



City of Westminster

Cabinet Member Report

Meeting or Decision Maker:	Cabinet Member for Climate Action, Regeneration and Renters
Date:	17 th May 2023
Classification:	Part exempt. Appendices A, B C and D only are exempt, on the grounds that they contain confidential information relating to the financial or business affairs of any particular person (including the authority holding that information under paragraph 3 of Schedule .12A of the Local Government Act 1972).
Title:	Acquisition of 44 social rented homes being delivered by Grosvenor Estates Cundy St Quarter development; the extension of lease arrangements for the management of Ebury Square; and the extension of the lease to Walden House.
Wards Affected:	Knightsbridge and Belgravia
Fairer Westminster	These recommendations serve to provide Fairer Housing within Westminster and specifically 44 new social rented units within Knightsbridge and Belgravia and a 'one move' option for existing residents of Walden House that will be demolished as part of the Cundy Street Quarter development by Grosvenor Estates.
Key Decision:	Yes
Financial Summary:	Acquisition is in line with approved budgets and purchase price achieves a net positive impact on the HRA from 1 st full year of occupation. Extension of Ebury Square Gardens lease and management results is a net cost to the HRA that will be budgeted from 2028 onwards.
Report of:	Debbie Jackson, Executive Director, Growth Planning and Housing

1. Executive Summary

- 1.1. Grosvenor are re-developing 2.4 acres which will provide 44 social rented homes, 44 intermediate rent homes, and a mixture of market and senior living homes. This is known as the Cundy Street Quarter. Within this development, WCC currently have 40 social rented homes under a short-term lease and will require vacant possession to facilitate the ongoing development.
- 1.2. The Council has submitted a 'subject to contract' bid to purchase the 44 new social homes under a 125-year lease in the Cundy Street Quarter development scheme. Grosvenor have received planning permission for the scheme and are seeking a registered provider to acquire and manage the affordable homes built in the scheme. The new social homes are expected to complete in 2026. Grosvenor have confirmed that Westminster City Council is their preferred partner to purchase the new social homes and are keen for the parties to progress matters and conclude the Walden House lease extension by the expiry date in June 2023.
- 1.3. This report is seeking the Cabinet Member's approval of the Council's acquisition of the new social rented homes on the outline terms indicated. It is noted that heads of terms are yet to be agreed between the parties. It is also seeking a delegated authority for the Executive Director of Growth Planning and Housing to approve legal documents relating to the acquisition. Further due diligence will be undertaken, and final terms and conditions of contract will need to be finalised prior to exchange of contracts and completion. Indicative specifications for the new social rented homes have been exchanged between the parties to ensure our minimum home standards are clear and will be met by the developer. As we progress, further due diligence will be required and finalised prior to exchange of contracts and completion.
- 1.4. Alongside Grosvenor's indicative acceptance of the Council's bid, it is proposed that the Council extend the lease arrangements for the open space at Ebury Square which is owned by Grosvenor and maintained by WCC. The current sublease is due to expire the beginning of April 2028. The proposal is to extend this sublease, with no premium, for a further 20-year period. As such, the Council will continue to be responsible for the management of the square under the terms of the sublease and will meet the cost for doing so for a period of 20 years. Provision is included within the total budget contained within Appendix A.
- 1.5. As noted above, the Cundy Street Quarter development includes Walden House, which will be demolished as part of Grosvenor's plans. The building is currently managed by Westminster City Council under a lease due to expire in June 2023. It is proposed in this report that the Council extend the lease on this block to a long stop date of 2028 to enable the new social rent homes to be built by Grosvenor as a first phase and thereby enable Walden House residents who wish to do so to move into the new homes via a 'one move' commitment by Grosvenor. The Walden House lease will then be surrendered back to Grosvenor for demolition and redevelopment.

2. Recommendations

- 2.1. That the Cabinet Member for Climate Action, Regeneration and Renters following consultation with the Cabinet Member for Finance and Council Reform:

- 2.1.1. Approves in principle the Council's offer as set out in Appendix A to acquire a 125-year lease of Block C Cundy Street containing 44 social rent homes. and the expenditure up to the total budget set out in Appendix A including any legal and professional fees, in line with this report.
- 2.1.2. Delegates authority to the Executive Director of Growth, Planning and Housing to negotiate and enter into the Block C Cundy Street lease, a leaseback of the commercial units and other associated legal documents, subject to the satisfactory completion of the due diligence.
- 2.1.3. Approves in principle taking a lease extension of the lease at Ebury Square as set out in Appendix B of this report.
- 2.1.4. Delegates authority to the Executive Director of Growth, Planning and Housing to negotiate and enter into the Ebury Square lease and other associated legal documents.
- 2.1.5. Approves in principle the Council taking an extension of the lease on Walden House to June 2028 or later (if agreed) for nil premium and authorises any necessary payment of Grosvenor's capped legal costs as set out in Appendix C arising from households who remain in occupation after the lease ends.
- 2.1.6. Delegates authority to the Executive Director of Growth Planning and Housing to negotiate Walden House lease extension terms and enter into the lease and other associated legal documents. The draft heads of terms for the Walden House lease extension are attached at Appendix D for reference.

3. Reasons for Decision

- 3.1. The acquisition of a social rent building from Grosvenor at the Cundy Street Quarter provides new accommodation for residents displaced from Walden House as part of the masterplan redevelopment and represents value for money, as demonstrated by a supporting Red Book valuation and the appraisal that was undertaken by the Council and presented at Appendix A.
- 3.2. Extending the management lease on Ebury Square in 2028 improves the overall value of the Council's bid and secures preferred bidder status for the Council as the purchaser of the new social rent units being provided through the development.
- 3.3. Extending the lease on Walden House to June 2028 is required to provide the Council with the ability to move residents into the new social homes on the Cundy Street Quarter development should they choose to do so, honouring Grosvenor's one move commitment to residents.

4. Background, including Policy Context

- 4.1. Grosvenor Estates are bringing forward a neighbourhood-based development of their Cundy St site in Pimlico. Bordered by Ebury Square, Pimlico Road and Cundy St itself, the scheme is intended to deliver new homes, new amenities and improved public spaces. Planning permission was granted in June 2021. Part of the site includes Walden House, a social housing block, operated by Westminster City Council as landlord.

- 4.2. Walden House contains 40 family dwellings located at the corner of Pimlico Road and Ebury Square. It is leased to Westminster City Council for a period of 99 years from Grosvenor Estates, with the original lease expiring in June 2021. To best support residents to find alternative accommodation, the lease was extended for a 2-year period, up to June 2023. Since this lease extension was agreed, Grosvenor introduced a phased element to their scheme, which will result in the replacement social housing being completed first. In March 2020, Grosvenor made a commitment that the residents of Walden House would be able to move directly into the newly completed social homes should they choose to do so. These homes are expected to complete in 2026.
- 4.3. To reflect the phased approach and enable residents to move once, Grosvenor intend to extend the lease on Walden House for a further period, with a proposed long-stop date of June 2028 or later (if agreed). While the lease extension is at nil-premium, it includes a requirement that the Council pays Grosvenor's legal costs for removing any tenants who remain after the lease ends. This liability is capped per household as set out in Appendix C. As all tenants will be offered the opportunity to move into new homes at Cundy Street, the likelihood of residents remaining and exposing the Council to the full cap is low. In addition, all households have 'decant priority points' to be rehoused in advance of the new development. Should any households remain, the Council will not provide the relocation support measures highlighted in 4.4, as these are then duplicated costs.
- 4.4. On completion of the new social rented homes, the Council has made available a package of support to Walden House residents comparable to the rehousing policy on renewal areas including a statutory homes loss payment known as a 'displacement payment' as approved in a Cabinet Members Report 25th March 2019. It also includes support with removals providing the residents vacate whilst the Council remains the tenant under the lease. These costs are illustrated in Appendix C and chiefly comprise of a payment comparable to what the Council would pay under 'statutory home loss' and where the Council was obliged to pay under a Compulsory Purchase Order. The remaining figure arises from other costs related to the move. As 'statutory home loss payment' is subject to expected annual increases, the 'displacement payment' approved in March 2019 will also rise similarly to this. An allowance for these rehousing costs has been made in the required fiscal year from 2025/26.

5. Acquisition of Cundy Street

- 5.1. Separate from the Council's existing arrangements, the Council has chosen to bid for the 44 new social rented homes being built on Cundy Street. The offer balanced the strategic benefit of the acquisition against the financial challenges facing the HRA.
- 5.2. The HRA Business Plan 2022/23 has provisioned the full budget for Cundy Street Block C, which includes the purchase price and any associated costs (Appendix A).
- 5.3. Following submission of the bid, a capital budget was included in the HRA. In addition to the purchase price, a further sum was included to meet Stamp Duty Land tax, legal fees and monitoring costs of the acquisition.
- 5.4. Informal feedback from Grosvenor indicated that the Council's offer was below the competing bid. However, Grosvenor proposed including the management of Ebury Square as a means of taking a more rounded assessment of the Council's bid and reconcile the lower value they are achieving on the social homes.

- 5.5. Grosvenor, the headlease holder of Ebury Square Gardens, have leased the area to the Council on peppercorn rent until April 2028 plus 50% of any income that exceeds £5,000 per annum. Grosvenor propose, on expiry of the current lease, to grant a new lease to the Council for 20 years, expiring in April 2048 plus 50% of any income that exceeds £5,000 p.a. This is proposed to be on similar terms to the existing lease at a peppercorn rent.
- 5.6. The cost of managing the square, currently £30k per annum, had been earmarked as a future saving once the current lease expires in 2028. As the square will be upgraded as part of the Cundy Street Masterplan, it is estimated that the additional maintenance required will increase costs under the new lease to £38k per annum, rising annually with inflation.

6. Viability Assessment

- 6.1. Westminster's bid reflects the current state of the HRA Business Plan and, balanced against the strategic value of owning the homes, targets a revenue positive position, improving the HRA's overall position.
- 6.2. Westminster has bid on milestone payments during construction, with 90% of the payments falling within 1 year of practical completion. Upon completion the 44 social homes will be held for rent in the HRA for the full term of the 125yr lease.
- 6.3. The table in Appendix A sets out the financial position at practical completion and shows that from full occupancy the acquisition will generate more in net income than the cost of financing the acquisition, providing a revenue surplus to the Council. While this surplus is small, the assumed management costs of 45% include contribution to sinking funds and life cycle costs, which initially will be low and likely covered by warranties and NHBC.
- 6.4. The net income from practical completion ensures the acquisition is self-funding. As the income stream grows with inflation and finance costs remain fixed, over time the net income will grow. Rising to £95k per annum in year 10 and £234k per annum in year 20.
- 6.5. Extending the lease of Ebury Square Gardens is estimated to cost approximately £1m over 20 years from 2028, assuming an annual inflation rate of 2%. Westminster could choose to increase its bid instead of extending the Ebury Square lease. However, small payments over 20 years are more favourable to the Council than increasing the initial bid, due to the low initial surplus and therefore the recommended approach is to formally advise Grosvenor that the Council will extend the management of Ebury Square to 2048, coupled with the acquisition bid for the social homes and enable Grosvenor to make a final determination.
- 6.6. The nil-cost lease extension to Walden House is required irrespective of the outcome of the acquisition bid exercise to enable residents to benefit from being able to move to the new social homes.

7. Financial Implications

- 7.1. Irrespective of who the registered provider is, the existing tenants of Walden House will be entitled to a compensation package comprised of two elements. The first element is the displacement payment which is subject to inflationary increases. The second element is actual removal costs.

- 7.2. Taking these two elements into account, the total forecasted minimum compensation package is estimated at £300,000 for the 30 residents at Walden House (see Appendix C for breakdown).
- 7.3. The compensation will be payable in 2025/26, around practical completion of the project. As the Council set revenue budgets for the next three years, these payments fall beyond the current budgeting horizon, and will need to be reflecting in the next iteration of the HRA business plan.
- 7.4. Similarly, while the £30k management costs have been earmarked as a future saving, this has not been reflected in the Council's revenue budget. For the appraisal, the additional cost of managing the square has been considered but the budget impact will be limited to the uplift between current costs and future costs.
- 7.5. It is noted Grosvenor have opted to tax the properties at Cundy Street and therefore the Council's acquisition will be subject to VAT. While the Council can recover this VAT, it will increase the amount of stamp duty paid. The Council intends to apply for stamp duty relief by virtue of the Council's status as a registered social landlord, negating this impact.

8. Legal and Governance Implications

- 8.1. The recommendations in this report are matters for the Cabinet Member for Housing Services according to agreed delegations made by the Leader of the Council. However, in this case the Cabinet Member for Housing Services has advised that they live in the local area and have campaigned on this development proposal to the extent that it would be inappropriate for them to take the decision which is the subject of this report. This is considered to be a non-pecuniary interest. In such circumstances, Chapter 3, Section 12.5 (Leader and Cabinet Procedure Rules) of the Council's Constitution provides that the authority reverts to the Leader of the Council. The Leader of the Council has advised that the authority to take the decisions in this report which fall within the remit of the Cabinet Member for Housing Services shall be delegated to the Cabinet Member for Climate Action, Regeneration and Renters.
- 8.2. It is a requirement of the Cabinet Member terms of reference set out in the Constitution that any decisions taken relating to asset management of HRA land and property to ensure affordable housing is maximised are taken in consultation with the Cabinet Member for Finance and Council Reform. The Cabinet Member for Finance and Council Reform has been consulted and a summary of their feedback is included in section 10 of this report.
- 8.3. The Council has the power to enter into the proposed arrangement under section 1 of the Localism Act 2011 (the "General Power of Competence"). The General Power of Competence states that a local authority may do anything a person can do so long as it is specifically not prohibited (under that Act or other legislation).
- 8.4. Under section 120 of the Local Government Act 1970 a local authority may acquire by agreement any land, whether situated inside or outside their area, for any purpose for which they are authorised by the Act (or any other enactment to acquire land) notwithstanding that the land is not immediately required for that purpose; and, until it is required for the purpose for which it was acquired, any land acquired under this subsection may be used for the purpose of any of the Council's functions.

- 8.5. Under section 111 of the Local Government Act 1972, a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.
- 8.6. Section 17 (1) of the Housing Act 1985 gives the Council power to acquire houses or buildings which may be made suitable as houses, together with any land occupied with the houses or buildings and under subsection 3 the land may be acquired for the purposes of this part of the Act by agreement, or they may be authorised by the Secretary of State to acquire it compulsorily.
- 8.7. Extending the lease on Walden House provides the Council with the ability to move residents of Walden House directly into the newly built social homes being developed at Cundy Street, should they wish to do so. This is permitted in accordance with the powers in the paragraphs above. The secure tenants can either move to another property on a voluntary basis, move directly to the new social homes on Cundy Street when built or remain in occupation until the Councils' lease determines and face eviction by Grosvenor.
- 8.8. Entering into a new lease on Cundy Street will provide social homes to the residents of Council. The Council does have a right to proceed in accordance with the paragraphs above. The permitted use will be for social housing. The lease will be excluded from the Landlord and Tenant Act 1954. This means that at the end of the lease the Landlord is not obliged to offer a new lease to the Council. Thus, the Landlord can take the property back at the end of the term. However, this will be subject to any leases granted to the secured tenants under a right to buy.
- 8.9. On the basis the parties will agree a lease back of the commercial property in Block C to Grosvenor, this would take effect as a disposal of housing land which will be subject to section 32 of the Housing Act 1985. The Secretary of State's consent is required in respect of a disposal of land held for the purposes of Part II of that Act (subject to limited exceptions such as a letting on a secure or introductory tenancy which do not apply here). Finance have confirmed that this land will be held in the housing revenue account.
- 8.10. The Secretary of State has issued a number of consents for the purpose of section 32, pursuant to powers in section 34 of the Housing Act 1985. General Consent A of the 2013 Consents was issued under those and other powers. Paragraph 3.1.1 of General Consent A of the 2013 Consents gives local authorities in England consent to dispose of land held for the purposes of Part II for a consideration equal to its market value. The Council will need to be satisfied that the lease back of the commercial property is consideration equal to its market value otherwise specific consent of the Secretary of State will be required.
- 8.11. The taking of a new lease of Ebury Square at the end of the existing term is permitted under relevant paragraphs above. The new lease being on similar terms to the current lease.

9. Carbon Impact

- 9.1. Grosvenor state that the Cundy St Quarter scheme improves the environment with new and improved green spaces, increased biodiversity, and energy-efficient buildings.

9.2. Key credentials quoted are that the new buildings will produce: 94% less carbon in use than existing ones; achieve a 58% reduction in carbon emissions over a 60-year period when you combine construction and operation of the buildings; 45% reduction in water consumption through rainwater recovery technology.

9.3. The improved public spaces are intended to create a greener and more welcoming environment with 65 additional trees and 27,000 sq ft of green and blue roofs.

10. Consultation

10.1. As identified above and due to there being asset management considerations and interests relating to HRA land and property, consultation with the Cabinet Member for Finance and Council Reform has been undertaken as part of the preparations for the recommendations outlined within this report. The Cabinet Member for Finance and Council Reform confirmed his support for the recommendations outlined.

10.2. Local ward members have been briefed at an early stage on the implications for the residents of Walden House following Grosvenor's intention to bring forward their Cundy St Quarter development plans. Subsequent briefings took place following Grosvenor's revised proposals to introduce the phased element which prioritised the construction of the new social homes.

10.3. Residents of Walden House have been consulted regularly throughout the development plans and remain a key stakeholder group for regular consultation by both the Council's and Grosvenor's project team. There has also been wider resident and local stakeholder statutory consultation undertaken by Grosvenor Estates as part of the planning process for the Cundy Street Quarter development.

11. Equalities Implication

11.1. An equalities impact assessment was completed in March 2019 along with Housing Needs Assessments. Those needs captured the re-provided unit size which is now fixed per GEB's planning application. Use of Walden House has been frozen since 2019 but resident monitoring remains ongoing.

11.2. No changes have occurred regarding the offer nor within the residents to date. Households continue to have the option to rehouse prior to the new build completion; where any households that choose to move, the properties are left void. Residents who have already moved will be able to return to the new build once complete.

**If you have any queries about this report or wish to inspect any of the
Background Papers, please contact:
Adnan Rahim, Relocations Manager
arahim@westminster.gov.uk 07966202902**

Background Papers: Cabinet Members Report 25th March 2019 (Walden House Rehousing Offer)
and Equality Impact Assessment 2019

Appendices:

Appendix A – (Table 1) Breakdown acquisition costs of 44 social homes and (Table 2) breakdown
costs of the extension to Ebury Square Gardens

Appendix B – Ebury Square Gardens management costs (current vs new)

Appendix C – Breakdown and projected costs involved with rehousing Walden House residents.

Appendix D – Draft Heads of Terms for Walden House Lease Extension

NB: For individual Cabinet Member reports only

For completion by the **Cabinet Member for Climate Action, Regeneration and Renters**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: _____ Date: _____
NAME: **Councillor Matt Noble**

State nature of interest if any:

(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled

Acquisition of 44 social rented homes being delivered by Grosvenor Estates Cundy St Quarter development; the extension of lease arrangements for the management of Ebury Square; and the extension of the lease to Walden House. and reject any alternative options which are referred to but not recommended.

Signed: _____

Councillor Matt Noble Cabinet Member for Climate Action, Regeneration and Renters

Date: _____

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, S151 Officer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.