

# Cabinet Background documents



**11. Investing in our Borough (Pages 3 - 132)**

Cabinet Member: Cabinet Member for Resources & Financial Governance, Councillor Callton Young

Officer: Interim Executive Director of Resources, Asmat Hussain

Key decision: no

JACQUELINE HARRIS BAKER  
Council Solicitor and Monitoring Officer  
London Borough of Croydon  
Bernard Weatherill House  
8 Mint Walk, Croydon CR0 1EA

Victoria Lower  
020 8726 6000 x14773  
020 8726 6000  
[victoria.lower@croydon.gov.uk](mailto:victoria.lower@croydon.gov.uk)  
[www.croydon.gov.uk/meetings](http://www.croydon.gov.uk/meetings)

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## For General Release

<b>REPORT TO:</b>	<b>The Cabinet Member for Resources and Financial Governance in consultation with the Leader of the Council</b>
<b>SUBJECT:</b>	<b>Contract for Document Storage, Retrieval and Associated Services</b>
<b>LEAD OFFICER:</b>	<b>Sarah Hayward, Interim Executive Director for Place Ozay Ali, Interim Director for Homes &amp; Social Investment</b>
<b>CABINET MEMBER:</b>	<b>Cllr Callton Young Cabinet Member for Resources and Financial Governance</b>
<b>WARDS:</b>	<b>All</b>
<b>CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON:</b> The recommendation to award a contract for Document storage, Retrieval and Associated Services that will ensure the Council secures the best value services.	
<b>FINANCIAL IMPACT</b> Approval of the recommendation to award the contract will be funded from existing budgets.	
<b>KEY DECISION REFERENCE NO.</b> Not a key decision	

The Leader of the Council has delegated to the Cabinet Member for Resources and Financial Governance the power to make the decisions set out in the recommendations below:

### 1. RECOMMENDATIONS

- 1.1 The Cabinet Member for Resources & Financial Governance in consultation with the Leader, is recommended by the Contracts & Commissioning Board to approve the award of a contract for Document Storage, Retrieval and Associated Services, for a period of 1 year with the option to extend up to 6 months, to Iron Mountain (UK) PLC for a maximum contract value of £56,000 per annum (£84,000 in total).
- 1.2 Note: the aggregated spend with the provider from 2014 - 2022 will be approximately £591,200 so the award of the contract requires Cabinet Member approval.

### 2. EXECUTIVE SUMMARY

- 2.1 This report recommends the direct award of a contract to the provider named in the recommendation for the provision of Document Storage, Retrieval and Associated Services for a term of 1 year with the option to extend for 6 months.

2.2 The following Services will be covered by contract

- secure storage of documents and records
- retrieval of documents and records
- document maintenance
- bulk operations
- secure destruction of documents and records

2.3 The storage boxes contain various documents which the Council has a statutory duty to keep, such as

- children's files
- fostering and adoption records
- legal contracts
- building regulations
- planning applications
- HR records

2.4 The reason for direct award approach to the incumbent provider, rather than tendering, is to provide the Council time to

- significantly reduce the amount of boxes / files it has in storage which will
  - reduce monthly storage charges
  - reduce final exit (decommissioning) charges
- decide on the Council's longer term storage requirements
- decide on the best tendering option e.g call off from a framework, tender the opportunity ourselves

2.6 The Council will be using Iron Mountain's terms and conditions for this contract, therefore a waiver, under 19.2 of the Council's Tenders & Contracts Regulations, for Standard Clauses is required. Risks have been considered by the Service and the Category Manager for Corporate Services, with legal support, and considered low and acceptable.

2.7 The content of this award report has been endorsed by the Contracts and Commissioning Board.

<b>CCB Approval Date</b>	<b>CCB ref. number</b>
18/06/2021	CCB1670/21-22

### 3. Background

3.1 In October 2012 the Contracts and Commissioning Board approved the award of a call off contract for the Supply of Off-Site Storage Services to Iron Mountain for a term of 4 years with an estimated contract value of £95,000 per annum but allowing for a variation of up to 20% to a maximum contract value of £456,000.

3.2 A variation to extend the contract for 12 months to the 30<sup>th</sup> November 2017 was approved by CCB on 28/07/2016 CCB1160/16-17. Since 2017 the Council has been using the provider on a rolling contract basis which is against the Council's

Tenders and Contracts Regulations, therefore approval is required to enter into a short term contract whilst Service requirements and procurement options are considered. The aggregated spend is such that delegated cabinet member award decision is required for the award of the new contract.

- 3.3 Contract spend has reduced significantly over the past 3 due to an ongoing exercise to permanently reduce the number of documents held in storage. So far, over 6,000 boxes have been destroyed saving the Council approx. £25,000 per annum. The reduction in boxes/files also provides savings on monthly storage charges and significantly reduces final exit costs, currently estimated to be at least £26,164.

### **Procurement and Tender Evaluation**

- 3.4 The procurement strategy to directly award to the provider was approved by CCB on 10th February 2021 reference CCB1654/20-21. The waiver to Regulation 11.3 and the requirement for formal tendering was also approved.
- 3.5 In accordance with regulation 9.1 of the Tenders and Contracts Regulations, the provider submitted, via the council's e-tendering portal, a Tender Response Document with answers to a number of questions on how they will deliver the Services against the Council's Specification.
- 3.6 The provider's Tender Response was evaluated, as per the methodology set out in the Instructions to Tender Document, and the provider passed on all questions as set out in the table below.

<b>Questions</b>	<b>Evaluation Criteria Pass/ Fail</b>
Insurance	Pass
General Data Protection Regs	Pass
Compliance to Modern Slavery Act	Pass
Compliance to Business Continuity (Emergency, Business Continuity and Crisis Management Plan Submitted with Tender Return)	Pass
Compliance to London Living Wage	Pass
Health & Safety	Pass
Delivering the Council's Requirements <ul style="list-style-type: none"> <li>Quality assurance processes and procedures to ensure successful delivery of the contract</li> <li>Working with the Council to reduce the amount of boxes/files</li> <li>Innovation and added value</li> </ul>	Pass Pass Pass
Decommissioning and Exit Strategy	Pass
Contract Management including review meetings, MI, management of any increase, decrease in demand, ratifying changes in provision of the service	Pass
Social value	Pass
PSP	Declined to take part
Price	Pass

- 3.7 Therefore the Council has assurance that the provider can deliver the Services as per the Council's Specification.

### **Price and Contract Terms**

- 3.8 The price the Council will be charged are in line with framework prices and represent value for money. The Council will contract on the Iron Mountains t & c's which are industry specific and deemed acceptable by the Council. (See 2.6).

### **Social Value**

- 3.9 The provider supports community led initiatives and offers 16 hours paid time off to eligible employees, apprenticeships and work experience.

### **GDPR Compliance**

- 3.10 The provider will comply with GDPR and ensure the protection of the rights of data subjects.

### **PSP**

- 3.11 The provider declined to participate in PSP.

### **Contract Management**

- 3.12 Monthly MI reports will be provided which will form the basis for quarterly review meetings between a dedicated account manager and the Councils Reprographic and Mailroom Manager.

### **Decommissioning Strategy**

- 3.13 The provider will work with the Council on a detailed exit/ decommissioning plan and, should there be a change in provider in the future, they will work with the Council to ensure the smooth handover to a new provider. Decommissioning the service can take approximately 3 months to complete.

## **4. CONSULTATION**

- 4.1 Consultation has taken place with officers in the Council's Reprographic and Mailroom regarding the scope, contract management / performance and legal advice regarding the provider's t & c's. The outcome of which has been accounted for in the contract.

## **5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

- 5.1 The Council has a statutory requirement to keep various documents as detailed in 2.3

Essential spend criteria: The Council has budget for this contract and entering into the contract will enable spend to reduce over the contract term by permanently destroying as many boxes/ files as possible which will reduce monthly storage charges and final exit charges should there be a change in provider in the future.

## 5.2 Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2021/22	2022/23	2023/24	2024/25
	£'000	£'000	£'000	£'000
<b>Revenue Budget available</b>				
Expenditure	56	28	0	0
Income	0	0	0	0
<b>Effect of decision from report</b>				
Expenditure	0	0	0	0
Income				
<b>Remaining budget</b>	<u>56</u>	<u>56</u>	<u>0</u>	<u>0</u>

### 5.3 The effect of the decision

The Council will enter into a contract with the provider for a term of 1 year with the option to extend for a further 6 months with a maximum total contract value of £56,000 per annum.

### 5.4 Risks

The main risk is considered to be a challenge for not tendering the opportunity. This risk is mitigated by ensuring the Council is in a position to tender the opportunity as soon as it can once it has destroyed as many boxes/files as it can to reduce exit charges. 3 months decommissioning the service is required and must be factored into time scales.

### 5.5 Options

No other options are being considered.

### 5.6 Future savings/efficiencies

Entering into the contract will enable the Council to continue to reduce spend, (and therefore better the expenditure situation), by permanently destroying as many boxes/ files as possible to reduce ongoing storage charges and future exit charges, should there be a change in provider.

Approved by: Geetha Blood, Interim Head of Finance – Place, Gateway, Strategy and Engagement on behalf of the Director of Finance, Investment and Risk and Section 151 Officer.

## 6. LEGAL CONSIDERATIONS

### 6.1 There are no additional legal considerations directly arising from this report.

Approved by Sonia Likhari, Solicitor, on behalf of the Director of Law and Governance

## **7. HUMAN RESOURCES IMPACT**

- 7.1 There are no HR issues arising from this report for Council employees.

Approved by: Gillian Bevan Head of HR – Resources, for and on behalf of Sue Moorman, HR Director.

## **8. EQUALITIES IMPACT**

- 8.1 There are no equalities impacts arising from this report.

## **9. ENVIRONMENTAL IMPACT**

- 9.1 There are no environmental impacts arising from this report.

## **10. CRIME AND DISORDER REDUCTION IMPACT**

- 10.1 There are no crime and disorder impacts arising from this report

## **11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION**

- 11.1 The recommendation to award this contract is based on the evaluation of the provider's Tender Return which confirmed their ability to meet Service requirements set out in the Specification and to ensure compliance with the Council's Tenders and Contract Regulations.

## **12. OPTIONS CONSIDERED AND REJECTED**

<b>Option</b>	<b>Comments</b>
Direct award to Iron Mountain for a term of 1 year with the option to extend up to 6 further months	<p>Iron Mountain submitted their proposal via the Council's e-tendering portal which provided assurance that they can deliver the Services at agreed prices.</p> <p>This is the best value short term option whilst the Council continues to destroy as many boxes/folders as possible to reduce storage and exit costs, considers its requirements going forward and procurement options.</p> <p><b>Recommended option</b></p>
Run a mini competition via ESPO framework	<p>Price analysis has been undertaken and the indicative price difference between the lowest priced provider and Iron Mountain is £6,700 per annum in favour of the lowest cost provider, therefore if a mini competition is undertaken there is the possibility of there being a change in provider which would lead to exit costs of approx. £26,164 plus transport costs.</p>



	<p>Decommissioning would take around 3 months so a short term contract with IM would still be required.</p> <p>Running a mini competition/ direct award via this framework or CCS' framework is the recommended long term solution when exit charges have been reduced (by destroying boxes/folders).</p> <p><b>Not recommended at this stage</b></p>
Run a mini competition via CCS framework	<p>CCS is in the process of establishing a new framework so price analysis was unable to be undertaken.</p> <p>Running a mini competition/ direct award via this framework or ESPO's framework is the recommended long term solution when exit charges have been reduced (by destroying boxes/folders).</p> <p><b>Not an option</b></p>
Run a mini competition via HTE's framework	<p><b>Not recommended</b> for the same reasons set out above.</p>
Directly award to Iron Mountain via ESPO's framework	<p>There is the ability to directly award from the framework to the best value provider however a price comparison has indicated that IM are not the cheapest on the framework therefore this option has unacceptable risks associated to it in relation to exit costs payable to IM if there was a change in provider.</p> <p>In addition, decommissioning would take around 3 months so a short term contract with IM would still be required.</p> <p><b>Not recommended</b></p>
Directly award to Iron Mountain via CCS' framework	<p>CCS is in the process of establishing a new framework so not an option.</p> <p><b>Not an option</b></p>
Directly award to Iron Mountain via HTE's framework	<p>Iron Mountain charges are significantly higher on this framework so isn't a vfm option.</p> <p><b>Not recommended</b></p>
Tender the opportunity	<p>It is unlikely tendering would deliver pricing as competitive as those offered on an established framework due to economies of scale.</p> <p>There would be a significant additional resource requirements for the Council to run its own tender exercise without any guarantee of achieving better prices.</p> <p><b>Not recommended</b></p>
Continue with an ad hoc service agreement with Iron Mountain	<p>The Council would not be compliant to Council Regulations.</p> <p><b>Not recommended</b></p>

**13. DATA PROTECTION IMPLICATIONS**

**13.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

No

**13.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

No – Information Team have advised not required,

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**CONTACT OFFICER:**

Valerie Guascone Category Manager for  
Corporate Services

**BACKGROUND DOCUMENTS:**

None

# Contracts & Commissioning Board (CCB)

## Regulation 19.3 Emergency Provision Report

Date of meeting	Emergency report requesting approval pursuant to Regulation 19.3 Tenders and Contracts Regulations
By	Rachel Flowers – Director of Public Health
Title	Lateral Flow Testing
Project Sponsor	Jack Bedeman, Consultant Public Health
Executive Director	Rachel Flowers – Director of Public Health Rachel Soni – Interim Director of Commissioning & Procurement
Lead Member	Cllr Janet Campbell - Cabinet Member for Families, Health and Social Care which includes Public Health Cllr Callton Young - Cabinet Member for Resources and Financial Governance
Key Decision	N/A

### 1. Recommendations

- 1.1 The Cabinet Member for Families, Health and Social Care is recommended to note the approval of the contract variation decision in accordance with the Councils Tenders and Contract Regulation 19 to extend the contract with GPS for the Lateral Flow Testing Programme for an additional 4 months at a cost of £556,553.85 to give an overall contract value of £833,436.75.

### 2. Background & strategic context

Lateral Flow testing for high-risk population groups who are asymptomatic was introduced by the Department of Health and Social Care as part of their strategy to manage the Coronavirus pandemic in December 2020.

There are two key aims of lateral flow testing:

- i. Surveillance  
*'finding out the incidence and prevalence of COVID-19 in the population, and changes to these over time; this may help give early warning to a potential outbreak situation (2 or more related cases)'*
- ii. Active Case finding  
*'identifying positive cases of COVID-19 within the population, and ensuring they self-isolate to reduce transmission to other people; this could include regular testing of the contacts of a case'*

Lateral Flow Antigen testing involves the processing of swab samples with a Lateral Flow device (LFD). The device detects a protein (antigen) when the person is infectious, highlighting a coloured strip on the device to show a positive result. Results are determined within 20 to 30 minutes of swab collection and do not require a lab for processing. They require minimal training to operate and do not need to be administered by a health professional.

LFD are for testing asymptomatic people; people with symptoms will be able to continue to access tests through the network of NHS Test and Trace facilities.

On 9<sup>th</sup> November, the Secretary of State for Health and Social Care asked councils to lead, direct and co-ordinate, with national support, a significant local testing effort focusing on locally determined targeted populations at high risk.

This spend meets the definition of 'essential spend' as it meets the following condition:

- Expenditure funded through ring-fenced grants

All costs are reimbursed by the Department of Health and are ring-fenced for the COVID-19 response. Funding received to support COVID-19 related activities led by Public Health come into the Public Health budget.

Following approval from CCB on 28 January 2021; a procurement exercise went live on the London Tenders Portal (ref. DN520446) for the provision of Lateral Flow testing. As we were unable to find a suitable workforce internally

that were available for the period of time, following a competitive exercise GPS were awarded the contract for a 6 week period as per the funding agreement with DHSC

### **Reason for Emergency Approval**

During February, Croydon Council was instructed to undertake surge PCR testing in response to a variant of concern and the contracted provider was utilised to support workforce requirements. At the start of March another PCR surge had been instructed, GPS mobilised very quickly to be able to support the council and provide essential early contact to residents in the area.

Croydon Council was instructed to undertake surge PCR testing in response to a variant of concern and the contracted provider was utilised to support workforce requirements. Again at the start of March another PCR surge has been instructed, GPS mobilised very quickly to be able to support the council and provide essential early contact to asymptomatic residents in the area.

With each block of surge testing we undertake in response to a Variant of Concern (VOC) there is the risk that this will in itself lead to the need for further surge testing to be undertaken. This is either directly through the discovery of other cases of the same VOC within those tested through the surge testing, or through the discovery of other cases of the VOC, or another variant, through symptomatic testing in existing testing sites across the wider area due to genomic testing being fully switched on across the local area following the discovery of the initial VOC. Ordinarily 5% of tests have their genome tested but when a VOC is discovered this is applied to 100% of symptomatic tests within the local area. The decision to 'turn on' genomic testing is taken by DHSC. The decision as to whether further surge testing is required will likely be made by DHSC and PHE. At least two previous boroughs that have undertaken surge testing are now on their second lot of surge testing as a result of either the results from the surge testing or results from wider genomic testing.

As we have had two separate and unconnected surges within the borough it's highly likely that we will have more surges in the coming weeks, all reasonable expenses incurred by a surge test exercise are able to reimburse from DHSC. Rapid asymptomatic testing can pick up individuals in the community who are unknowing infectious therefore preventing onward spread, illness and loss of life.

It is essential that we maintain service continuity for lateral flow testing for various reasons:

- A) This is a vital element to our local outbreak control plans and controlling transmission of the virus
- B) To ensure the safety of our local residents and people working in the borough
- C) To support the central government roadmap to recovery

Therefore in order for us to meet our requirements as a Local Authority we would like to vary the existing contract to include an extended period of delivery and to include activities related to surge testing. Extending the contract will enable us to continue to have the service available via the incumbent provider and ensures that the contract is still compliant within the Council's Tendering and Contracting regulations. Having this extended period available will also provide the Authority the adequate time to undertake a full procurement exercise for this provision going forward.

A future tender for lateral flow testing will require a full procurement exercise that will have to be advertised and placed on the portal for a set time period; evaluated with a panel and responded too with a standstill period. The Authority will not be able to complete this process in the necessary timeframe unless there was a gap in provision which would be at high risk and at detriment to the local population. For this reason we would like to execute emergency regulations to vary the contract.

### **Regulation 19.3 TCR states**

**19.3** For Disasters and Emergencies where there is a clear need to provide a service or product immediately in the instance of a sudden unforeseen crisis or the immediate risk is to health, life, property or environment, compliance when these regulations may not be feasible. Any Director may place an order for supplies, services or works as the circumstances require after seeking approval from the chair of CCB, clearly stating the immediate procurements required. If that is not feasible for example due to outside of normal working hours then immediately after when reasonably feasible. A report of contracts awarded and any future procurements required will require approval by the Chair of CCB and if applicable Cabinet at the next available meeting after the event.

### 3. Financial implications

Funding for this service is provided as an external grant from DSHC and is ring-fenced funding specifically allocated for the COVID-19 response. This funding sits within the Public Health budget – cost code: C1400N

#### Contract Variation costings:

Details	Internal Capital	Revenue	Period of funding	External		Period of funding
				Capital	Revenue	
Cost of original contract					£248,761.20	15/02/2021 – 28/03/2021
Cost of variation					£556,553.85	29/03/2021 – 31/07/2021
TOTAL					<b>£805,315.05</b>	
Surge Testing – additional functionality (separate funding stream)					£7,039.70: Surge 1	01/03/2021 – 07/03/2021
					£21,082: Surge 2	07/03/2021 – 21/03/2021
<b>Aggregated value</b>					<b>£833,436.75</b>	

Although £564,480.00 was made available from the DHSC to the Authority for the original contract. We are assured that all reasonable costs can be reimbursed from the DHSC as outlined in a letter from Lord Bethell; dated 25 February 2021 to confirm that the Secretary of State has agreed to extend the Community Testing Programme until at least the 30<sup>th</sup> June 2021 and the commitment includes:

- The continued provision of tests, **financial support** and coverage against clinical negligence and product liability claims (for testing supervised by the local authority, as set out in the Secretary of State's letter of 23 December); and
- **ensure reasonable actual costs of test delivery are covered** (as detailed in my letter of 24 December)

Additional funding to support surge testing is provided by the DHSC; however due to the emergency nature of having to undertake this requirement at the time; the incumbent provider of the lateral flow testing was asked if they could provide this additional functionality.

During the time of the contract; the Authority has been requested to undertake two lots of surge testing. The first surge testing was required in New Addington and Fieldway. The second surge testing is currently being undertaken in South Norwood and Thornton Heath. There is a possibility that further surge testing may be required from now until the end of the extended period of the contract – 31<sup>st</sup> July 2021

### 4. Supporting information

#### Current Contract

##### Performance

GPS have performed well and responded eagerly to LBC's requirements, specifically with surge testing. Service user feedback has been excellent and was publicly broadcast on the ITV evening news at one of the testing sites. The individuals within the sites show themselves to be professional and courteous at all times and have received feedback to this extent.

To date the speed in which we are able to provide solutions to the LFT programme and the Surge requirements have resulted in saved expense, additionally the time to plan has subsequently been reduced and we know that we can respond to the needs of our communities well with regard to either LFT or Surge testing. GPS's ability to be flexible

with resource; in terms of quickly deploying a relevant and trained workforce has enabled the Authority to be able to response to these challenges.

Testing targets have been met and we have been satisfied that when figures are slightly under the projected target that the provider is able to pick up the following month.

## 5. Conclusion and reasons for recommendations

Lateral Flow Testing for asymptomatic people and having the necessary resource to conduct surge testing will need to continue to ensure we are managing the COVID-19 outbreak efficiently. Funding for this provision is provided via external grants by DHSC therefore this is not a cost pressure for the Authority. Funding for this provision is ring-fenced for the COVID-19 response and is sat within the Public Health budget.

Therefore in order to ensure we have service contingency we are recommending to undertake a variation to the original contract and to extend the contract with GPS until 31<sup>st</sup> July. This will allow the Authority the necessary time to undertake a new procurement process to ensure we have a contract in place beyond this point as long as central government continue to provide funding for this provision.

## 6. Outcome and approvals

Date agreed	
Service Director <i>(to confirm Executive Director has approved)</i> Rachel Flowers	20 May 2021
Lead Member <i>(for values over £500k, +25% contract value or +£1m)</i> Cllr Janet Campbell	20 May 2021
CCB – Rachel Soni, Chair	<b>CCB1678/21-22</b> - 25 May 2021

# Contracts & Commissioning Board (CCB)

## Contract Variation Report

Date of meeting	27 <sup>th</sup> May 2021
By	Clive Kershaw, (Programme Manager – Education, Capital Delivery for Homes and Schools)
Title	Educational Temporary Modular Building Hire and Purchase Contract Variation at Redgates School and Coulsdon College
Project Sponsor	Shelley Davies (Director of Education)
Lead Member	Councillor Flemming (Cabinet Member for Children, Young People and Learning)
Key Decision	N/A

### 1. Recommendations

The Leader of the Council has delegated to the Cabinet Member for Children, Young People and Learning in consultation with the Cabinet Member for Resources and Financial Governance the power to make the decisions set out in the recommendations below:

- 1.1 The Cabinet Member for Children, Young People and Learning in consultation with the Cabinet Member for Resources and Financial Governance is recommended by the Contracts and Commissioning Board (CCB) to approve the variation of the Modular Building Contract with Elliot Group Ltd at the Coulsdon College Site, in accordance with Regulation 30.3 of the Council's Tenders and Contracts Regulations for an additional contract term of 52 weeks plus an option for an additional 52 weeks at an additional cost of £108,160.00 to a new maximum total contract value of £795,343.70. This results in a variance to the original award, aggregated with previous variations, of 62% in value and 100% in time.
- 1.2 The Cabinet Member for Children, Young People and Learning is requested to note that the Chair of CCB has approved a variation of the Modular Building Contract with Elliot Group Ltd for the 2 classroom Modular Building at Redgates Primary School, and a variation of the Modular Building Contract with Elliot Group Ltd for the 1 classroom Modular Building at Redgates Primary School, in accordance with Regulation 30.3 of the Council's Tenders and Contracts Regulations.

### 2. Executive Summary

This Contract Variation Report sets out a request to vary current hire periods of three modular buildings and the subsequent purchase of two modular buildings at Redgates School that are currently located in the borough, that are required to continue to provide dedicated SEN Statutory educational provision for pupils.

The funding source to cover this award will be from CIL. A detailed breakdown of funding requirements over the duration of the contract period is provided within the finance section of this report.

### 3. Background & strategic context

Over recent years there has been a continued spike in the demand for Special Education Needs Places in the borough. The number of places that the Authority has a statutory duty to provide has been in excess of the number of places that are actually available across the existing estate in the borough.

Over the past three years urgent demand for places has outstripped supply, therefore a number of modular buildings have been installed and hired on our existing estate on a temporary basis to meet this spike. The modular buildings which we currently have across our estate, when the hire period started and ends and the associated original CCB award reference is as follows:

School Site	Modular Specification	CCB References	Hire Period Starts	Hire Period Ends
Redgates Primary School	1 classroom	Original Award: Director Approvals Variation: CCB1547/19-20	September 2018	August 2021
Redgates Primary School	2 classroom	CCB1490/19-20	December 2019	August 2021
Coulsdon College	Standalone Facility	Original award: CCB1475/18-19 Variation: CCB1523/19-20	September 2019	August 2021

#### Redgates Primary School

The two modular buildings within the site boundary were originally proposed to be in use for a short period of time so that a full and thorough review could be undertaken by the Council of the entire Special Education Needs Estate to determine the long term permanent provision and potential redevelopment prospects of the sites to meet our statutory demands.

Currently this wider review and potential renewal programme is on hold, therefore there is a requirement to extend the existing hire periods of the modular buildings for a period of time until the long term permanent provision can be agreed and put in to place.

The original award value for the 1 classroom modular was £159,109.62, which was varied following an increase in the original hire period of the units as requested by Education Colleagues. The value was therefore increased to £215,552.29 and approved by CCB, making the aggregated value increase 51%.

#### Coulsdon College

The modular building on the Coulsdon College site is a purpose built facility to provide a dedicated educational pathway facility for 19-25year olds. The facility was installed on a temporary basis until a permanent provision can be provided in the borough. This brand new facility will provide dedicated statutory SEN provision for pupils aged 16-25 years and is due to open in September 2022.

The original award value was £495,522.00, which was varied following additional construction costs, allowance of contingency and project changes requested by the Education Department. The value was therefore increased to £687,184.00 and approved by CCB, making the aggregated value increase 62%.

#### **Proposal:**

The proposal is to extend the current hire contracts for an agreed period of time and then either remove the modular buildings from site or purchase. The exact details are set out below:

#### Hire Period Extension Period

The proposal is to extend the hire periods of the modular buildings as follows:



School Site	Modular Specification	Current Hire Period Ending	Proposed New Hire Period End Date	Extension Period
Redgates Primary School	1 classroom	August 2021	August 2024	3 years
Redgates Primary School	2 classroom	August 2021	August 2024	3 years
Coulsdon College	Standalone Facility	August 2021	August 2023	1 year + 1 additional year if required*

\*Currently education colleagues are securing the long term provider of the 16-25 SEN Service Provision in the borough. To mitigate if there is any delay to this award and the opening of the permanent facility in September 2022 this variation report allows for a 1 year + 1 year optional extension hire period for the facility at Coulsdon College. This option will ensure continuity of a statutory service provision but also provide a greater cost benefit of a 2 year hire period now and a cost avoidance of £1,690.00. If the facility is required for less time we would initiate the release clause and pay any uplift in weekly rental penalties based on the actual hire period.

#### Modular Purchase

Following the conclusion of the Hire Period the Coulsdon College modular building will be removed from site, whilst the two modular buildings at Redgates School will be purchased as there will be a continued requirement for them to provide educational provision until a long term permanent solution is agreed.

To note, Elliott Group Ltd would not permit the Council to purchase the hired modular buildings at the end of their current lease period, but have agreed to do so after a further three years of hire.

## 4. Financial implications

The table below sets out in detail the original contract award value and new proposed value.

#### Detailed Cost Variation

Project	CCB Contract Award Value (aggregated with previous variations)	Proposed New CCB Contract Award Value	Cost Variance	Variance %
Coulsdon College	£687,183.70	£795,343.70	£108,160.00	16% (aggregated increase of 62%)
Redgates School 1 classroom Modular	£215,552.29	£311,366.82	£95,814.53	44% (aggregated increase of 51%)
Redgates School 2 classroom Modular	£258,453.00	£405,934.26	£147,481.26	57%

Coulsdon College Cost Variance Sum – 104 week additional hire @ £1,040 per week

Redgates School 1 classroom Modular Cost Variance Sum – 156 weeks additional hire @ £390.00 per week and purchase price of £34,974.53

Redgates School 2 classroom Modular Cost Variance Sum – 156 weeks additional hire @ £480.00 per week and a purchase price of £72,601.26

The financial spend over the coming years and funding source is as follows:

	<b>2021/22 £'000</b>	<b>2022/23 £'000</b>	<b>2023/24 £'000</b>	<b>2024/25 £'000</b>
<b>Effect of decision from this report</b>	70	94	66	121
<b>Funding sources</b>				
<b>CIL</b>	70	94	66	121
<b>January 2021 Education Estate Strategy Paper CIL Funding Allocation</b>	300	200	200	0
<b>Remaining</b>	230	106	134	-121*

\*The Cabinet Paper approved in January 2021 sets out spend for the next three financial years. The CIL funding requirement to cover this contract award spend in 2024/25 will be included in the Education Estate Strategy Paper presented to Cabinet in January 2022.

#### **Essential Spend Criteria:**

Following the Council's issuing Local Government Act Section 114 (now lifted), the continued hire of these facilities falls under the following essential spend criteria:

- expenditure required to deliver the council's provision of statutory services at a minimum possible level;
- urgent expenditure required to safeguard vulnerable citizens;
- expenditure necessary to achieve value for money and / or mitigate additional in year costs.

This is because:

The Council has a statutory duty as an educational provider to provide suitable school places for pupils in the borough in accordance with the DfE and DoH Special educational needs and disability code of practice: 0 to 25 years and statutory duty under part 3 of the Children and Families Act 2014

## **5. Supporting information**

#### **Procurement process:**

Elliot Group Ltd were originally awarded these contracts through existing frameworks, the NHS Framework Lot 8 NHS Modular Buildings Shared Business Services and the Council's own Modular Framework.

#### **Contract terms and conditions:**

The following agreements will be put in place to capture these proposed variations to the original contract award:

Coulsdon College and 1 Classroom Modular at Redgates School – Council Frame Work

This framework has now expired, therefore a new legal agreement will need to be drawn up between both parties.

## 2 classroom Modular at Redgates School - NHS Framework Lot 8 NHS Modular Buildings Shared Business Services

This framework expires on the 17<sup>th</sup> July 2021 and can be utilised to vary the hire period and then purchase the units through existing SLAs within the framework.

### **Cost Analysis / Value for Money:**

The Authority has undertaken continued negotiations with the contractor to obtain best value and have achieved the following cost avoidance.

#### Purchase of Units after 3 years as opposed to 5 years

Project	3 Year Hire	3 Year Purchase	5 Year Hire	5 Year Purchase	Cost Avoidance
Redgates School 1 classroom Modular	£60,840.00	£34,974.53	£97,500.00	£23,316.36	£25,001.83
Redgates School 2 classroom Modular	£74,880.00	£72,601.26	£120,900.00	£49,887.37	£23,306.11

#### Reduced Hire Charge Rate:

Project	Original Hire Rate	New Hire Rate	Variance %	Cost Avoidance over hire period
Coulsdon College	1,072.50	£1,040.00	-3%	£3,380.00
Redgates School 1 classroom Modular	£418.50	£390.00	-7%	£4,446.00
Redgates School 2 classroom Modular	£515.32	£480.00	-7%	£5,509.92

**This is a total cost avoidance to the Authority of £61,643.86 which equals 17% of the overall contract variation amount.**

To note, the contractor is under no obligation to allow the Authority to purchase the modular buildings after a reduced hire period of 3 years or purchase the units outright immediately. They are entitled to charge the Authority for the full 5 year period and then the full cost to remove their assets. Therefore the reduced hire period, option to purchase and a reduction in weekly hire costs offer the Authority a considerable cost avoidance.

It is also to be noted, that by purchasing the buildings on the Redgates School Site, it allows the Authority greater flexibility to determine the future of these units, be it to be continued to be used for education purposes while not paying continued hire fees, demolished at a greatly reduced rate rather than removed from site by the contractor or relocated to another site should the Authority choose to do so.

## **Notional Costs of Future Option**

<b>Option</b>	<b>Demolition Costs</b>	<b>Relocation Costs</b>	<b>Modular Company Removal</b>
1 classroom Modular	£18,000.00	£120,000.00	£34,000.00
2 classroom Modular	£35,000.00	£160,000.00	£72,000.00

### **Options Analysis**

The Council has considered and rejected the following options and reasons for this:

**Option 1 - Re-procurement of Services:** The Authority could go to the market to obtain a new quotation for design, supply, construction and subsequent hire of new modular buildings. However this has been rejected due to significant cost increase to remove the existing modular buildings and install like for like new buildings. The timeframe to undertake this is also restricted due to the existing modular buildings being habited, you would only be able to remove and install during the summer holiday period when they are vacant.

**Option 2 - Do Nothing:** The Authority could remove the modular buildings from the site and displace the pupils to other SEN providers outside of the Borough as there is no additional capacity or required expertise elsewhere in the Estate. This would have a fundamental impact on the pupils who currently attend these schools and are taught in these buildings, there would be significant challenge from parents and carers of the pupils displaced, and it would cost the Council a significant sum of money as the cost to educate a pupil outside of the borough is considerably more than within.

### **Equalities Impact Assessment:**

An Equality Analysis has been undertaken for these projects when originally awarded and the findings highlighted that the contract would have no impact. Elliott Group Ltd will be required to deliver its obligations in accordance with the Equality Act 2010.

### **Contract Management:**

The proposed hire contract will be managed by Capital Delivery for homes and schools team.

### **Environmental Impact**

In terms of transport, residents of the borough attending school within the borough will support efficient transportation and reduce of carbon emissions.

### **Risk Management and risk of challenge:**

Internal and External stakeholders (the schools) are being kept up to date with developments regarding this award and its subsequent impact on service delivery.

The modifications within this report do not fall within a permitted modification under Regulation 72 of the PCR and so there is a potential risk of a procurement challenge, however this risk is considered to be low. Furthermore, in relation to the Coulsdon College contract, the original framework agreement for this procurement has now expired. This means the contract, technically, cannot be extended and so a 'new' contract is being entered into. However, the contract arrangements are effectively being extended and, as such, the total value should be treated as aggregated. Overall, the risk of challenge is still considered to be low.

### **Information Management**

No data processing or GDPR considerations need to be applied to this contract.

## 6. Conclusion and reasons for recommendations

Having conducted a comprehensive review of the costs provided by Elliott Group Ltd, and reviewed and rejected all other options, it is deemed that this variation to existing agreements has demonstrated the ability to fulfil the Council's requirements and offer good value for money. CCB are therefore asked to approve the recommendations in this report.

## 7. Outcome and approvals

Outcome	Date agreed	
	Sarah Hayward (Interim Executive Director of Place)	13 <sup>th</sup> May 2021
	Shelley Davies (Interim Director of Education and Youth Engagement)	30 <sup>th</sup> March 2021
	Ozay Ali (Interim Director of Homes & Social Investment)	30 <sup>th</sup> March 2021
	Councillor Flemming (Lead Member) Sighted	30 <sup>th</sup> March 2021
	Councillor Flemming (Lead Member) Briefed	30 <sup>th</sup> June 2021
	Councillor Callton Young (Cabinet Member for Resources & Financial Governance)	24 <sup>th</sup> June 2021
	Kiri Bailey (Legal Services)	26 <sup>th</sup> April 2021
	Geetha Blood (Interim Head of Finance)	29 <sup>th</sup> April 2021
	Yvonne Okiyo (Equalities Lead)	09 <sup>th</sup> April 2021
	Scott Funnell (C&P Head of Service)	25 <sup>th</sup> March 2021
	CCB	CCB1676/21-22 (02/07/2021)

## 8. Legal Comments

The legal considerations are as set out within this report.

Approved by Kiri Bailey, on behalf of the Interim Director of Law and Governance.

## 9. Chief Finance Officer comments on the financial implications

Approved by Geetha Blood on behalf of the Director of Finance.

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## For General Release

<b>DELEGATED DECISION REPORT TO :</b>	<b>Cllr Callton Young, Cabinet Member for Resources and Financial Governance</b>
<b>SUBJECT:</b>	<b>Property Disposals as part of the Interim Asset Disposal Strategy</b>
<b>LEAD OFFICER:</b>	<b>Sarah Hayward, Interim Executive Director of Place</b>
<b>CABINET MEMBER:</b>	<b>Cllr Stuart King, Deputy Leader and Cabinet Member for Croydon Renewal</b> <b>Cllr Callton Young OBE, Cabinet Member for Resources and Financial Governance</b>
<b>WARDS:</b>	<b>Various</b>
<b>COUNCIL PRIORITIES 2020-2024</b> Croydon Renewal Plan – the recommendations in this report are in line with the new corporate priorities and new way for renewing Croydon Medium Term Financial Strategy	
<b>FINANCIAL IMPACT</b> This paper is seeking approval for the disposal of four assets in line with the Interim Asset Disposal Strategy. If these sales progress to completion they will deliver £2.1m capital receipt and over £120,000pa revenue savings. These disposals are part of the wider disposal strategy and will significantly contribute towards the 2021/22 assets disposal target in the MTFS of £4.2m. All disposal costs, including a contribution towards officer time will be paid for out of the capital receipt in line with the current financial guidelines which allow up to 4% of the capital receipt to be allocated against reasonable revenue costs in achieving the sales.	
<b>FORWARD PLAN KEY DECISION REFERENCE NO.: 3821RFG, 3321RFG, 4421RFG and 4521RFG</b> The notice of the decision will specify that the decision may not be implemented until after 13.00 hours on the 6th working day following the day on which the decision was taken unless referred to the Scrutiny and Overview Committee.	
The Leader of the Council has delegated to the Cabinet Member for Resources and Financial Governance the power to make the decisions set out in the recommendations below  <b>1. RECOMMENDATIONS</b> Cabinet Member for Resources and Financial Governance in consultation with the Leader agrees the following:	
1.1 Approve the disposal of the Coulsdon Court Golf Club and Hotel, Old Coulsdon	
1.2 Approve the disposal of part of the former CALAT site, Malcolm Road, Coulsdon	

- |     |  |
|-----|--|
| 1.3 | Approve the disposal of a former HRA garage site at Windmill Road, Thornton Heath  |
| 1.4 | Approve the disposal of the Scout Hut, Peppermint Close, Broad Green   |
| 1.5 | Delegate the approval of the grant of a lease for Heathfield House to Cressey College to the Interim Executive Director Resources in consultation with the Cabinet Member for Croydon Renewal to allow for due consideration to be given to any comments received following the Notice for the disposal of public open space |

On the basis of the terms set out in Part A and Part B of this report

## **2. EXECUTIVE SUMMARY**

- 2.1 This Interim Disposal Strategy has been developed to support the requirements of the Croydon Renewal Plan and Medium Term Financial Strategy [MTFS] and sets out the guidance and governance necessary to allow the disposal of surplus Council assets. The strategy was approved and adopted by Cabinet in February 2021.
- 2.2 The properties included within this report have been identified as surplus within the context of the disposal strategy although not all were part of the suggested initial tranche.
- 2.3 All of the above proposals have followed the governance process as set out within the strategy and have been approved by Place DLT and ELT.

## **3. BACKGROUND**

- 3.1 Given the significant financial challenges faced by the Council, it is important to ensure that the best outcome is achieved from any disposal and this includes
- Holding cost of any surplus assets if to be retained for longer term use or sale
  - Running costs for under-utilised assets and how these can be reduced
  - Service requirements across the Council to ensure an asset is not being sold off if it could provide a cost effective solution for another service area
  - Achieving “Best Consideration” – would delaying a disposal be more beneficial
  - Loss of revenue from any income producing assets
  - Impact on the local area from holding assets empty for prolonged periods or the additional benefit from regeneration
  - Reputational issues from having vacant assets
- 3.2 The assets being recommended for disposal fall within the following categories:
- Surplus assets released by service areas



- Income producing assets
- Housing Sites – largely comprising of former Brick by Brick sites

#### **4. DETAIL**

- 4.1 All of the sites that are being recommended for disposal or letting have not been subject to marketing as it is considered that all are subject to “special purchaser” criteria that demonstrates either an uplift in value on likely market values or significant benefits to the Council/local area in addition to achieving best consideration.
- 4.2 The disposal of any Council owned asset is subject to achieving “Best Consideration” either in line with s123 of the Local Government Act 1972 or s233 of the Town and Country Planning Act 1990 where land has previously been appropriated for planning purposes. There are exceptions where a disposal at less than best consideration can be permitted, where the variance does not exceed £2m if there are clear economic, social or environmental benefit in line with the terms of the General Disposal Consent (England) 2003 or otherwise where the Secretary of State has provided a specific consent on the basis of a Council request.
- 4.3 To help demonstrate that Best Consideration is being achieved, all assets have been valued by an external valuer as part of the disposal process and the terms agreed have been approved by the Head of Asset Management before being put through the formal governance process.

#### **4.4 Coulsdon Court Golf Club**

- 4.4.1 The golf course is set within metropolitan green belt and offers an 18 hole public course set in 140 acres of land together with 4 tennis courts, squash courts, golf shop and ancillary buildings. The course is currently let under the terms of a 125 year lease with 103 years remaining. An initial premium of £150,000 was paid in 1999 and there is an annual rental of around £19,000 based upon a percentage of the turnover income. The course, putting greens and tennis courts are required to remain as public facilities under the lease terms of the lease
- 4.4.2 The hotel is let on a separate lease of a similar length with 103 years remaining but is on a peppercorn rent. An initial premium of £600,000 was paid in 1999 for the lease. The hotel offers 5 function rooms, restaurant and 42 rooms.
- 4.4.3 The current tenants approached the Council to request the purchase of the freehold interest and terms have been negotiated as set out in Part B of this report.
- 4.4.4 The terms will require the Golf Course to remain accessible to the public adopting the same requirements as set out in the existing lease. The terms have also included an overage provision to allow the recovery of any additional value that may arise if consent for development is obtained over the next 30 years

#### **4.5 Part of the Former CALAT Centre site, Malcolm Road, Coulsdon**

- 4.5.1 This asset was formerly a 1 form entry primary school but more recently has been used as an adult education centre. Following closure of the centre the site was declared surplus and initially offered to Brick by Brick (BBB) as a potential development site but this was not taken forward. The part of the site that is currently under offer relates to the car park area to the south of the site as identified on the attached plan. This is currently being used as a car park that was opened on a temporary basis to help compensate for the lack of parking at Lion Green Road. The new car park at Lion Green Road has now been completed and was opened earlier this year.
- 4.5.2 As part of the BBB plans the former car park was identified as a site for a new Health Hub. This facility forms an essential part of the wider estates strategy for the NHS provision within the area and is needed to accommodate the increased demand, in part due to the large development on the former Cane Hill Hospital site.
- 4.5.3 The option to pursue a single developer rather than marketing the asset more widely has been necessary to ensure the development of a Health Centre on this site rather than an alternative within the Cane Hill development which was already at an advanced stage of negotiation by the NHS due to the lack of progress with the BBB site.
- 4.5.4 Terms have been agreed as set out in the Part B report and these are in line with the external valuation and are conditional on the developer obtaining a suitable planning consent. Due to the urgent need for this development the developer has already commenced the design and planning application process at risk.
- 4.5.5 The terms agreed are for the freehold disposal of the site subject to the requirement for a health centre to be built on the site.

#### **4.6 Former HRA Garage site, Windmill Road**

- 4.6.1 This is another BBB site that has not been taken forward due to viability issues. The site has a number of vacant garages that are in a poor state of repair at the edge of a local housing estate. The attached plan outlines the site location.
- 4.6.2 The site is subject to an easement permitting access to a development on the western side of the garage site which runs from the front to rear of the site which makes it extremely difficult for a third party to maximise the development potential.
- 4.6.3 Negotiations have taken place with the owner of the adjoining site and beneficiary of the easement as a special purchaser as they are best placed to bring forward any development and an offer has now been received that is at an acceptable level and a sale on this basis is recommended.

#### **4.7 Scout Hut , Peppermint Close, Waddon**

- 4.7.1 This is a small site located in a residential area and provides a former scout hut which was vacated by the scout group 2 years ago. It is in a poor state of repair and needs various urgent repairs and improvements especially to the services to allow continued long term use. At present the property is being used on a temporary basis by a local faith group at a very low rental who are interested in purchasing the property to allow them to carry out repairs to secure its long term use.
- 4.7.2 The current community use is likely to preclude it from becoming a redevelopment site for housing purposes under the current planning policies and therefore the only real alternative is for continued community use. If the Council retain the asset it would have to invest in replacement of the services and carry out other repairs if a longer term use were considered and it is unlikely that any significant rent would be achieved due to the size and nature of the building.
- 4.7.3 The offer received from the existing users is considered to be an acceptable one and reflects their current occupation and use of the property and a higher offer is considered to be unlikely if formerly marketed as demonstrated by the independent valuation that has been undertaken.

#### **4.8 Grant of lease for Heathfield House, Coombe Road, Croydon**

- 4.8.1 Heathfield House is currently used as a training centre by the Council. However, this has now been identified as one of the assets that can be disposed of as it is not being fully utilized and is expensive to maintain and manage. The Council now uses other delivery methods for training staff and therefore the demand for this space is likely to further decrease.
- 4.8.2 Consideration has previously been given to use of the centre as a wedding venue but due to the size of the rooms and the listed building status limiting potential alterations this has not proved to be viable, especially due to the alternative established wedding venues within the immediate area.
- 4.8.3 During the pandemic, the property has been utilised by Cressey College as an additional facility for the provision of education for SEN pupils within Croydon. They have found the property to be beneficial for this type of provision and therefore discussions have been ongoing about the possible long term use. This has resulted in a conditional offer being received for a lease for a 20 year term based on an FRI lease with the tenant being responsible for certain improvement works. The rent agreed is in line with that provided by external valuers to demonstrate that this is in line with the current market rental expectations.
- 4.8.4 The letting will incorporate a small area of the public open space immediately surrounding the building which is delineated on the attached plan. As this involves the disposal of public open space a Notice has been placed in the Croydon Guardian to inform the public of the Council's intention. This was placed for two consecutive weeks commencing 17 June 2021 with a deadline for comments by 8 July 2021.

- 4.8.5 As the comments will only be received shortly before the Cabinet meeting it has been requested that the decision to grant the lease is delegated to the interim Executive Director Place and Cabinet Member for Croydon Renewal to allow proper consideration of the comments received prior to the decision being made.
- 4.9 In line with the agreed governance, all the above proposed disposals have been referred back to ELT, the Cabinet Member for Resources and Financial Governance and Cabinet in line with the Financial Regulations as they related to disposal of assets.

## **5. CONSULTATION**

- 5.1 External consultation has taken place for the letting of Heathfield House as referenced above.
- 5.2 Ward councilors have been informed of the intention to dispose of these assets and consultation has taken place with members and the Council's senior leadership team and Cabinet Members.

## **6. PRE-DECISION SCRUTINY**

- 6.1 The proposed strategy has been presented to Scrutiny and their recommendations have been followed as part of the disposal process

## **7. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

- 7.1 **Revenue and Capital consequences of report recommendations**  
Given the significant financial challenges faced by the Council, the disposal of surplus corporate assets is vital to ensure an improvement in its financial position, secure value for money and achieve financial savings by considering the net costs/benefits of holding surplus assets versus sale of the assets. The capital expenditure incurred to decant some of these corporate properties, relocate staff to existing accommodation and adaptations of existing properties is factored in the net capital receipts in the table below. The running costs of these properties i.e. business rates, premises costs (cleaning, security, utilities etc) will be reduced, net of the loss of rental income streams is taken into consideration in the revenue savings in the table below. The decision to dispose of an asset will consider 'best consideration' i.e. delaying a disposal if the outcome is more beneficial with respect to its market price so the Council is able to maximise its capital receipts.

## 7.2 The effect of the decision

### Savings and Capital Receipts Included within the MTFS Budgets

Capital receipts generated from asset disposals				
				£000
		21/22	22/23	23/24
Capital receipts		£4,230	£19,994	£5,988

The capital receipts above will save the Council borrowing costs and interest repayment over the term of the borrowing. An assumption has been made that the cash receipt could replace borrowing over 20 years which incurs annual interest costs and a minimum revenue provision.

## 7.3 Risks

Disposal of properties in the corporate portfolio in the current economic climate gives rise to risks and uncertainties around achieving the best possible sale price. Although offers have been received in line with the Part B report and summarized in the table above, there is a risk that some of the offers may not complete especially as it is noted that two are conditional offers.

## 7.4 Future savings/efficiencies

The savings highlighted in the table above reflects an estimate of sales proceeds/capital receipts arising from disposal of the corporate properties based on the offers received and savings in borrowing costs i.e. interest and minimum revenue provision on the general fund budgets.

Approved by: Geetha Blood Interim Head of Finance for Place, Gateway, Strategy and Engagement

## 8. LEGAL CONSIDERATIONS

- 8.1 The Head of Commercial and Property Law comments on behalf of the Director of Law & Governance that, as set out earlier in this report, when disposing of land the Council has a statutory duty under section 123 of the Local Government Act 1972 (or section 233 of the Town and Country Planning Act 1990 where the land has been appropriated for planning purposes) to ensure that it obtains best consideration for the land and buildings disposed of and provisions of section 87-89 of the Localism Act 2011. In certain exceptional cases a disposal for less than best consideration is permitted where the difference in the value between the proposed disposal and the best consideration that might be obtainable on the market is less than £2M or, in other cases, with a specific consent from the Secretary of State. The processes set out in this report in relation to the Interim Disposal Strategy seek to ensure that best consideration is obtained in relation to proposed disposals. If and where disposals are proposed to proceed for less than best consideration (e.g. to secure wider community benefits) it is recommended that officers seek

detailed legal advice in relation to any potential 'Subsidy Control' issues (the Subsidy Control regime replaces the State Aid regulations).

- 8.2 Land should only be disposed of by a local authority where it is considered to be surplus to the Council's requirements. The process set out in the Interim Disposal seeks to ensure that consideration is given as to potential other Council uses of land before it is recommended for disposal.
- 8.3 As set out earlier in the report, where land considered for disposal forms part of an open space before disposing of the land the Council needs to publicise the intention to do so for two consecutive weeks in a local newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made.

Approved by: Nigel Channer, Interim Head of Commercial Law and Property on behalf of the Interim Director of Law and Governance & Deputy Monitoring Officer

## **9. HUMAN RESOURCES IMPACT**

- 9.1 The majority of the proposed disposals are for vacant properties and therefore have no direct impact on staffing levels, restructuring or recruitment. However, the letting of Heathfield House will impact on the delivery of staff training and therefore a different service delivery model will need to be developed. This is already taking place to some extent with the greater use of e-learning and therefore the impact is not considered to be significant compared to the potential wider corporate benefits.

Approved by: Sue Moorman, Director of Human Resources

## **10. EQUALITIES IMPACT**

- 10.1 Where the sites comprise of vacant land or buildings the disposal will not impact individual's rights. The Equalities Analysis is used to inform the final decision to identify any impact on the changes on groups that share protected characteristics, evidence how we arrived at decisions that affect council staff, local people who use our council services and the wider community and help us to comply with the requirements of the Equality Act 2010.
- 10.2 An equalities impact assessment will be undertaken for individual disposals to ascertain the potential the impact they will have on groups that share protected characteristics.

Approved by: Yvonne Okiyo Equalities Manager

## **11. ENVIRONMENTAL IMPACT**

- 11.1 The proposed disposals do not have any direct environmental impact. Any development that may take place on the disposed sites will have to be in full

compliance with current planning, building and environmental legislation. In many cases the sale of redundant buildings and land will lead to new development that will enhance the local areas and lead to improved building and energy efficiency.

## **12. CRIME AND DISORDER REDUCTION IMPACT**

- 12.1 The disposal of vacant sites and redundant buildings should help to improve antisocial behavior and crime around the sites as the buildings and sites will either be re-used or redeveloped.

## **13. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION**

- 13.1 The recommendations within this report are in line with the adopted Interim Asset Disposal Strategy and are being taken in a considered and transparent disposal process that is in line with governance expectations
- 13.2 The disposals will help to secure a significant capital contribution and annual revenue saving and will be helping to meet the requirements set out in the MTFS.
- 13.3 In addition to the financial benefits the disposals will help to deliver wider social benefits through helping to support partner organisations to secure a new Health Centre and enhanced SEN school provision.

## **14. OPTIONS CONSIDERED AND REJECTED**

- 14.1 As the disposals are in line with the Interim Property Strategy there is no real alternative but to dispose of the assets. Failure to do so would not help the Council to address the immediate financial position and the requirements of the MTFS
- 14.2 Consideration has been given in each case to wider alternatives either through different forms of marketing or potential uses. In all cases the options being put forward are considered to be the most suitable both from a financial, timing and wider benefits perspective. For all the outright disposals there is an element of special purchaser which has helped to secure offers at or in excess of the external valuations.  
The disposals are therefore recommended

## **15. DATA PROTECTION IMPLICATIONS**

- 15.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

NO

**15.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

NO

Approved by: Steve Wingrave Head of Asset Management and Estates

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**CONTACT OFFICER:**

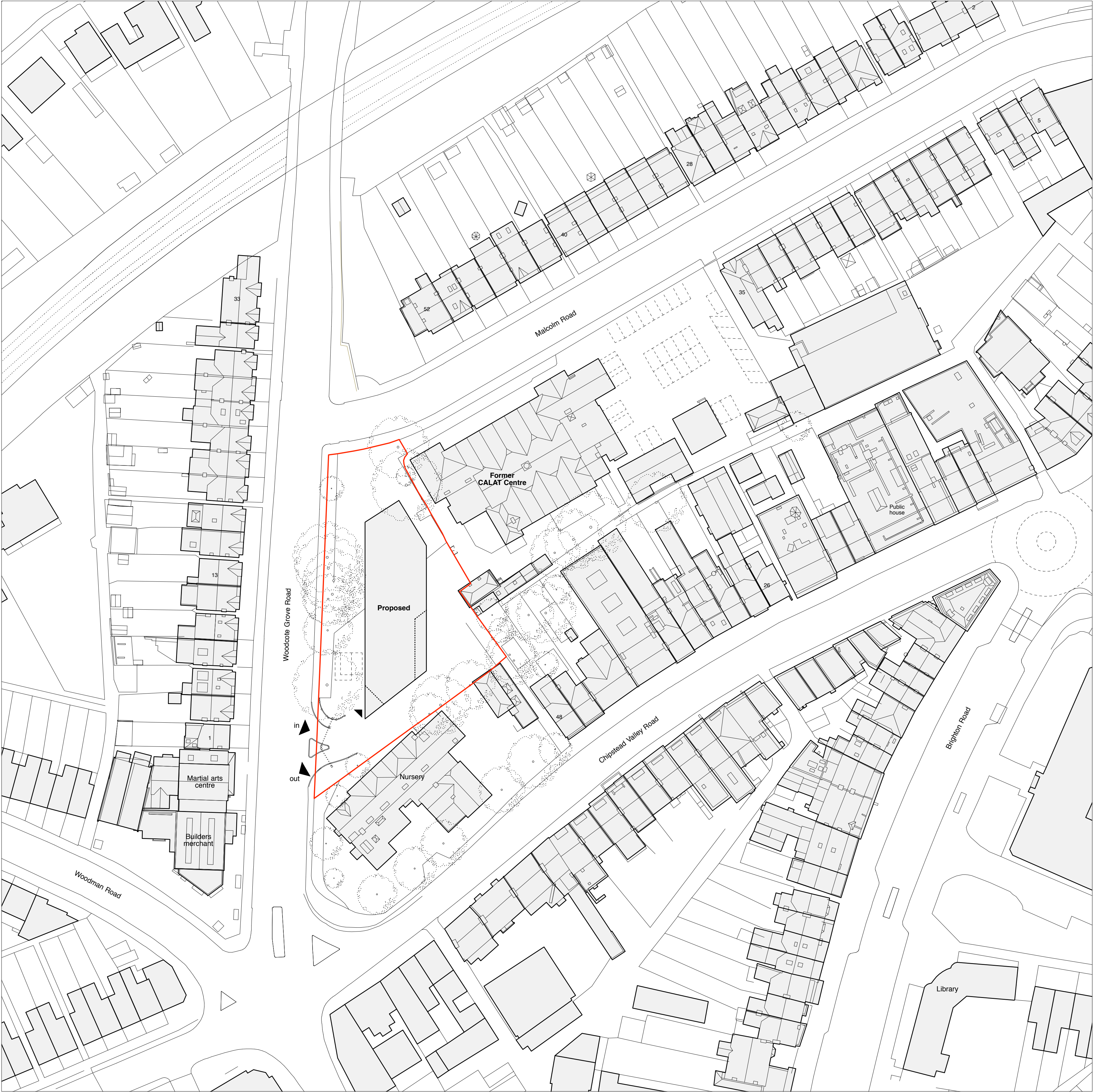
Steve Wingrave Head of Asset  
Management and Estates ext 61512.

**BACKGROUND DOCUMENTS:**

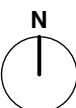
Location Plans for :


- Part CALAT site Malcolm Road Coulsdon
- Garage Site at Windmill Road
- Scout Hut, Peppermint Close
- Heathfield House lease





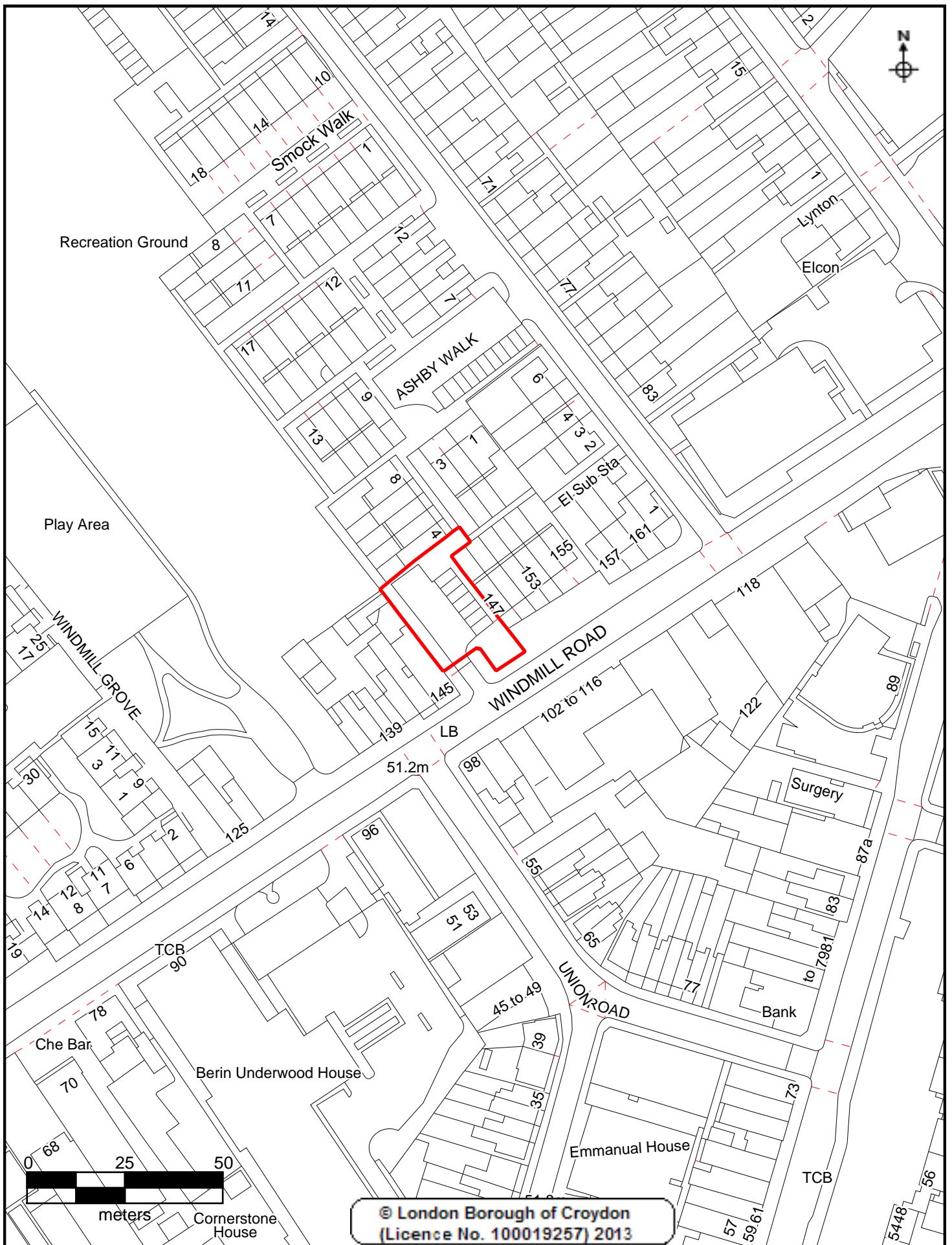
**A** Proposed Site Plan  
1:500



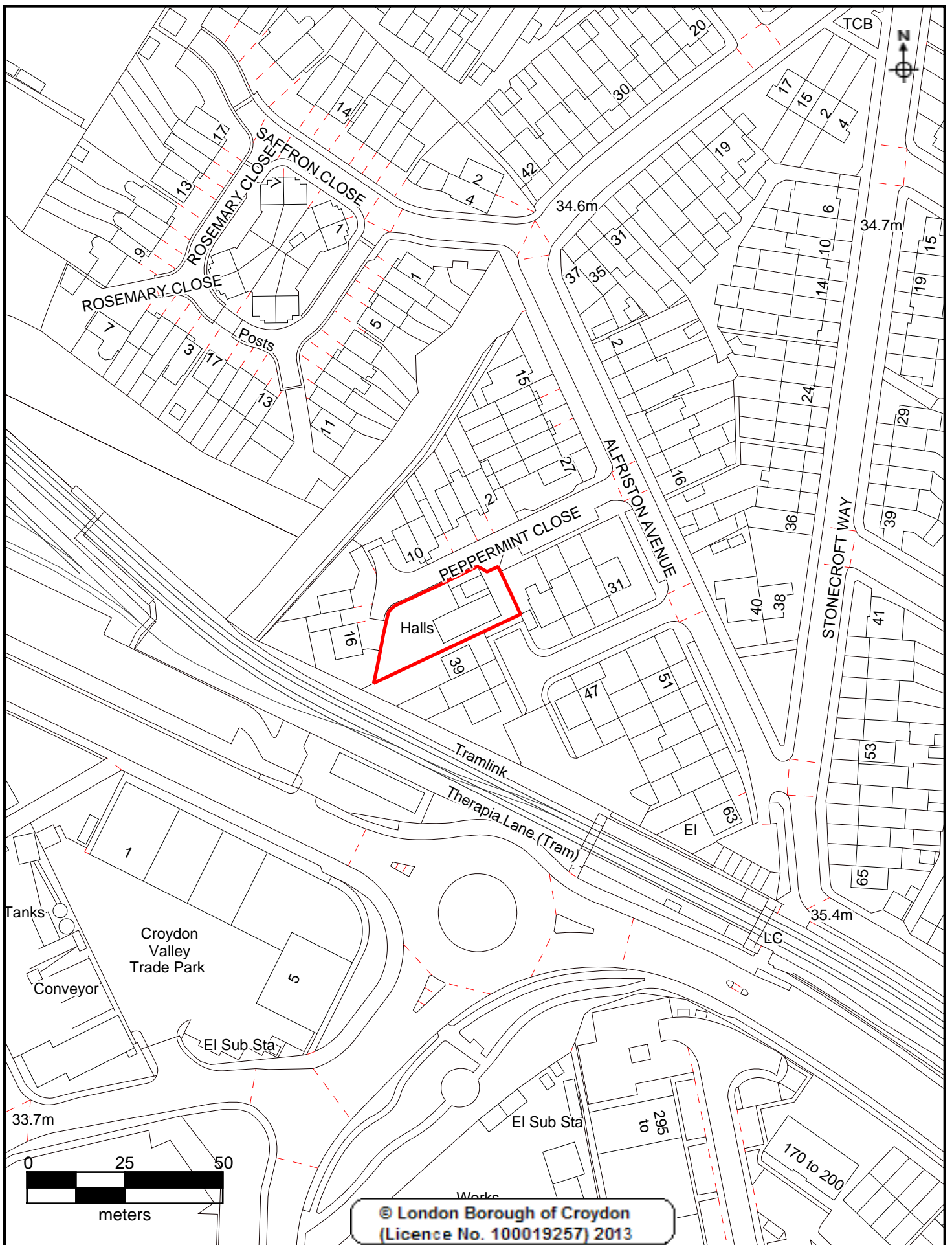
 Application site boundary

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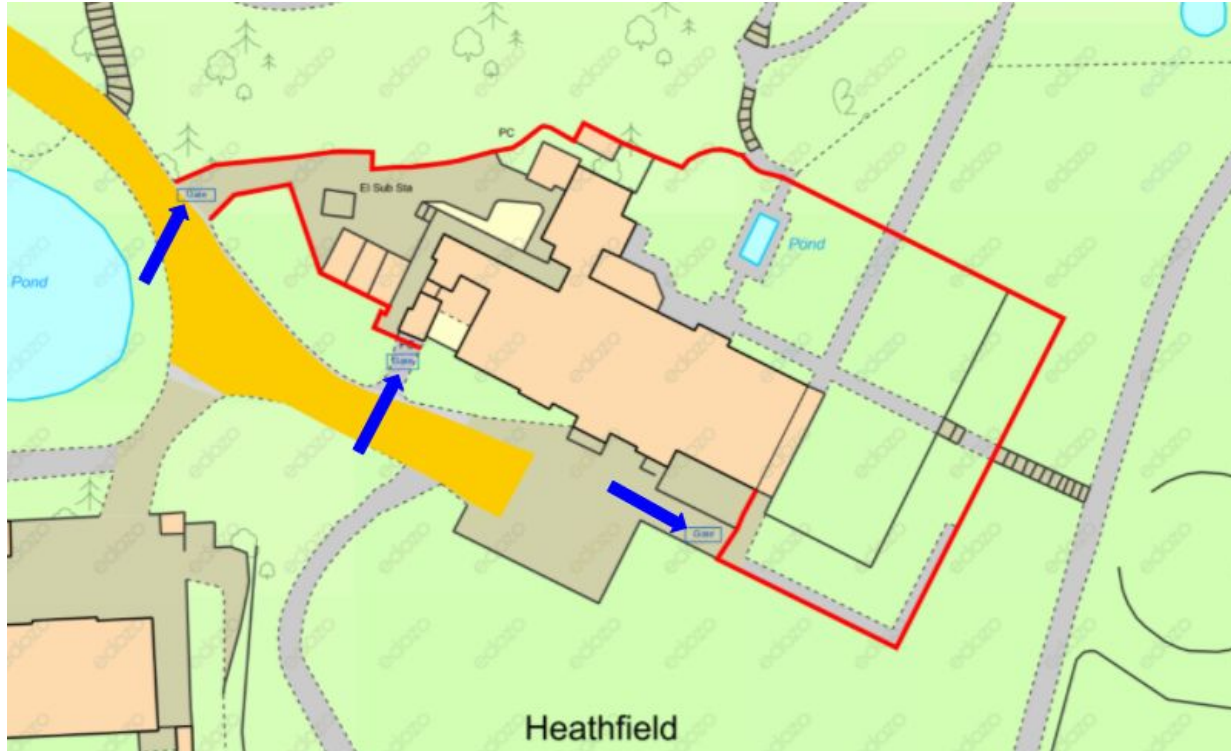


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**Site Plan**
  
**Proposed Fencing and Gate entry**
  
**Heathfield House, 3 Coombe Lane, Croydon, CR0 5RH**



Proposed fencing outlined in Red
   
 Proposed gate locations indicated by blue arrow arrow.
   
 Do not rely on site boundaries.
   
 For Indicative purposes only.



## Proposed fence

### Option 1

Fencing to be erected on top of single story garage.

### Option 2

Fencing to be in the ground between tree and garage rear wall.





## 1. Introduction

### 1.1 Purpose of Equality Analysis

The council has an important role in creating a fair society through the services we provide, the people we employ and the money we spend. Equality is integral to everything the council does. We are committed to making Croydon a stronger, fairer borough where no community or individual is held back.

Undertaking an Equality Analysis helps to determine whether a proposed change will have a positive, negative, or no impact on groups that share a protected characteristic. Conclusions drawn from Equality Analyses helps us to better understand the needs of all our communities, enable us to target services and budgets more effectively and also helps us to comply with the Equality Act 2010.

An equality analysis must be completed as early as possible during the planning stages of any proposed change to ensure information gained from the process is incorporated in any decisions made.

In practice, the term '**proposed change**' broadly covers the following:-

- Policies, strategies and plans;
- Projects and programmes;
- Commissioning (including re-commissioning and de-commissioning);
- Service review;
- Budget allocation/analysis;
- Staff restructures (including outsourcing);
- Business transformation programmes;
- Organisational change programmes;
- Processes (for example thresholds, eligibility, entitlements, and access criteria).

## 2. Proposed change

Directorate	Place
Title of proposed change	Property Disposals as part of the Interim Asset Disposal Strategy
Name of Officer carrying out Equality Analysis	Steve Wingrave

## 2.1 Purpose of proposed change (see 1.1 above for examples of proposed changes)

The Council is proposing to vary the lease terms for the two existing leases at Concord and Sycamore House that are currently used to provide Emergency Temporary Accommodation (ETA). The lease changes do not impact on the use or tenure of the individual occupiers but helps to secure additional capital for the Council and possibly secure the premises for a longer term

## 3. Impact of the proposed change

**Important Note:** It is necessary to determine how each of the protected groups could be impacted by the proposed change. If there is insufficient information or evidence to reach a decision you will need to gather appropriate quantitative and qualitative information from a range of sources e.g. Croydon Observatory a useful source of information such as Borough Strategies and Plans, Borough and Ward Profiles, Joint Strategic Health Needs Assessments <http://www.croydonobservatory.org/> Other sources include performance monitoring reports, complaints, survey data, audit reports, inspection reports, national research and feedback gained through engagement with service users, voluntary and community organisations and contractors.

### 3.1 Additional information needed to determine impact of proposed change

**Table 1 – Additional information needed to determine impact of proposed change**

If you need to undertake further research and data gathering to help determine the likely impact of the proposed change, outline the information needed in this table.

Additional information needed	Information source	Date for completion
The proposed Disposals for vacant premises will not impact the delivery of services by the Council as they have all been declared surplus to requirements and many have been vacant for some time. This report covers the disposal of a Golf Course and hotel let under a long lease, a former car park area, HRA garages, Heathfield House former training centre and a vacant scout hut	Asset Management/ELT	June 2021

For guidance and support with consultation and engagement visit <https://intranet.croydon.gov.uk/working-croydon/communications/consultation-and-engagement/starting-engagement-or-consultation>

### 3.2 Deciding whether the potential impact is positive or negative

**Table 2 – Positive/Negative impact**

For each protected characteristic group show whether the impact of the proposed change on service users and/or staff is positive or negative by briefly outlining the nature of the impact in the appropriate column. . If it is decided that analysis is not relevant to some groups, this should be recorded and explained. In all circumstances you should list the source of the evidence used to make this judgement where possible.

Protected characteristic group(s)	Positive impact	Negative impact	Source of evidence
Age	The proposed changes will not impact any protected characteristic group as either the buildings are vacant and have been declared surplus to requirements or the current use where tenanted will not change	None	Asset Management Team
Disability	- The proposed changes will not impact any protected characteristic group as either the buildings are vacant and have been declared surplus to requirements or the current use where tenanted will not change. In the case of letting of Heathfield House this will be to Cressey College for the education of children with SEN needs and will therefore enhance the local facilities for children with disabilities	None	As above
Gender	The proposed changes will not impact any protected characteristic group as either the buildings are vacant and have been declared surplus to requirements or the current use where tenanted will not change	None	As above.

Gender Reassignment	The proposed changes will not impact any protected characteristic group as either the buildings are vacant and have been declared surplus to requirements or the current use where tenanted will not change	<b>None</b>	<b>As above.</b>
Marriage or Civil Partnership	The proposed changes will not impact any protected characteristic group as either the buildings are vacant and have been declared surplus to requirements or the current use where tenanted will not change	<b>None</b>	<b>As above.</b>
Religion or belief	The proposed changes will not impact any protected characteristic group as either the buildings are vacant and have been declared surplus to requirements or the current use where tenanted will not change. The proposed purchaser for the former scout hut is a faith group and therefore this will improve the provision of facilities for some faith groups in the area	<b>None</b>	<b>As above.</b>
Race	The proposed changes will not impact any protected characteristic group as either the buildings are vacant and have been declared surplus to requirements or the current use where tenanted will not change	<b>None</b>	<b>As above.</b>
Sexual Orientation	The proposed changes will not impact any protected characteristic group as either the buildings are vacant and have been declared surplus to requirements or the current use where tenanted will not change	<b>None</b>	<b>As above.</b>
Pregnancy or Maternity	The proposed changes will not impact any protected characteristic group as either the buildings are vacant and have been declared surplus to requirements or the current use where tenanted will not change. In the case of the car park at the former Malcolm Road CALAT this is to be for the development of a medical centre which will enhance local	<b>None</b>	<b>As above.</b>

	provision and care for people with medical needs		
<p><b>Important note:</b> You must act to eliminate any potential negative impact which, if it occurred would breach the Equality Act 2010. In some situations this could mean abandoning your proposed change as you may not be able to take action to mitigate all negative impacts.</p> <p>When you act to reduce any negative impact or maximise any positive impact, you must ensure that this does not create a negative impact on service users and/or staff belonging to groups that share protected characteristics.</p>			

### 3.3 Impact scores

Example  
 If we are going to reduce parking provision in a particular location, officers will need to assess the equality impact as follows;

1. Determine the Likelihood of impact. You can do this by using the key in table 5 as a guide, for the purpose of this example, the likelihood of impact score is 2 (likely to impact)
2. Determine the Severity of impact. You can do this by using the key in table 5 as a guide, for the purpose of this example, the Severity of impact score is also 2 (likely to impact )
3. Calculate the equality impact score using table 4 below and the formula **Likelihood x Severity** and record it in table 5, for the purpose of this example - **Likelihood (2) x Severity (2) = 4**

Table 4 – Equality Impact Score

<b>Score</b>	3	3	6	9
--------------	---	---	---	---

	2	2	4	6
	1	1	2	3
		1	2	3
	Likelihood of Impact			

Key	
Risk Index	Risk Magnitude
6 – 9	High
3 – 5	Medium
1 – 3	Low

# Equality Analysis

Table 5 – Impact scores

Column 1	Column 2	Column 3	Column 4
PROTECTED GROUP	<p>LIKELIHOOD OF IMPACT SCORE</p> <p>Use the key below to <b>score</b> the <b>likelihood</b> of the proposed change impacting each of the protected groups, by inserting either 1, 2, or 3 against each protected group.</p> <p><b>1 = Unlikely to impact</b> <b>2 = Likely to impact</b> <b>3 = Certain to impact</b></p>	<p>SEVERITY OF IMPACT SCORE</p> <p>Use the key below to <b>score</b> the <b>severity</b> of impact of the proposed change on each of the protected groups, by inserting either 1, 2, or 3 against each protected group.</p> <p><b>1 = Unlikely to impact</b> <b>2 = Likely to impact</b> <b>3 = Certain to impact</b></p>	<p>EQUALITY IMPACT SCORE</p> <p>Calculate the <b>equality impact score</b> for each protected group by multiplying scores in column 2 by scores in column 3. Enter the results below against each protected group.</p> <p><b>Equality impact score = likelihood of impact score x severity of impact score.</b></p>
Age	1	1	1
Disability	2	3	6 (in a positive way)
Gender	1	1	1
Gender reassignment	1	1	1
Marriage / Civil Partnership	1	1	1
Race	1	1	1
Religion or belief	2	2	4 (in a positive way)
Sexual Orientation	1	1	1
Pregnancy or Maternity	2	2	2(in a positive way)

## 4. Statutory duties

### 4.1 Public Sector Duties

Tick the relevant box(es) to indicate whether the proposed change will adversely impact the Council's ability to meet any of the Public Sector Duties in the Equality Act 2010 set out below.

Advancing equality of opportunity between people who belong to protected groups ☐

Eliminating unlawful discrimination, harassment and victimisation ☐

Fostering good relations between people who belong to protected characteristic groups ☐

**Important note:** If the proposed change adversely impacts the Council's ability to meet any of the Public Sector Duties set out above, mitigating actions must be outlined in the Action Plan in section 5 below.

## 5. Action Plan to mitigate negative impacts of proposed change

**Table 5 – Action Plan to mitigate negative impacts**

Complete this table to show any negative impacts identified for service users and/or staff from protected groups, and planned actions mitigate them.

Protected characteristic	Negative impact	Mitigating action(s)	Action owner	Date for completion
Disability	No Negative Impact			
Race	No Negative Impact			
Sex (gender)	No Negative Impact			
Gender reassignment	No Negative Impact			
Sexual orientation	No Negative Impact			
Age	No Negative Impact			
Religion or belief	No Negative Impact			
Pregnancy or maternity	No Negative Impact			



## Equality Analysis

Marriage/civil partnership	No Negative Impact			
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### 6. Decision on the proposed change

Based on the information outlined in this Equality Analysis enter <b>X</b> in column 3 ( <b>Conclusion</b> ) alongside the relevant statement to show your conclusion.				
Decision	Definition			Conclusion - Mark 'X' below
No major change	Our analysis demonstrates that the policy is robust. The evidence shows no potential for discrimination and we have taken all opportunities to advance equality and foster good relations, subject to continuing monitoring and review. <b>If you reach this conclusion, state your reasons and briefly outline the evidence used to support your decision.</b> The proposed changes to the lease involve the insurance obligations, the right to redevelop and the right to potentially extend the term of the lease. None of these will have an impact on the current use of the premises			x
Adjust the proposed change	We will take steps to lessen the impact of the proposed change should it adversely impact the Council's ability to meet any of the Public Sector Duties set out under section 4 above, remove barriers or better promote equality. We are going to take action to ensure these opportunities are realised. <b>If you reach this conclusion, you must outline the actions you will take in Action Plan in section 5 of the Equality Analysis form</b>			
Continue the proposed change	We will adopt or continue with the change, despite potential for adverse impact or opportunities to lessen the impact of discrimination, harassment or victimisation and better advance equality and foster good relations between groups through the change. However, we are not planning to implement them as we are satisfied that our project will not lead to unlawful discrimination and there are justifiable reasons to continue as planned. <b>If you reach this conclusion, you should clearly set out the justifications for doing this and it must be in line with the duty to have due regard and how you reached this decision.</b>			
Stop or amend the proposed change	Our change would have adverse effects on one or more protected groups that are not justified and cannot be mitigated. Our proposed change must be stopped or amended.			
Will this decision be considered at a scheduled meeting? e.g. Contracts and Commissioning Board (CCB) / Cabinet <b>Yes.</b>			Meeting title: Cabinet Date: <b>13 July 2021</b>	

## 7. Sign-Off

Officers that must approve this decision			
Equality lead	Name: Yvonne Okiyo	Date:	ne
	Position: Equalities Manager		
Director	Name:	Date:	
	Position: Director of Housing and Social Investment		

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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# Croydon Council

<b>DELEGATED DECISION REPORT TO:</b>	<b>Cllr Callton Young, Cabinet Member for Resources and Financial Governance</b>
<b>SUBJECT:</b>	<b>Alteration to lease terms for existing Agreements at Concord and Sycamore House, London Road, Croydon</b>
<b>LEAD OFFICER:</b>	<b>Sarah Hayward Interim Executive Director Place  Steve Iles Director Public Realm</b>
<b>CABINET MEMBER:</b>	<b>Councillor Carlton Young, Cabinet Member for Finance and Resources  Cllr Stuart King Deputy Leader and Cabinet Member for Croydon Renewal</b>
<b>Ward</b>	<b>West Thornton</b>
<b>COUNCIL PRIORITIES 2020-2024</b>  Corporate Plan - the proposals presented in this report will: <ul style="list-style-type: none"> <li>• Maximise the use of the Council's assets to deliver new homes, including affordable, private for sale and private rented stock</li> </ul>	
<b>FINANCIAL SUMMARY:</b>  The proposed amendments to the lease will deliver a one off capital receipt of at least £1m. The benefits and risks of the various options are set out within the detail of this paper	
<b>FORWARD PLAN KEY DECISION REFERENCE NO.: 3921RFG</b>  The notice of the decision will specify that the decision may not be implemented until after 13.00 hours on the 6th working day following the day on which the decision was taken unless referred to the Scrutiny and Overview Committee.	

The Leader of the Council has delegated to the Cabinet Member for Resources and Financial Governance the power to make the decisions set out in the recommendations below

## 1. RECOMMENDATIONS

Cabinet Member for Resources and Financial Governance in consultation with the Leader agrees the following:

- 1.1 Approve the variation of the existing lease terms for the long leases for Concord and Sycamore House on the basis set out in section 3.2 of this report

- |     |  |
|-----|--|
| 1.2 | Note the potential opportunity to secure a further capital receipt through the extension of the lease terms. |
|-----|--|

## **2. EXECUTIVE SUMMARY**

- 2.1 Concord and Sycamore House are two former office buildings that were converted into residential accommodation in 2015 under the permitted development scheme. The Council initially took 10 year leases for each site but these were then re-gearred in 2017 and separate long leases for both Concord and Sycamore House were agreed. These were for an effective term of 40 years in return for a reduced annual rental and taking on full repairing responsibilities. On expiry of the leases the Council have the right to purchase the freehold interest for £1.
- 2.2 The current leases are drawn on standard full repairing and insuring terms with the landlord insuring and tenant reimbursing the cost.
- 2.3 The current freeholder, Cheyne Asset Management are proposing to sell the assets and the prospective purchasers are looking to amend the terms of the leases with the Council in return for a one off cash payment. They have proposed an initial option as set out below with the further potential to extend the lease term for a further one of capital payment.

## **3. BACKGROUND**

- 3.1 The Council entered into 40 year leases for both of these buildings in July 2017. Under these agreements, the Council is responsible for all repairs and maintenance and for re-imbursement of the insurance costs. The rent paid is below a market rent but is indexed linked with annual CPI increases. Under the terms of the lease the Council is not permitted to assign the lease but can sublet individual units and can charge a social or market rental.
- 3.2 There is no break clause in either lease except in the case where the property is destroyed or damaged by an insurable event and cannot be reinstated or is unlikely to be reinstated within 3 years. At this point the tenant may terminate the lease.
- 3.3 Under the terms of the existing lease the Council are already fully responsible for all repairs and maintenance to the building and will continue to be so for another 37 years. As was demonstrated by the recent extensive works required to comply with fire regulations, the lease does not give the Council the ability to stop paying rent if the building or parts of the building become incapable of occupation due to repairs issues.
- 3.4 The prospective purchasers, JAG Capital Investment Managers are looking to purchase the leases as part of their long term pension investment portfolio. They are therefore looking to secure a guaranteed long term income stream and have approached the Council to amend the terms of the leases. They have proposed 3 basic options:



#### **3.4.1 Option 1 – Continued 37 Year Lease and an upfront payment**

This option would entail the lease running for the remaining 37 years, with the lease being varied to make the tenant responsible for insuring the premises and guaranteeing to pay the rent for the term of the lease no matter what. (ie remove the option to terminate the lease following destruction by an insurable risk). This would result in a one-off upfront payment of £1M to the Council. In addition the purchasers are prepared to allow a right to redevelop the building during the term of the lease. This is not currently an option within the existing lease and therefore if the building was to develop a major structural failure the Council would be required to carry out the necessary repairs rather than have the right to redevelop which, given the age and nature of the building could be a more viable option.

The variation will also grant the Council the ability to opt for a further 8 year lease extension by serving a Notice on the Landlord on or before the 31 October in return for an additional capital receipt of c£8m

Following completion of the lease variations the Council would have two potential options that will be purely at the discretion of the Council as to which one, if any, are taken:

#### **3.4.2 Option 2a – Extend to 45 Years with and an upfront payment**

This option would entail the lease being extended by 8 years, with no reduction in the annual lease payment. This would result in a one-off upfront payment of c£8M to the Council (in addition to the £1m under option 1).

#### **3.4.3 Option 2b - Extend to 45 Years with a reduction in the annual lease payment and an upfront payment**

This option would entail the lease being extended by 8 years, with a reduction in the starting annual lease payment of circa £85.6K. This would result in a one-off upfront payment of c£4M to the Council (in addition to the £1m under option 1).

The two stage approach has been put forward due to the timing of the deal to allow for the Council to follow the correct governance and for further due diligence by way of structural surveys.

### **4. DETAIL**

#### **4.1 The proposals outlined above all have the same basic lease amendments:**

1. The lease will be amended so that the Council are responsible for insuring the buildings – the insurance team have confirmed that this will be possible and given that the Council will have the benefit of using its block policy, may deliver some savings or at least certainty. This years recharged insurance premiums showed an increase of c 62% increasing from £54,000 to £88,000 and under current guidance the tenant is unable to force the landlord to take out insurance with the cheapest company
2. The major change that is proposed is for the introduction of a “Hell or High Water” clause. This basically means that the Council would have to

guarantee paying the rent for the entire term of the lease. At the moment the Council have the ability to break the lease if the building is damaged or destroyed by an insured risk and it is incapable or likely to be incapable of being re-instated within 3 years. There are no other break options. This clause gives the pension fund a guaranteed income over the whole term.

3. The introduction of a tenant only redevelopment clause. There is currently no right for the tenant to redevelop the buildings over the term of the lease. Therefore if the buildings developed substantial disrepair issues, the Council would not have an automatic right to rebuild and may therefore have to undertake uneconomic repairs. Whilst rent would still be payable for the period of the redevelopment at the agreed passing rent, this would at least allow the Council to redevelop and the rent would remain as per the old lease rents. This will reduce future risk by increasing flexibility

- 4.2 Whilst points 1 and 3 are seen as positive changes that provide more flexibility and control in the long term, point 2 does increase the Councils potential risk. Therefore as part of the negotiations, the terms of the proposal will include indemnity insurance to cover the potential risk. The proposal is to take out a policy with Aegis, an A+ rated company with the premium being covered by the purchaser. The summary of the policy terms are set out below:

**Proposed Contingent Insurance policy:**

Insured	Contingent Loss of Rent The Mayor and Burgesses of the London Borough of Croydon
Property(ies)	1. Concord House, 454 London Rd, Croydon CR0 9BH 2. Sycamore House, 799 London Rd, Thornton Heath CR7 6FD
Lease	A HOHW lease dated [tbc] and made between (1) the Landlord and (2) the Tenant
Inception Date	<b>tbc</b>
Period of Insurance	From the Inception Date and continuing {either for a period of [37] years, or until xx/xx/xxxx – being the expiry date of the Lease}.
Cover	The Insurer will, subject to the Excess, indemnify the Insured during the Period of Insurance for Loss of net Rent payable under the Lease sustained directly as a result of 1. total damage or destruction to the Property; and 2. the Property is unable to be reinstated during the Period of Insurance; and 3. the Insured is required to continue to make payments of Rent under the Lease

Excess

1. Three years from the date of any loss, destruction or damage to the Property; and
2. The Limit of Indemnity for the full Reinstatement Amount under a standard Material Damage insurance policy

Limit of Indemnity

1. Concord House - £847,034.88 per annum at the Inception Date
2. Sycamore House - £429,270.70 per annum at the Inception Date

The LOI will increase each year in accordance with the Rent Review calculation under the Lease subject to a maximum amount of [3]%.

Material Damage Insurance Policy

A standard Material Damage Insurance Policy available to the Insured in the London Insurance Market from an insurer with a rating of at least A-

Reinstatement Amount

The Limit of Indemnity provided for under a Material Damage Insurance Policy in respect of the full value of the reinstatement of the property taking into account increases in the cost of building

Premium

To be agreed but c1%-1.3% of the Limit of Indemnity

- 4.3 Given the covenant strength of the Insurer it is not believed that there will be a long term risk of the company failing and the policy being void.
- 4.4 Whilst this policy cannot guarantee to cover 100% of all potential failures to be able to occupy the premises for the intended purpose, it is difficult to envisage an event that would prevent occupation that is not already a risk under the existing lease (ie major repair issues) or through a change of legislation or government prohibition that would not attract compensation. At present, damage caused by uninsurable risks would not allow the Council to determine the lease.
- 4.5 The Council's Insurance team have confirmed that both the company and the proposals outlined above should minimise any potential risk so far as insurance is able to do so.
- 4.6 With the inclusion of the indemnity insurance, the additional risks of the proposed changes are considered to be minimal and the redevelopment clause and ability for the Council to insure are likely to be beneficial.
- 4.7 If the lease is amended as proposed by Option 1 above then the Council would receive a one off payment of £1m. The purchasers have also agreed to cover the Council's valuation and legal fees should the matter completed. As part of

the variations there will also be a clause allowing the lease to be extended for a further 8 years. This is to be a tenant only option and will be time limited whereby the notice must be served by 31 October 2021 for either option 2a or 2b as outlined above

- 4.8 Option 2a offering a reduced rental is less financially attractive both from an NPV basis and especially if the premium can be used to offset part of the loan from MHCLG. It must be recognised that both of the options to extend the lease term could carry some additional risk given the age and possible maintenance requirements for the building. In order to help quantify any risk a full structural survey and concrete analysis is recommended before undertaking any decision and as part of the negotiations the landlord has agreed to cover up to £25,000 towards the cost of undertaking such surveys. The results of the surveys will allow an informed decision to be undertaken prior to service of the notice.
- 4.9 JAG are looking to purchase the assets and are likely to do so whether the Council agree to any of the above Options or not. If we decline they will take out the indemnity themselves to cover continuity of income but this is seen as less attractive in the market than a guaranteed income from the Council. The extension of the term to 45 years is attractive to JAG as this is a recognised investment period within the market which, again, makes this a more attractive proposition for the company
- 4.10 Given the impending purchase, time is of the essence and JAG are looking for formal cabinet approval to Option 1 prior to the 31<sup>st</sup> July

## **5. CONSULTATION**

- 5.1 No external consultation has been undertaken in connection with the options contained within this report

## **6. PRE-DECISION SCRUTINY**

- 6.1 This proposal has not been presented to Scrutiny

## **7. FINANCIAL & RISK ASSESSMENT CONSIDERATIONS**

### **7.1 Revenue and Capital consequences of report recommendations**

The impact of the three options has been considered on the basis of a NPV model to allow a suitable comparison.

The payments to the Council will be made on completion of the lease agreements

## **Options for Concord House and Sycamore House**

	<b>Option 1</b>	<b>Option 2a</b>	<b>Option 2b</b>
	£'000	£'000	£'000
<b><i>Cash Inflow</i></b>			
<b>Upfront payment to LBC</b>	<b>-1,000</b>	<b>-9,000</b>	<b>-5,000</b>
No of years (lease)	37	45	45
<b><i>Cash Outflow (saving)</i></b>			
Insurance Premiums (saving p.a.)	-5.909	-5.909	-5.909
Lease Payments (saving p.a.)		-	37
Lease Payments (additional years)	-	8	8
Lease Payments (additional payments p.a.)	-	1,285	1,200
Discounted NPV	<b>-1,128</b>	<b>-6,003</b>	<b>-4,246</b>

Option 1 is the recommended option for the Council as it involves a one-off payment of £1m to the Council for a 37-year period with no change to the annual lease payments. This option is recommended from a cashflow aspect as it results in a positive discounted Net Present Value of £1.128m at the end of the 37 year term.

Whilst the other options result in a higher NPV but the term is over a 45-year period and the upfront cash payment to the Council now for a shorter lease term is more favourable to the Council in the current financial climate.

Approved by: Geetha Blood, Interim Head of Finance on behalf of S151 officer

## **8. LEGAL CONSIDERATIONS**

- 8.1 The Interim Director of Law and Governance & Interim Deputy Monitoring Officer comments that the recommendations set out in this report are within the powers of the Council.
- 8.2 Of particular relevance is;
  - 8.2.1 The general power of competence under section 1 of the Localism Act 2011 which provides that a local authority has power to do anything that individuals generally may do;

- 8.2.2 Section 111 of the Local Government Act 1972 which enables the Council to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any of its functions, whether or not involving expenditure, borrowing or lending money, or the acquisition or disposal of any rights or property;
- 8.2.3 For the purposes of the proposals to extend the existing leases referred to in this report, Section 120 of the Local Government Act 1972 gives the Council power to acquire by agreement any land/property:
- (i) for the purposes of any of its functions under that Act or any other Act; or
  - (ii) for the purposes of the benefit, improvement or development of the Council's area; or
  - (iii) for any purpose for which the Council is authorised by that Act or any other Act to acquire land;
- 8.2.4 Section 12 of the Local Government Act 2003 and the Council's powers to invest for any purpose relevant to its statutory functions or for the purposes of prudent management of its financial affairs.
- 8.3 In considering the proposals set out in this report, the Council has a general duty of best value under Section 3 of the Local Government Act 1999 to secure continuous improvement in the exercise of the functions of the authority having regard to economy, efficiency and effectiveness and therefore covers performance of all of the powers and duties of the authority.
- 8.4 The parties to a lease are at liberty to vary the terms of a lease and can vary most terms without triggering a surrender and regrant, but a variation that increases either the length of the term or the physical extent of the premises will take effect as a surrender and regrant.

Approved by: Doutimi Aseh, Interim Director of Law and Governance and Interim Deputy Monitoring Officer.

## **9. HUMAN RESOURCES IMPACT**

- 9.1 There are no direct impacts for LBC workforce with the exception of officer time to manage this process which has been factored in.

Approved by: Sue Moorman, Director of Human Resources

## **9. EQUALITIES IMPACT**

- 9.1 This is purely a modification to the lease terms and will not have any impact on any of the groups that share protected characteristics.

Approved by: Yvonne Okiyo, Equalities Manager

## **10. FREEDOM OF INFORMATION AND DATA PROTECTION CONSIDERATIONS**

- 10.1 Information requested under the Freedom of Information Act 2000 about the negotiations and purchase, which is the subject of this report, held internally or supplied by external organisations will be accessible subject to legal advice as to its commercial confidentiality (or other applicable exemption) and whether or not it is in the public interest to do so.

## **11. ENVIRONMENTAL IMPACT**

- 11.1 The changes to the lease terms will have no environmental impacts
- 11.2 The Council has a commitment to address environmental sustainability as an integral part of all activity. The Green Commitment and Environmental Procurement Policy are key relevant policies.

## **12. CRIME AND DISORDER REDUCTION IMPACT**

- 12.1 There will be no additional impacts on Crime and disorder.

## **13. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION**

- 13.1 The amendment to the lease terms for options will secure a one off capital receipt. There is some potential increase in risk but this is considered minimal given the other amendments that have been negotiated and the insurance that will be put in place.

## **14. OPTIONS CONSIDERED AND REJECTED**

- 14.1 The Council do not have to enter into any of the options proposed but if they are rejected the opportunity to negotiate similar terms and the associated financial payments are likely to be lost or at best significantly reduced

## **15. DATA PROTECTION IMPLICATIONS**

- 15.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

NO

- 15.2 **HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

NO

Approved by: Steve Wingrave Head of Asset Management and Estates

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**CONTACT OFFICER:**

Steve Wingrave, Head of Asset Management  
and Estates ext 61512

**BACKGROUND DOCUMENTS:**

None



## 1. Introduction

### 1.1 Purpose of Equality Analysis

The council has an important role in creating a fair society through the services we provide, the people we employ and the money we spend. Equality is integral to everything the council does. We are committed to making Croydon a stronger, fairer borough where no community or individual is held back.

Undertaking an Equality Analysis helps to determine whether a proposed change will have a positive, negative, or no impact on groups that share a protected characteristic. Conclusions drawn from Equality Analyses helps us to better understand the needs of all our communities, enable us to target services and budgets more effectively and also helps us to comply with the Equality Act 2010.

An equality analysis must be completed as early as possible during the planning stages of any proposed change to ensure information gained from the process is incorporated in any decisions made.

In practice, the term '**proposed change**' broadly covers the following:-

- Policies, strategies and plans;
- Projects and programmes;
- Commissioning (including re-commissioning and de-commissioning);
- Service review;
- Budget allocation/analysis;
- Staff restructures (including outsourcing);
- Business transformation programmes;
- Organisational change programmes;
- Processes (for example thresholds, eligibility, entitlements, and access criteria).

## 2. Proposed change

Directorate	Place
Title of proposed change	Variation to Lease terms for Concord and Sycamore House
Name of Officer carrying out Equality Analysis	Steve Wingrave

## 2.1 Purpose of proposed change (see 1.1 above for examples of proposed changes)

The Council is proposing to vary the lease terms for the two existing leases at Concord and Sycamore House that are currently used to provide Emergency Temporary Accommodation (ETA). The lease changes do not impact on the use or tenure of the individual occupiers but helps to secure additional capital for the Council and possibly secure the premises for a longer term

## 3. Impact of the proposed change

**Important Note:** It is necessary to determine how each of the protected groups could be impacted by the proposed change. If there is insufficient information or evidence to reach a decision you will need to gather appropriate quantitative and qualitative information from a range of sources e.g. Croydon Observatory a useful source of information such as Borough Strategies and Plans, Borough and Ward Profiles, Joint Strategic Health Needs Assessments <http://www.croydonobservatory.org/> Other sources include performance monitoring reports, complaints, survey data, audit reports, inspection reports, national research and feedback gained through engagement with service users, voluntary and community organisations and contractors.

### 3.1 Additional information needed to determine impact of proposed change

**Table 1 – Additional information needed to determine impact of proposed change**

If you need to undertake further research and data gathering to help determine the likely impact of the proposed change, outline the information needed in this table.

Additional information needed	Information source	Date for completion
The proposed changes will have no impact on the use of the premises for ETA.	Asset Management	June 2021

For guidance and support with consultation and engagement visit <https://intranet.croydon.gov.uk/working-croydon/communications/consultation-and-engagement/starting-engagement-or-consultation>

### 3.2 Deciding whether the potential impact is positive or negative

**Table 2 – Positive/Negative impact**

For each protected characteristic group show whether the impact of the proposed change on service users and/or staff is positive or negative by briefly outlining the nature of the impact in the appropriate column. . If it is decided that analysis is not relevant to some groups, this should be recorded and explained. In all circumstances you should list the source of the evidence used to make this judgement where possible.

Protected characteristic group(s)	Positive impact	Negative impact	Source of evidence
Age	The proposed changes will not impact any protected characteristic group as the use of the buildings for ETA will not change as a result of this proposal	None	Existing use information from Housing
Disability	- The proposed changes will not impact any protected characteristic group as the use of the buildings for ETA will not change as a result of this proposal	None	As above
Gender	The proposed changes will not impact any protected characteristic group as the use of the buildings for ETA will not change as a result of this proposal		As above.
Gender Reassignment	The proposed changes will not impact any protected characteristic group as the use of the buildings for ETA will not change as a result of this proposal		As above.
Marriage or Civil Partnership	The proposed changes will not impact any protected characteristic group as the use of the buildings for ETA will not change as a result of this proposal		As above.
Religion or belief	The proposed changes will not impact any protected characteristic group as the use of the buildings for ETA will not change as a result of this proposal		As above.

Race	The proposed changes will not impact any protected characteristic group as the use of the buildings for ETA will not change as a result of this proposal		<b>As above.</b>
Sexual Orientation	The proposed changes will not impact any protected characteristic group as the use of the buildings for ETA will not change as a result of this proposal		<b>As above.</b>
Pregnancy or Maternity	The proposed changes will not impact any protected characteristic group as the use of the buildings for ETA will not change as a result of this proposal		<b>As above.</b>
<p><b>Important note:</b> You must act to eliminate any potential negative impact which, if it occurred would breach the Equality Act 2010. In some situations this could mean abandoning your proposed change as you may not be able to take action to mitigate all negative impacts.</p> <p>When you act to reduce any negative impact or maximise any positive impact, you must ensure that this does not create a negative impact on service users and/or staff belonging to groups that share protected characteristics.</p>			

### 3.3 Impact scores

#### Example

If we are going to reduce parking provision in a particular location, officers will need to assess the equality impact as follows;

1. Determine the Likelihood of impact. You can do this by using the key in table 5 as a guide, for the purpose of this example, the likelihood of impact score is 2 (likely to impact)
2. Determine the Severity of impact. You can do this by using the key in table 5 as a guide, for the purpose of this example, the Severity of impact score is also 2 (likely to impact )
3. Calculate the equality impact score using table 4 below and the formula **Likelihood x Severity** and record it in table 5, for the purpose of this example - **Likelihood (2) x Severity (2) = 4**

**Table 4 – Equality Impact Score**

<b>Severity of Impact</b>	3	3	6	9
	2	2	4	6
	1	1	2	3
		1	2	3
	<b>Likelihood of Impact</b>			

**Key**

<b>Risk Index</b>	<b>Risk Magnitude</b>
6 – 9	High
3 – 5	Medium
1 – 3	Low

Table 5 – Impact scores

Column 1	Column 2	Column 3	Column 4
PROTECTED GROUP	<p>LIKELIHOOD OF IMPACT SCORE</p> <p>Use the key below to <b>score</b> the <b>likelihood</b> of the proposed change impacting each of the protected groups, by inserting either 1, 2, or 3 against each protected group.</p> <p><b>1 = Unlikely to impact</b> <b>2 = Likely to impact</b> <b>3 = Certain to impact</b></p>	<p>SEVERITY OF IMPACT SCORE</p> <p>Use the key below to <b>score</b> the <b>severity</b> of impact of the proposed change on each of the protected groups, by inserting either 1, 2, or 3 against each protected group.</p> <p><b>1 = Unlikely to impact</b> <b>2 = Likely to impact</b> <b>3 = Certain to impact</b></p>	<p>EQUALITY IMPACT SCORE</p> <p>Calculate the <b>equality impact score</b> for each protected group by multiplying scores in column 2 by scores in column 3. Enter the results below against each protected group.</p> <p><b>Equality impact score = likelihood of impact score x severity of impact score.</b></p>
Age	1	1	1
Disability	1	1	1
Gender	1	1	1
Gender reassignment	1	1	1
Marriage / Civil Partnership	1	1	1
Race	1	1	1
Religion or belief	1	1	1
Sexual Orientation	1	1	1
Pregnancy or Maternity	1	1	1

## 4. Statutory duties

### 4.1 Public Sector Duties

Tick the relevant box(es) to indicate whether the proposed change will adversely impact the Council's ability to meet any of the Public Sector Duties in the Equality Act 2010 set out below.

Advancing equality of opportunity between people who belong to protected groups ☐

Eliminating unlawful discrimination, harassment and victimisation ☐

Fostering good relations between people who belong to protected characteristic groups ☐

**Important note:** If the proposed change adversely impacts the Council's ability to meet any of the Public Sector Duties set out above, mitigating actions must be outlined in the Action Plan in section 5 below.

## 5. Action Plan to mitigate negative impacts of proposed change

**Table 5 – Action Plan to mitigate negative impacts**

Complete this table to show any negative impacts identified for service users and/or staff from protected groups, and planned actions mitigate them.

Protected characteristic	Negative impact	Mitigating action(s)	Action owner	Date for completion
Disability	No Negative Impact			
Race	No Negative Impact			
Sex (gender)	No Negative Impact			
Gender reassignment	No Negative Impact			
Sexual orientation	No Negative Impact			
Age	No Negative Impact			
Religion or belief	No Negative Impact			
Pregnancy or maternity	No Negative Impact			

## Equality Analysis

Marriage/civil partnership	No Negative Impact			
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### 6. Decision on the proposed change

Based on the information outlined in this Equality Analysis enter <b>X</b> in column 3 ( <b>Conclusion</b> ) alongside the relevant statement to show your conclusion.		
Decision	Definition	Conclusion - Mark 'X' below
No major change	Our analysis demonstrates that the policy is robust. The evidence shows no potential for discrimination and we have taken all opportunities to advance equality and foster good relations, subject to continuing monitoring and review. <b>If you reach this conclusion, state your reasons and briefly outline the evidence used to support your decision.</b> The proposed changes to the lease involve the insurance obligations, the right to redevelop and the right to potentially extend the term of the lease. None of these will have an impact on the current use of the premises	x
Adjust the proposed change	We will take steps to lessen the impact of the proposed change should it adversely impact the Council's ability to meet any of the Public Sector Duties set out under section 4 above, remove barriers or better promote equality. We are going to take action to ensure these opportunities are realised. <b>If you reach this conclusion, you must outline the actions you will take in Action Plan in section 5 of the Equality Analysis form</b>	
Continue the proposed change	We will adopt or continue with the change, despite potential for adverse impact or opportunities to lessen the impact of discrimination, harassment or victimisation and better advance equality and foster good relations between groups through the change. However, we are not planning to implement them as we are satisfied that our project will not lead to unlawful discrimination and there are justifiable reasons to continue as planned. <b>If you reach this conclusion, you should clearly set out the justifications for doing this and it must be in line with the duty to have due regard and how you reached this decision.</b>	
Stop or amend the proposed change	Our change would have adverse effects on one or more protected groups that are not justified and cannot be mitigated. Our proposed change must be stopped or amended.	
Will this decision be considered at a scheduled meeting? e.g. Contracts and Commissioning Board (CCB) / Cabinet <b>Yes.</b>		Meeting title: Cabinet Date: <b>13 July 2021</b>



### 7. Sign-Off

Officers that must approve this decision			
Equality lead	Name: Yvonne Okiyo	Date: ne	
	Position: Equalities Manager		
Director	Name:	Date:	
	Position: Director of Housing and Social Investment		

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