



City of Westminster

# Cabinet Member Report

<b>Decision Maker:</b>	Cabinet Member for Finance & Council Reform
<b>Date:</b>	11 March 2024
<b>Classification:</b>	General Release
<b>Title:</b>	Long Leasehold Sale in W1
<b>Wards Affected:</b>	West End
<b>Fairer Westminster:</b>	Fairer Council - The decision enables a capital receipt to be generated which will be reinvested for council services.
<b>Key Decision:</b>	No
<b>Financial Summary:</b>	The capital receipt is a General Fund receipt.
<b>Report of:</b>	Director of Corporate Property

## 1.0 **Executive Summary**

- 1.1 This report recommends the 250-year long leasehold sale of a small 7 sq ft land strip; adjacent to Lansdowne House on the corner of Berkley Square. The land is owned freehold by the Council.
- 1.2 This sale of the land will enable proposed purchaser Juramia Ltd to proceed with the development of their scheme at Lansdowne House and Avison Young's independent valuation has concluded the premium negotiated represents best value for the Council.

## 2.0 **Recommendations**

- 2.1 That the Cabinet Member for Finance and Council Reform delegates authority to the Director of Property, in consultation with the Executive Director of Finance and the Director of Law as appropriate to approve the Council entering into a 250-year lease or any legal documents ancillary to or required to facilitate the disposal of the property.

## 3.0 **Reasons for Decision**

- 3.1 The disposal is recommended as the purchaser is a special purchaser and without their interest it would have little or no economic value to the Council. The sale enables a capital receipt to be realised.
- 3.2 The funds received from the disposal will be reinvested into Council services.

## 4.0 **Background, including Policy Context**

- 4.1 Corporate Property were approached by development managers CORE, who are managing the redevelopment of Lansdowne House on Berkley Square on behalf of Juramia Ltd.
- 4.2 Juramia were granted detailed planning permission in 2020 (Ref. No: 20/04428/FULL) to redevelop Lansdowne House. The permission is for a new building, comprising of basement, lower ground, ground and nine upper storeys for use as office (Class B1) accommodation, flexible retail (Class A1 and/or Class A3 and/or Class A4) and/or gym (Class D2) uses at part lower ground and ground floor level, public realm improvements, and associated works.
- 4.3 In October 2022 it was announced that Blackstone will lease the new building on completion, on the basis that construction is completed by 2028.
- 4.4 The planning permission they have received encroaches on a very small area of land that is owned by the Council and which is freehold title, rather than adopted

highway but is used as highway land. The area amounts to a NIA of 7 sq. ft on the ground floor area.

- 4.5 CORE have covered the costs in Avison Young undertaking a valuation exercise. For the purposes of the valuation exercise we have assumed this 7 sq. ft at all levels of the proposed development (1<sup>st</sup> to 7<sup>th</sup> floor) to produce a total NIA of 49 sq. ft. CORE have also covered the costs of the AY building surveyors reviewing plans and on the ground measurements to verify these areas.
- 4.6 Typically, negotiations like this review the residual land value of what the additional land adds to the developer's scheme and it becomes a negotiation as to what percentage of that uplift can be attributed to acquire the ransom strip. Typically, 50% can be achieved. However with such small areas – slightly larger premiums can be achievable whereby the cost to the project is more if a deal is not achieved and the developer incurs costs and delays in amending the scheme to remove the land.
- 4.7 The reason CORE seems to have included the corner in the first place is that the current building is built on and is oversailing this piece of WCC land. Initially CORE tried to claim adverse possession, but WCC legal confirmed this did not apply.
- 4.8 CORE's initial offer to acquire was £20,000. AY's valuation suggested an uplift to the scheme of £20-80,000 by including the slither of land and suggested WCC could reasonably seek half of this uplift.
- 4.9 Officer's countered CORE's proposal at £100,000 and proposed a 250-year leasehold interest and a restriction on office use. With time pressures mounting they have now come back looking to proceed at this level and on this basis.

## **5.0 Financial Implications**

- 5.1 The 250 year long-leasehold disposal of the land will generate a capital receipt of £100,000.
- 5.2 Should the site be redeveloped in the future and a use other than office be sought over the land strip - the landowner would need to revert to WCC for permission and in turn a further premium may be achievable.

## **6.0 Legal Implications**

- 6.1 Local authorities' actions in disposing of land are subject to statutory provisions and in particular:
- 6.2 It is understood from the report writer that this land is in the general fund. On general fund land s123 Local Government 1972 will apply. This section states that except with the consent of the Secretary of State, a Council shall not dispose of

land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained. According to paragraph 1.2 of this report the premium negotiated for the lease represents best value for the Council.

- 6.3 If the party taking a lease is an entity based outside England and Wales, then it is advisable for the Council to require an "Opinion Letter" from a solicitor in the relevant jurisdiction to give assurance that the lease can be relied on as validly executed by the tenant. The Land Registry also have strict requirements before it will register a lease in the name of an overseas company. This is advice for the Council to consider as part of its approach to any legal due diligence.
- 6.4 Where a lease is granted within the security of tenure provisions of Part II of the Landlord and Tenant Act 1954 (the 1954 Act), a landlord may only bring the lease to an end at the end of the term by serving a notice under section 25 of the 1954 Act and only if certain statutorily limited grounds for doing so can be proven to apply. Otherwise, at the end of the term, the tenant will be able to hold over on the terms of the lease regardless of expiry of the term granted. Furthermore, the tenant will have the right under section 26 of the 1954 Act to request a new lease on similar terms (apart from the rent) and the landlord will be obliged to renew the lease.
- 6.5 Conversely, if security of tenure were to be excluded, then the lease will determine on expiry of the term granted. However, it would be advisable to liaise with the Tenant before the expiry of the term to ensure that the property is vacated upon expiry, or it may be that the Landlord is content for the Tenant to remain and negotiate the grant of a new lease. Otherwise, a new secure tenancy could be established if the Tenant is allowed to remain in occupation and continue to pay rent.
- 6.6 If Sections 24-28 of the Landlord and Tenant Act 1954 i.e., security of tenure is excluded. Essentially, this means is that the tenant will not have the right to request a new lease after the original term of their lease has expired, on the same terms as it had before. This right is known as a statutory right (Part II of the Landlord and Tenant Act 1954). The exclusion of this provision will give the flexibility to the Council to review the market and the needs of the area at the end of the term, without the obligation to renew the lease.
- 6.7 The Cabinet Member Terms of Reference delegate the powers of this decision to the Cabinet Member. Paragraph 33.12 of the Council's Constitution requires that all Cabinet Member decisions must be published on the Council's website for five clear days before the decision is taken. Any representations received during this period must be considered by the decision-maker before the decision is taken.

## 7.0 **Carbon Impact**

7.1 There is currently considered no carbon impact and nor would the proposed new lease affect the Council's commitment to becoming a carbon neutral Council by 2030 and a carbon neutral City by 2040.

## 8.0 Consultation

8.1 West End ward members have been consulted.

## 9.0 Equalities

The Equality Act 2020 requires public authorities to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations. The Council must further take into account its wider public sector equality duty under Section 149 of the Equality Act 2010 when making decisions.

There are no equalities implications on this sale and the report author confirms that due consideration has been given.

**If you have any queries about this Report or wish to inspect any of the Background Papers please contact:**

Sarah Jayne Hurst, Senior Investment Manager

For completion by the **Cabinet Member for Finance and Council Reform**

**Declaration of Interest**

I have no interest to declare in respect of this report

Signed: \_\_\_\_\_ Date: 11 March 2024

NAME: **Councillor David Boothroyd**

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 **Long Leasehold Sale in W1** and reject any alternative options which are referred to but not recommended.

Signed .....

Cabinet Member for Finance and Council Reform

Date ...11 March 2024.....

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 Head of Legal and Democratic Services, Strategic Director Finance and Performance and, if there are resources implications, the Strategic Director of Resources (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.