advance education and training including religious education.  |
| TH want to promote community cohesion  | LEMA have programs focussing on the promotion of racial harmony by sharing knowledge and mutual understanding between different racial groups   |
| Develop Cross cutting partnerships   | LEMA currently work closely with the Council and are actively engaged in delivery the priorities covering this area i.e. <ul style="list-style-type: none"> <li>• empowering residents and building resilience</li> <li>• Promoting healthier lives</li> <li>• Increasing employment</li> </ul> |
| The results for post 16 pupils are below the London average                              | They intend to help young people by developing their skills, capacity and capability and act as a resources of the under 25 age group.  |
| Health issues for Tower Hamlets develop up to 10 years earlier for TH residents          | LEMA are one of the first mosques to become dementia friendly and are committed to lessen other health inequalities. They are also committed to promoting and protection good health.   |
| Average earning for TH residents 10k below the average earning of workers in the borough | The relief of poverty and financial hardship  |

3.11 In respect of the Best Value Improvement Plan 2017/8, this transaction falls within the Council's commitment to work with the Voluntary and Community sector. The New Compact considered by Cabinet in March 2018 sets out common principles and values and undertakings by both sectors to help reinforce the relationship. The grant of the long lease to LEMA will act as a catalyst to secure larger programmes, improve eligibility for more grants and support the vision to build a new facility.

- 3.12 Officers in the Asset Management team initially arranged for the site to be valued on the basis of several scenarios, including the freehold value for disposal, the grant of a 25 year lease, or the grant of a 99 year lease with restricted use and various other scenarios. The Council has a general policy of not disposing of freehold interests in land and so this option was discounted. The values arrived at were:

| <b>Basis</b>                        | <b>Value based on current use</b> |
|-------------------------------------|-----------------------------------|
| 99 year lease                       | £402,250                          |
| Rental value based on 25 year lease | £40,225 pa                        |

- 3.13 In terms of the alternative uses, the following options have been considered:

**Current Community Use** - Is well established, provides balance for a dense residential area and enables a variety of community based programmes to be delivered. This use does however suppress the value.

**Nursery** – The area would generate children able to fill a nursery but the socio economic profile is unlikely to support a commercial nursery operation and therefore values would be lower.

**Residential** - The ideal alternative use would be residential but planners view would be to protect the community use on this site and only accept residential development as part of a comprehensive proposal.

**Other D1 uses** - Other community uses would always be a possibility and supported in principle by the planners. The site is too small to accommodate a school/college and many other D1 uses.

- 3.14 **Mixed Development** - At the July Cabinet meeting, members requested that Asset Management officers looked at an alternative option of delivering a mixed development of a place for worship on the ground floor and residential on the upper floors. This has been undertaken but the proposal is not viable because:

- a) LEMA's vision for a redeveloped site for a new mosque and cultural centre is much larger than the current foot print of the temporary buildings reducing the space for any additional housing.
- b) A feasibility study has been prepared for a mixed scheme but that would only yield 4 units given the height restrictions in the locality and the size of site.
- c) The feasibility estimated that the scheme would cost approximately £3.4m. Normally this type of cost would yield triple the number of flats and therefore it is not regarded as being financially viable.

- 3.15 It has also been confirmed that the Council is not restricted from disposing of land where the main purpose is to be a faith use. The Council ordinarily needs to ensure that the terms for any disposal represent best consideration, which has been verified by an independent valuation, but in this case is not technically required because of the nature under which the land is currently held as referred to in paragraph 7.4 below.

#### **4. EQUALITIES IMPLICATIONS**

- 4.1 This transaction will enable LEMA to further develop their services to the community. LEMA as part of their charitable objectives intend to respond to the variety of Equality issues across the Borough including activities to address health inequality. They intend to help young people by developing their skills, capacity and capability and act as a resources of the under 25 age group which will in turn assist efforts to address the disproportionate numbers of young people not in education, work or training.

#### **5. OTHER STATUTORY IMPLICATIONS**

This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:

- Best Value Implications,
- Consultations,
- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.

#### **One Tower Hamlets Consideration**

Community facilities have an important role to play in community cohesion. LEMA, as a registered charity, have objectives mirroring that of the One Tower Hamlets' philosophy:

- the advancement of educational and training
- promotion and protection of good health
- promotion of racial harmony etc.

#### **Best Value (Bv) Implications**

LEMA is a special purchaser, asset management has commissioned an independent valuation of the site to ascertain the open market value and to ensure that the premium agreed is in accordance with Best Value. Asset Management can confirm that the transaction constitutes best value.

## Risk Management Implications

| Risk   | Mitigation   |
|--|--|
| Contracts may be exchanged but transaction not completed due to lack of funds.                   | No contract will be entered into until all funds are in place  |
| Substantial lapse in time from securing cabinet approval to when the transaction is entered into | The purchaser has been advised that the Council will get an updated valuation if there is substantial delay. as we are required to obtain market value.  |
| The purchasers go through an internal split putting the purchase at risk                         | Officers will have to review the options in this event and build in a clause in the contract to protect the Council's position.  |
| The purchaser tries to use the site for other uses   | As the terms were agreed on the basis that there would be restriction to use as a place of worship with ancillary D1 use for LEMA, departure from this would constitute a breach in the terms of the lease and could result in forfeiture. |

## 6. COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 This report seeks the agreement of the Mayor in Cabinet to the granting of a 99 year lease of the site at 20 Alton Street to the Lansbury Estate Muslim Association (LEMA).
- 6.2 The site is held under Housing Revenue Account (HRA) powers and is currently let by way of a tenancy-at-will at a charge of £20 per day, LEMA being charged an annual rent of £7,280. It is proposed that the new lease will be at a peppercorn rent so the HRA will be forgoing the £7,280 income, however a capital receipt of £402,250 will be generated.
- 6.3 Various options for the future use of the site have been assessed (see paragraph 2.3). It was determined that the freehold disposal of the site was not desirable so options of granting a 99 year lease and generating a capital receipt, or a 25 year lease with an annual rental income were considered.
- 6.4 The report recommends the option of disposal of the property on a long (99 year), restricted use basis lease (current D1 use), at a value of £402,250. The restricted D1 use (i.e. that it must be used for the provision of non-residential services, including clinics, health centres, crèches, day nurseries, day centres, schools, halls, places of worship, church halls and non-residential education and training centres) means that the asset value is less than would be the case if sold without the restrictions being in place. Although the report

indicates that if the site could be sold for residential purposes on an unrestricted freehold basis it has a potential value of £1.2 million (paragraph 2.4), officers consider that the costs involved in compensating for the removal of the restrictions mean that this option is not viable.

- 6.5 The report outlines in paragraph 3.1 various activities that LEMA undertakes in the area which benefit the local community. The Mayor in Cabinet should be satisfied that these benefits mean that LEMA should be considered a special purchaser which justifies disposal taking place with restricted conditions, rather than the Council seeking alternative offers or using it for different purposes.
- 6.6 The property is held under HRA powers and as such any receipt is 100% usable to fund the HRA capital programme. If the receipt is used within the General Fund for purposes other than the provision of affordable housing or regeneration, then an adjustment must be made to the HRA's Capital Financing Requirement (CFR). This would have the effect of reducing the capital financing charges allocated to the HRA and increasing those allocated to the General Fund. The use of the receipt will be considered as part of the overall capital strategy, capital programme delivery and funding strategy.

## **7. COMMENTS OF LEGAL SERVICES**

- 7.1 The Council is proposing to dispose of the land, by way of long lease, to the Lansbury Estate Muslim Association.
- 7.2 The land is held in the Housing Revenue Account and the disposal is therefore governed by the Housing Act 1985. Section 32 of the Act provides that a local authority may not dispose of any housing land held by them without the consent of the Secretary of State. In order to facilitate disposals, the Secretary of State has issued a series of general consents (the General Housing Consent 2013) which provide the required consent in certain circumstances.
- 7.3 Paragraph A3.2 of the General Housing Consent provides the Council with the consent to dispose of vacant land. "Vacant land" is defined in paragraph A2.2 as including land on which "no dwelling-houses have been built". The disposal is therefore permitted by legislation.
- 7.4 Paragraph 8 of the commentary to the Consents provides that vacant land can be disposed "at any price determined by the local authority." However, as the trustee of public land the Council must consider the value of the interest being disposed of. The report confirms that an independent valuation has determined that the value of the lease, based on the restrictive use, accords with the premium to be secured.
- 7.5 The Council's procedure for disposals and lettings specifies that the procedure adopted for disposal is to be determined by the Divisional Director, Property and Major Programmes. Sale by negotiation would usually involve a

“Special Purchaser”, an example of which is a sitting tenant. This is on the basis that either a negotiated procedure will generate a higher capital receipt or, as is the case here, the Council’s well-being powers justify it. The well-being power is satisfied, under the procedure, in circumstances where:

- 7.6 “(a) the Local Authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
- i) the promotion or improvement of economic well-being;
  - ii) the promotion or improvement of social well-being;
  - iii) the promotion or improvement of environmental well-being; and
- 7.7 (b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds)”.
- 7.8 It should be noted, however, that (b) is not relevant for these purposes as it does not apply to HRA land, nor is the disposal at an undervalue. The disposal by way of negotiation, on the basis of the intended use, is therefore consistent with Council policy.
- 7.9 The ultimate structure of the disposal, in terms of whether it will be pursuant to a development agreement, agreement for lease (conditional on the build and planning permission, for example) which will be proceeded by the lease, or otherwise, is dependent on the refined final terms. The Council will also wish to consider protecting its position as freeholder by, for example, requiring step-in rights and the benefit of warranties. The recommendation is drafted sufficiently to cover this.

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

Site at 20 Alton Street E14 6BZ – [Cabinet 25 July 2018](#)

### **Appendices**

Appendix A – Site Map

### **Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

NONE

### **Officer contact details for documents:**

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