

An independent review of the London Borough of Haringey Council's arrangements for property negotiations, acquisitions and disposals or intended transactions.

1. INTRODUCTION.

1.1 Haringey Council commissioned this review into a number of its property transactions in May 2022. The terms of reference of the review are attached in Appendix 1. The review was asked to examine nine transactions or intended transactions which date back over several years and to examine them in the light of a series of questions set out in the terms of reference. In addition, the Council's current and previous processes for property transactions together with arrangements for the wider reporting of capital expenditure and scheme progress have been examined and reviewed.

2. METHODOLOGY

2.1 The review process has, as far as was possible, examined available records held by the Council and others and has interviewed several individuals. Individuals have been granted anonymity and as such no list of interviewees has been included in the report. In the light of a potential investigation with regard to Cranwood by the Police not all potential interviewees have been spoken to, however even with that drawback the reviewer is satisfied that the conclusions and recommendations contained in the review are valid. A list of non-interviewees was agreed by the Police. The review was not asked to consider and has reached no opinion as to whether there was any criminality involved in any of the transactions as that is properly a matter for the police to reach a view on. The review has taken longer than expected due to initial delays in getting clearance to interview individuals and delays in responding to requests for information.

2.2 Some of the transactions have a long history going back over ten years in some cases and sometimes complex history with the Council. The review has looked at the transactions in the light of the Council's rules which were extant at the time a transaction or decision was made and comments on them relate to the rules or the application of them at that time.

3. POLITICAL BACKGROUND

3.1 The way that political control is exercised in any Council will influence the way that decisions are and can be made. This is particularly the case regarding property transactions and the way in which not only overall strategy and policy is made but also subsequently the terms under which that policy is then executed. In this context it is important to note the changes in Haringey's strategy & policy regarding the development of Council property over the period since 2010.

3.2 Haringey has been under the control of a Labour administration for the period under review, however this does not mean that there has been a consistency of approach to property related matters over the past ten to twelve years. Prior to 2018, the Council had adopted an approach which would have involved entering into a joint venture with a private sector partner. The joint venture would have dealt with not only the management of the Council's property portfolio but also the redevelopment of Council assets including a programme of estate regeneration. This was named the Haringey Development Vehicle (HDV). As part of those arrangements the Council's in house property team was run down in terms of permanent staff prior to the potential commencement of the HDV in 2018. Under the proposed arrangements the HDV would be providing this function. A consequence of this was process was a loss of corporate memory and a failure to adequately maintain records on property related matters.

3.3 Following the 2018 Council elections and a change in political leadership, the Council decided not to proceed with the HDV, and instead chose to implement a manifesto commitment to directly provide 1000 new Council homes within the life of the Council, there was also a presumption in favour of the retention of land within the Council's control. This was a significant change in Council policy. The 1000 homes new build programme appears to have been an overriding political priority and there was a political desire to be seen to be delivering at pace, this was despite the structures to deliver a scheme of this size and complexity not being immediately in place. This combined with the absence of key permanent staff and the absence of effective governance structures to reflect the new policy meant that for much of the initial period under review key staff areas were covered by agency and interim staff. In addition, the influence of individual members of the Cabinet in key positions, including the Leader were perhaps given greater significance in the absence of permanent staff in this staff group. The establishment and recruitment to a permanent establishment with a further change in political leadership which occurred in 2021 has meant that decisions have been since then more in line with accepted governance patterns.

3.4 A number of interviewees have described the atmosphere, particularly within the Labour group as toxic in the period 2018-2021. Based on these observations which have not been able to be fully substantiated, it is clear that a number of the decisions that led to purchases being made may have been made to keep political interest groups assuaged. This of itself would not be unlawful.

4 GOVERNANCE

Members

4.1 Part of the terms of reference refers to a review of *"The Council's governance arrangements for property transactions:*

- (i) *What were they, in relation to process, decision-making, financial limits, and potential oversight.*
- (ii) *Did they comply with all relevant legal requirements.*
- (iii) *Were they clear and sufficiently comprehensive.*

If the governance arrangements changed during the period of the review, these should be highlighted."

The next section of the report deals with both the generality of the Council's governance arrangements and the specific arrangements concerning property – both Housing and non-Housing.

4.2 The Council 's governance arrangements regarding who is empowered to make decisions to buy and sell property, authorise expenditure and enter into contracts is contained in the Council's constitution. The constitution states that with regard to property acquisition and disposal that *"The Leader, the Cabinet and Cabinet Bodies have responsibility for the acquisition or disposal of Council interest in land and buildings with a capital value equalling or exceeding £500,000."* Below that value and above £250,000 delegated authority rests with the *Director* of Regeneration, Planning and Development, below £250,000 delegated authority rests with the relevant Director, subject to the agreement of the Assistant Director for Corporate Property and Major Projects. This is also combined with the power that rests with Service directors *"any decision concerning the management or use of land held for the operational requirements of the officers of a service area may be taken by the relevant Director."* The latter power delegated to service directors would appear to be at odds with the Council operating a strong corporate landlord model under which property is not owned or managed by departments but is seen as a corporate resource centrally

managed. If the Council is going to operate a corporate Landlord model, then this delegation in the constitution needs to be reviewed, accordingly, it is recommended that the delegated authority with regard to the management of land be amended to reflect the corporate nature of the asset.

4.3 At member level, the Council has a strong leader and Cabinet style of governance whereby, the majority party in the Council elects a leader who then appoints a Cabinet. In Haringey, the cabinet is selected by the Leader who also allocates portfolios. In the Constitution the Cabinet is referred to as the Executive, in line with the provisions of the Local Government Act 2000 some powers rest outside the Executive (e.g., planning approvals, Pension fund matters, audit etc)

4.4 The Constitution then allows decisions to be taken either by the whole Cabinet, individual cabinet members or to be delegated to officers. The Leader may also choose at any time to undertake any function including those previously allocated to others themselves. This ability exists under statute (Section 9E(2)(a) of the Local Government Act 2000. However, this double handling of powers can create confusion and The Council should consider whether this ability for the Leader to in effect act as the cabinet member for any area should be reviewed.

4.5 All decisions including those relating to property, and those made by the Leader are required to follow a protocol which is contained in section D and part 5 of the Constitution and was last updated in 2014. The protocol sets out the process by which decisions are made. The protocol states that *“This protocol is incorporated into the terms and conditions of employment of officers; and breach of this Protocol shall be a breach of the Members’ Code of Conduct and that The Executive (the Leader, individual Cabinet members, the Cabinet, and Cabinet Committees), and a Non-Executive Committee or Sub-Committee shall not take any decision until the following requirements have been complied with:”*

The requirements include that decisions shall be made on the basis of written officer advice. Sections 1.2 & 1.3 of the protocol state.

1.2 “No decision shall be taken except upon a written report in accordance with this Protocol.

1.3. A Director shall prepare a written report which shall be the subject of consultation with

(a) the Chief Finance Officer and the Monitoring Officer (except to the extent that they agree otherwise in respect of certain clauses of report)

(b) other professional Officers of the Council as appropriate

(c) service Directors whose service may be affected by the proposal.”

It is clear, that any decisions have to be made following receipt of a written report from officers and to act otherwise is a breach of the constitution.

4.6 As will be seen when the circumstances of the nine projects are reviewed, in at least one case this protocol has not been adhered to. In part this may have been due to ignorance. However, the fact that the Leader has the power to virtually act as sole decision maker in many circumstances when the matter could be dealt with by the relevant cabinet member does not lead to good and clear governance and can as described by some of the interviewees lead to some confusion as to who has responsibility for a decision and a wider political portfolio. In the light of this the need for these far-reaching powers vested in the leader should be reviewed and as such the Council is recommended to review the powers invested in the Leader as set out in the Constitution in particular section C para 3.6.

4.7 In addition to the formal decision-making process, in common with other Council's there is a background process whereby reports are commissioned and evolve and the agreed outcomes of them are then implemented and monitored. This informal process falls into two information streams which are distinct but also overlap from time to time. The first is a largely political process which will include initially meetings with officers and then consultation through political cabinet and then group before a course of action is agreed. This should be largely strategic with the officer process dealing with operational issues.

Officer role and boards

4.8 The officer process which both evolves and develops policy and decisions and then monitors and manages the process after decision supplements the political process. In Haringey, the latter has been through a series of boards. Neither the informal political process or the boards are recognised in the constitution and do not therefore have formal decision-making powers. This is not untypical of Local Authorities.

4.9 The officer board structure has evolved over the period 2018- 2022 and the steps in the evolution of the board structure are shown in the charts in Appendix 2. The 2018 structure was thematic and as such it is less clear to see where matters such as property were reported and discussed. The 2019 structure and the 2021 structure had greater clarity as to the boards where property matters would have been discussed although different boards existed for both housing and non-housing projects. The current structure is again much clearer as to responsibilities.

4.10 A review of the relevant board agendas since 2018 has been undertaken for both housing and non-housing projects. Over the past three years there has been a marked improvement in the quality and detail of reports going to both sets of boards. Papers are now generally clear and comprehensive as to what the issues are and whether the eventual decision needs to be made by Cabinet or whether it is a delegated decision matter. Papers are also clear on costs, risks and other issues that may impact on the eventual decision, this was not always the case in earlier papers which were less well structured. However, in all papers, the inference is that the board is making the decision to agree a particular action when constitutionally none of the boards exist and the matter is constitutionally delegated to a chief officer. This may seem like a matter of semantics, but the Council needs to have clarity as to how decision making is undertaken and who or what body has the power to decide and ensure that decisions are then properly recorded and acted upon. Accordingly, it is recommended that the Council review the status of boards as to whether they should have decision making responsibilities or whether as at present that responsibility rests with named chief officers for the letting of contracts or the acquisition or disposal of land valued below £500,000.

Housing capital programme

4.11 Haringey has a significant housing capital programme based in part on the 1000 homes commitment from 2018. The new build housing capital programme within the HRA Capital budget which delivers the 1000 homes is treated as if it were a single scheme for budget purposes, despite having a total value as of March 2022 of £704.9 million. The budget is reviewed annually, and it appears that it is at this budget stage that any additional funding need is added. The Constitution states that any virement on the Capital programme exceeding £250,000 requires a report to Cabinet. There is no distinction on virement rules between the General Fund and HRA capital programme.

4.12 The new build programme is managed at a detail level via the Council Housing Delivery board (CHDB), where progress is monitored. Based on the August 2022 report to CHDB, 55 schemes were in progress ranging in scheme values from a single unit scheme of £432k to a 272-unit scheme with a value of £114m, all of which was managed as far as Cabinet is concerned as a single line in the capital programme. Reports to Cabinet and scrutiny on the delivery of the programme are also at a high level with the focus being virtually exclusively of the absolute number of units delivered and no correlation being made to cost of delivery or whether individual schemes have been delivered on time or on budget as the programme cost is managed at a high level as a single line in the budget despite being over £700 mil. The Council should consider whether this is the right level of analysis to enable Scrutiny to undertake its role effectively and for the Cabinet to have strategic oversight over this significant investment programme.

4.13 There needs to be a balance struck between reporting every single small site scheme (such as Winchelsea Road) and not reporting separately on schemes worth £114m (Ashley Road depot). Similarly, there needs to be a distinction between those schemes that are only at feasibility level and may not proceed to those schemes that have achieved planning and are viable. There also needs to be a balance between the ability to exercise scrutiny and transparency by Councillors and overload. On that basis it is recommended that there needs to be a cut off or de-minimus level of reporting. It is recommended this is a scheme with a value above £10 million or over 30 units and has achieved planning approval. It is recommended that any scheme that meets these criteria should be separately detailed in the budget and the regular reports on the housing delivery programme include details on these larger schemes showing progress against an agreed programme, any reasons for delay, and spend against budget and the constitutional virement rules applied when they are required

4.14 The Council now has a detailed and comprehensive gateway process for progressing sites from initial review through to practical completion. This is appended as Appendix 3. Much of this is operated at an officer level through the board process but key decisions are made by Cabinet. Schemes are added to the Housing new build programme as part of the periodic reports to Cabinet on housing delivery this is Gateway 0. There is normally a reference in the body of this report to proposed new schemes and a plan showing the location of the potential development. At this stage, the scheme is very much embryonic and will not have undergone financial viability and planning tests. At either of these two stages schemes may be recommended for deletion from the programme. This, however, does not always happen and some schemes such as that relating to the West Indian Cultural centre are theoretically still in the programme despite the fact that redevelopment is unlikely to happen for housing in the near future. It would assist scrutiny of the programme and give greater transparency if the delivery programme report had a simple appendix detailing for each scheme its current status (e.g., Feasibility, planning etc) and in particular details of whether schemes are recommended for deletion. The Council is recommended to consider this for future reports.

5 INDIVIDUAL SITES.

5.1 The review was focused on nine individual sites pre-selected by the Council which were felt to need further examination. These are as set out in the terms of reference and are listed below for ease of reference: -

- Gourley Triangle

- Alexandra House
- 104-106 Woodside Ave / Cranwood
- Red House
- West Indian Cultural Centre
- 141 Station Road
- Fortismere School
- Forster Road / 138 Winchelsea Road
- Shaftesbury Road

For each site, the terms of reference requests that a number of key questions are asked. The questions with the reviewer's response for each site are detailed for each site individually in Appendix 4.

5.2 Arising from the review of the individual sites there are a number of recommendations. These recommendations are formed from learning from the previous actions that the Council had undertaken on these sites. The sites in question range from potential & actual acquisitions, redevelopment opportunities, site sales and sites occupied by the voluntary sector. Many of the sites concerned have long and complex histories. There are, on a minority of sites, a number of interactions with the same developer, referred to as developer A in this report. The issues arising from the interactions with this developer are covered below.

Developer A

5.3 On reviewing four of the sites included in the investigation, the name of one development group appears, this group is referred to in this report as "Developer A." In the first case the association was indirect and relates to the option to purchase adjoining land made in 2018. In respect of the second site, the connection relates to an objection with a neighbouring landowner in respect of proposed land allocation in the Local plan in 2016 and the formation of a company with an adjacent landowner to develop the site. With respect to the third site the site was originally agreed to be sold to the developer in 2015 as a special purchaser due to them owning an adjacent strip of land and reconfirmed in 2019. Finally, on the fourth site there was involvement both through acquisition of a neighbouring strip of land (acquired in 2017) and involvement in an exclusivity agreement with the management committee of WICC dating back to 2015.

5.4 Each of these incidents by themselves, would not appear to be of any great interest, however the fact that these occur on four development sites over a number of years, may indicate that there is either coincidence, local knowledge, or other factors at work. On all of the sites in question the Council's plans for potential redevelopment of the areas had been publicly known for a number of years as these were published in the Borough plan and other publicly available records. It would be perfectly possible in three of the cases for the developer to undertake research and effectively acquire adjacent sites that might give the developer financial advantage if and when the Council proceeded with proposals for the sites either by disposal or as in one case by self-development. However, it is also conceivable that information on the sites could have been passed by a Council representative to the third party. The only clear evidence of this uncovered is in relation to the one site where an officer is reported to have received a call from a representative of Developer A the day after a Cabinet meeting, the call was regarding matters that were on the confidential agenda and as such should not have been known to anyone not in attendance at the meeting. There is no way of knowing how the Developer received this information, but it does demonstrate links between either officers or members and Developer A. This of course could be a one-off occurrence.

5.5 As stated, the involvement of Developer A in three of the four sites in question predates 2018, and from interviews it is clear that their involvement with the Council goes back at least ten years before then. However, the fact that the above incidences have occurred and could occur in the future mean that the Council should review its processes, procedures, and guidance. Accordingly, the Council is recommended to take several actions to reduce the risk of any suspicious activities of this nature in the future. These actions are as follows:

- a) That both Officers and members of the Council are reminded that any information contained in a restricted Cabinet paper should not be passed onto a third party and that any breach of that is a breach of the Employees disciplinary code or the Members code of conduct.
- b) That when the Council is considering developing sites it either owns or intends to acquire or sell that both Officers and Members be advised that the consideration of those matters is commercially in confidence to the Council and that passing on this information could again be a breach of the Employees disciplinary code or the Members code of conduct.
- c) When marketing sites in future, that disposals be on an open market disposal basis, rather than on a "special purchaser" basis, except for when there is a clear obligation to deal with a purchaser as a special purchaser e.g., a leaseholder who may have a right to acquire a freehold.

Lessons Learned.

5.6 Most of the events which occurred in relation to the nine sites examined as part of this review occurred a number of years ago and in many cases Council procedures have been reviewed and amended to deal with lessons previously identified as a result of audit reports or reviews of process. There are however several specific and generic lessons arising from the examination of the nine sites which have not been made by other reviews.

Property records.

5.7 One of the issues which has impeded the speed of this investigation is the historic lack of a comprehensive property management system which records not only the technical, financial & maintenance details of a property but also all related correspondence, in particular emails, relating to a site and all related reports commissioned externally or internally.

5.8 The Council has procured and is implementing a new property management system which should rectify this issue, I am advised that the system known as Technology Forge Cloud is an asset management relational database and has the capacity to hold unlimited documents against properties listed in the core property module. In addition, there are other specific modules such as Asbestos, Estates (for leases and licence related correspondence), acquisitions, disposals, and valuations. The Council is in the process of developing procedures for bulk upload of documents that are currently held on the Shared Drive. This requires some research to identify all the relevant documents which can be located in several locations on the S drive or hard copy needing scanning. An exercise is proceeding to identify all hard copy files such as right to buy, drawn plans, O&M manuals, deed packets and Valuer files for an extensive scanning and bulk upload exercise. No records, one loaded into Technology Forge Cloud can be deleted but they may be historicised when an asset is disposed of.

5.9 Regarding correspondence in the new system this falls to several modules. The Estates module will hold all related documents on leases and licences in standard office file format and

email. The acquisitions and disposals modules can hold any document in standard office file formats against a specific property including copies of emails. A project module is being acquired that may be used to hold options appraisals, but any documents can be held against the core property module if required and would be easily noted by any user of a specific module.

5.10 The system has the capacity to store information such as correspondence on non-Council sites (i.e., those that the Council may potentially acquire). The acquisition module can have any pipeline acquisition added by the system administrator as a place-mark address or the actual address if in the gazetteer to enable correspondence and documents to be uploaded to that potential acquisition. If the acquisition does not proceed, then the information is retained and held as archived status. It is the intention to utilise this function in the near future, so the Council has a single database of all potential acquisitions or to record all approaches to the Council to acquire or dispose of property. This will enable reports to be created very easily to list all pipeline projects by date and type.

5.11 If implemented as described above and utilised correctly the system should enable any future review to be undertaken in a more straightforward manner. There needs, however, to be a clear timescale for implementing this system and it is understood that the system should be subject to an internal audit review soon, this review should include an audit as to how effective the system is in recording data and correspondence. It is understood that this review will take place in the current financial year (i.e., before the end of March 2023).

Voluntary Sector properties

5.12 Two of the properties that were reviewed were properties that the Council had let to the voluntary sector. In both cases the Council had not maintained a proper landlord and tenant relationship that is ensuring that both parties (Landlord and tenant) had fulfilled their mutual obligations under the lease agreement. Examples of this failure include:

- Failure to monitor and undertake repairing obligations.
- Failure to ensure no subletting.
- Failure to intervene in potential re-development, not permitted under the lease.
- Failure to ensure property is being used in line with conditions of the lease.

5.13 In one of the cases there was a Council nominated member on the board of the organisation, but the representative failed to notify the Council of the proposed action by the organisation which was detrimental to the Council. It would appear that until October 2022, that there was no formal guidance approved by the Council and available to members on how Councillor's should act when appointed by the Council to the boards of voluntary sector bodies. Guidance has now been agreed, this should be reviewed, and updated regularly and training given to all Councillors who are appointed to such positions in the future.

5.14 It is likely that these two cases are not isolated incidents, and it is probable that there are other examples where properties are either not being used in line with the original lease, or that leases have not been reviewed or obligations are not being met. It is recommended, that the Council complete by the end of July 2023 a full review of properties leased to the voluntary sector to ensure that properties are used in line with the purpose for which the lease was granted and that both parties are meeting their tenancy obligations. Following the review action should be taken to regularise arrangements on all voluntary sector use of Council property. It is also recommended that the Council issue additional guidance on the role of Council appointees to voluntary sector organisations, reminding them of their role as stewards of public funds and assets.

Valuations

5.15 Several the properties under review were subject to valuation advice both for purchase and sale. The advice was based on briefs drafted by Council officers. The valuation advice received was normally in a standard format using comparators of other recent sales to identify what might be a market price to pay for a site or what might be a reasonable price to receive for a sale of a property. However, the valuation briefs did not look outside the ordinary and this was particular the case with respect to the original valuations on Alexandra House. In this case the valuation advice dealt with the value of the site for office use or for potential demolition and rebuild for housing and arrived at a value significantly below that of the vendor. However, the valuation brief did not consider the option of a potential purchaser acquiring the site for conversion to housing using potential permitted development rights, which was what eventually happened. A valuation based on that option or on the potential marriage value of that site with other nearby Council sites would have arrived at a higher potential value than in the valuation received, which may well have meant that the Council acquired the site at a much lower value than the eventual purchase.

5.16 The valuation on the two Cranwood properties, was identified as an outlier in the Director of Finance's comments on the September 2018 Cabinet report. However, the Cabinet chose to proceed with the purchase of the two properties at a higher value on the basis that these costs could be outweighed by the speed of the development and of the potential cost of using compulsory purchase powers (CPO). This development is now due to proceed some four years later.

5.17 The valuation on the Red House disposal has been subject to criticism by some as part of the review. However, the high social housing element in the scheme, justifies the sale value of the site to the developer. The Shaftesbury site was subject to professional valuations and again there is nothing to suggest that the Council paid more than the market rate for the site at the time it was acquired. The more recent report on Gourley Triangle, had a more nuanced approach to the valuation advice in particular regarding the use of CPO powers, when compared to the earlier Cranwood site the purchase price here can be considered to be reasonable.

5.18 The Council has had a mixed record on the four sites in question referred to above. There are, however, several lessons to be learnt. Firstly, when valuation briefs are drafted, they should be comprehensive and cover the entire range of potential options for the site both in respect of sales and purchases. Secondly, that the Council reviews the cost and timescales involved in the use of CPO powers for sites, so that members can take a rounded view on the cost benefit of negotiating for a site versus the use of statutory powers. Both lessons learned should be adopted by the Council as future recommendations.

Stock condition Surveys & Asset management.

5.19 In any organisation the development and maintenance of a robust asset management and usage strategy and a knowledge of the condition of the properties both owned and occupied is crucial to ensuring that decisions as to the future use, acquisition and disposal of properties are made with the full benefit of up to date and accurate information. It is apparent that with the move towards HDV in the period up to 2018, that the asset management strategy was not maintained, and robust and accurate stock condition surveys undertaken. The absence of these were critical reasons as to why the decision was taken not to proceed with the potential purchase of Alexandra House when first offered and the presence of a full asset management strategy including a forward look on office need future requirements and a stock condition survey would have identified at that time the need to acquire the property then rather than a year later with the subsequent increase in costs.

5.20 It is recognised that sometimes stock condition surveys can be seen as an administrative burden and financial cost which in difficult financial times can seem to be a luxury rather than an essential, but failure to invest on these can lead to wrong investment decisions and additional costs in the future. The Council should ensure that the asset management plan, office accommodation strategy and associated stock condition surveys are updated regularly in line with professional guidance issued by bodies such as the RICS.

Role of Councillors in individual transactions.

5.21 The Council's arrangements for decision making as set out in the constitution are quite clear. Any decision by an individual member needs to be based on officer advice and the decision needs to be made in writing. However, the arrangements are less clear cut when it comes to member interaction with members of the public or firms involved in either contract letting, land purchase or sale. It is always possible that members in their role as ward councillor may be approached by residents or businesses concerning local matters which may involve land. That is very often a legitimate matter for Councillors to get involved in. However, it must be questionable, if a Councillor who also has decision making powers as a member of the Cabinet or by themselves to meet with individuals or firms without officers being present to discuss matters concerning land transactions or contracts. Even if nothing untoward happens it potentially creates a question over the arrangement which greater transparency would avoid. It is therefore recommended that the Council review guidance to councillors on this issue.

6 RECOMMENDATIONS

6.1 The following recommendations are made in this report for consideration by the Council. The relevant paragraph where the recommendation has been made is referenced.

- I. That the delegated authority about the management of land be amended to reflect the corporate nature of the asset (4.2)
- II. To review the Circumstances in which the leader can exercise powers personally. (4.4 & 4.6)
- III. That the Council review the status of boards as to whether they should have decision making responsibilities or whether as at present that responsibility rests with named chief officers for the letting of contracts or the acquisition or disposal of land valued below £500,000. (4.10)
- IV. That any housing scheme with a value above £10 million or over 30 units that has achieved planning approval should be separately detailed in the budget and the regular reports on the housing delivery programme include details on these larger schemes showing progress against an agreed programme, any reasons for delay, and spend against budget. (4.13)
- V. That the housing delivery update report include an appendix showing in a single line the status of each scheme. (4.14)
- VI. That both Officers and members of the Council are reminded that any information contained in a restricted Cabinet paper should not be passed onto a third party and that any breach of that is a breach of the Employees disciplinary code or the Members code of conduct. (5.5)
- VII. That when the Council is considering developing sites it either owns or intends to acquire or sell that both Officers and Members be advised that the consideration of those matters is commercially in confidence to the Council and that passing on this information could again be a breach of the Employees disciplinary code or the Members code of conduct. (5.5)
- VIII. That when marketing sites in future, that disposals be on an open market disposal basis, rather than on a "special purchaser" basis, except for when there is a clear obligation to deal

with as a special purchaser e.g., a leaseholder who may have a right to acquire a freehold. (5.5)

- IX. That the Council complete by the end of July 2023 a full review of properties leased to the voluntary sector to ensure that properties are used in line with the purpose for which the lease was granted and that both parties are meeting their tenancy obligations. Following the review action should be taken to regularise arrangements on all voluntary sector use of Council property (5.14)
- X. That the Council issue additional guidance on the role of Council appointees to voluntary sector organisations, reminding them of their role as stewards of public funds and assets (5.14)
- XI. That, when valuation briefs are drafted, they should be comprehensive and cover the whole range of potential options for the site both in respect of sales and purchases and that the Council reviews the cost and timescales involved in the use of CPO powers for sites, so that members are able to take a rounded view on the cost benefit of negotiating for a site versus the use of statutory powers (5.18)
- XII. That the Council review guidance to councillors meeting with landowners, contractors etc when not in their capacity as ward councillors. (5.21)

6.2 If the recommendations within this report are accepted by the Council, they should form the basis of an action plan which should be reported and monitored by the corporate services committee

7. CONCLUSIONS

7.1 The review is by its very nature a backward look, investigating events that took place over several years. Political policy, structures, personnel & processes change and have changed over time and the position that the Council is in now is in many ways different to that which it was in when the transactions reviewed happened. Many of the transactions occurred in the immediate aftermath of the change in policy arising from the 2018 Council elections.

7.2 Overall, governance arrangements within the Council are now much stronger than in the period under review and although there is scope for more transparency in reporting and for further improvement, the tools and building blocks are in place to enable that improvement to happen without a significant degree of additional cost. If the Council operates existing policies effectively and implements the recommendations in this report. The Council should be able to avoid repeating past mistakes.

7.3 The Council should continue to learn from the lessons of the past and should ensure that robust governance is in place for the future to ensure that the risks of the mistakes of the past re occurring are minimised. System change needs to be embedded and become second nature to ensure that the Council is fully able to give account for the reasons as to why decisions have been made and that decisions should be as open as possible, without impacting commercial matters.

I would like to thank all of those who have co-operated in this review including interviewees and those who have responded to my requests for information.

Chris Buss

Darenace Ltd

December 2022.

Attached Appendices:

Appendix 1 – Terms of reference.

Appendix 2- Council Governance structures 2018-2022.

Appendix 3- Council Housing new build gateway process.

Appendix 4- Review of the nine sites.

TERMS OF REFERENCE

The Investigator is requested to undertake and complete an independent review of the London Borough of Haringey Council's arrangements for property negotiations, acquisitions and disposals ("transactions") or intended transactions ("intended transactions") and specifically consider the transactions in relation to the nine sites listed below.

The Investigator is asked to consider the following sites as being within the Terms of Reference:

1. Gourley Triangle
2. Alex House
3. 104-106 Cranwood
4. Red House
5. West Indian Cultural Centre
6. 141 Station Road
7. Fortismere School
8. Forster Road / 138 Winchelsea Road
9. Shaftesbury Road

A summary of the progress of each of the first five sites will be e-mailed separately.

Should the Investigator wish to see other documents or to interview any person in facilitate the course of this review, arrangements will be made.

The Investigator is asked to consider and report on the following:

- (a) As to the Council's governance arrangements for property transactions:
 - (iv) What were they, in relation to process, decision-making, financial limits, and potential oversight;
 - (v) Did they comply with all relevant legal requirements;
 - (vi) Were they clear and sufficiently comprehensive.

If the governance arrangements changed during the period of the review, these should be highlighted.

(b) In relation to each site listed above:

- (i) Summarise the transaction(s) in question;
- (ii) Summarise the concerns that have been expressed, or which appear to the investigator potentially pertinent, to the transaction(s);
- (iii) Consider whether the Council's governance arrangements were followed and, if not, explain in what ways and what explanations there are (or may be);
- (iv) Consider whether the Council's governance arrangements were sufficiently robust and fit for purpose, in particular:
 - a. Was it clear in relation to each proposed transaction who the decision maker was, whether or not each one progressed;
 - b. Was it clear what information was considered by the decision maker in each case;
 - c. Was the information provided to the decision maker sufficient to enable an informed decision to be made, and were the reasons for each decision adequately expressed;
 - d. Were the arrangements for valuation sufficiently robust;
 - e. Were changes to agreed programmes transparently documented;
 - f. Did decision makers understand and where appropriate declare any interests in accordance with the Member Code of Conduct;
 - g. Did the provisions for scrutiny and/or oversight work?
- (v) Provide an assessment on the validity (or otherwise) of the concerns summarised in (ii) above.

(c) Make recommendations to the Council, including but not limited to the following:

- (i) On improvements to, or changes in, the Council's governance arrangements;
- (ii) On the training needs and/or support requirements for members and/or officers in relation to property transactions.

The Investigator is asked to note that there is currently a live police investigation (contact details below at Appendix one). No steps should be taken to compromise the police investigation and consent from the police should be sought to interview any potential witnesses.

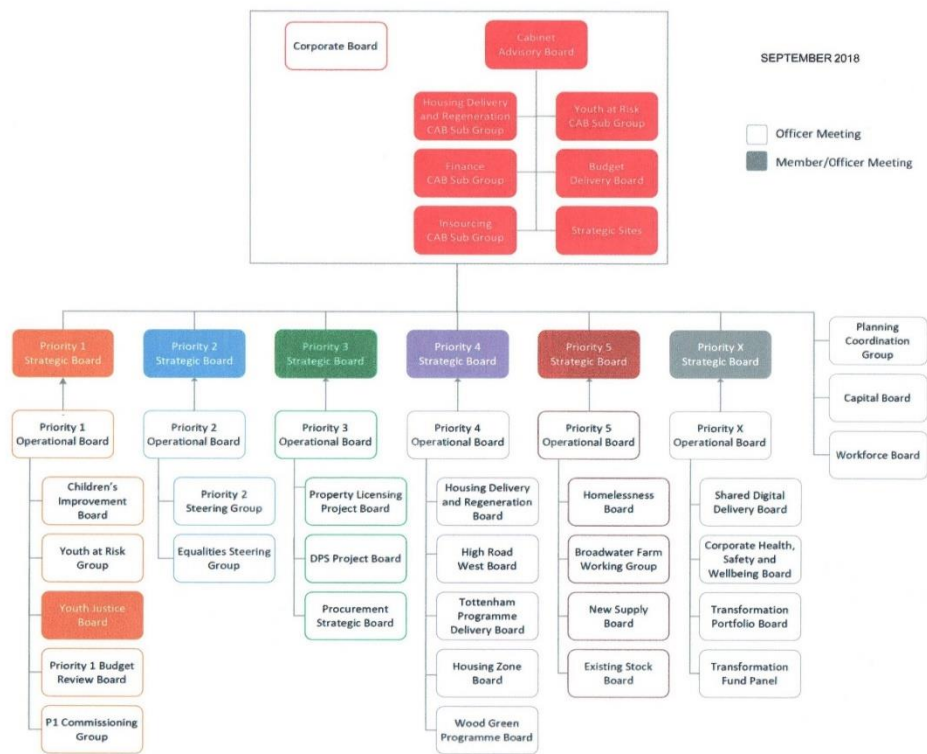
Should there be any concern that a member of the Council has acted in breach of the Council's Code of Conduct then this should be referred to the Council's Monitoring Officer for investigation.

Should there be any concern that an employee of the Council has breached the employee Code of Conduct then this should be referred to the HR representative.

APPENDIX ONE**Contact details:**

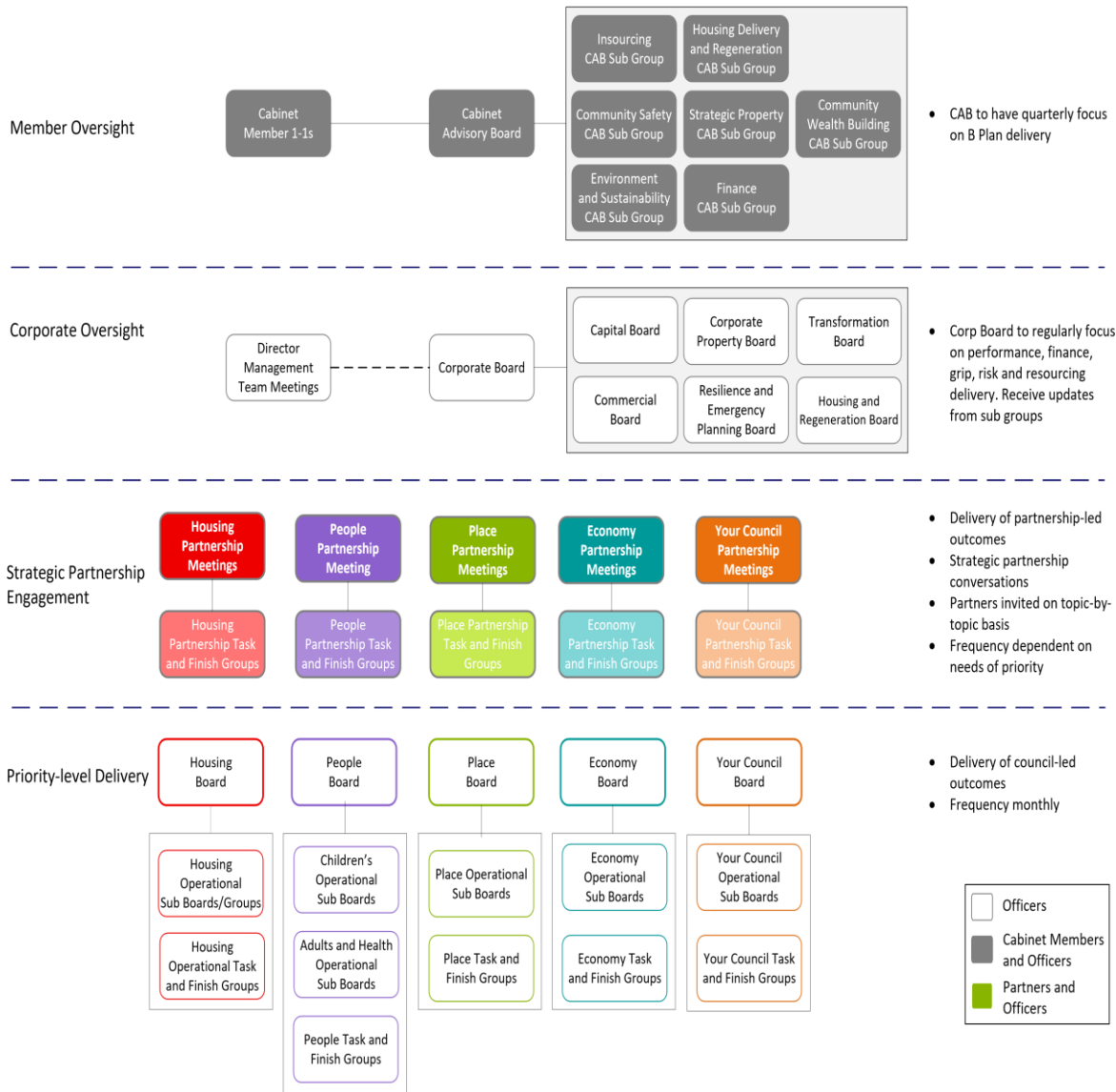
Title / Designation	Name	E-mail	Contact Number
Police	Paul Ridley	Paul.Ridley@met.police.uk	tba
Chief Executive /	Andy Donald	Andy.donald@haringey.gov.uk	0208 489 2616
Director of Housing, Regeneration and Planning	David Joyce	David.joyce@haringey.gov.uk	020 8489 2247
AD for Capital Projects & Property	Jonathan Kirby	Jonathan.kirby@haringey.gov.uk	0208 489 1286
Director of Finance	Jon Warlow	Jon.warlow@haringey.gov.uk	0208 489 2686
Monitoring Officer / Head of Legal and Governance	Fiona Alderman	Fiona.alderman@haringey.gov.uk	0208 489 1622
Head of Internal Audit	Minesh Jani	minesh.jani@haringey.gov.uk	07870157611

APPENDIX 2

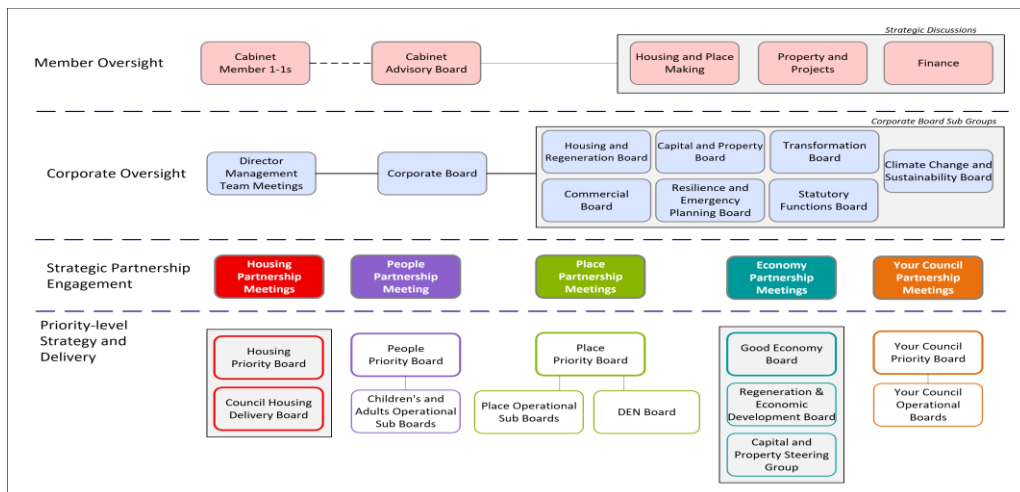


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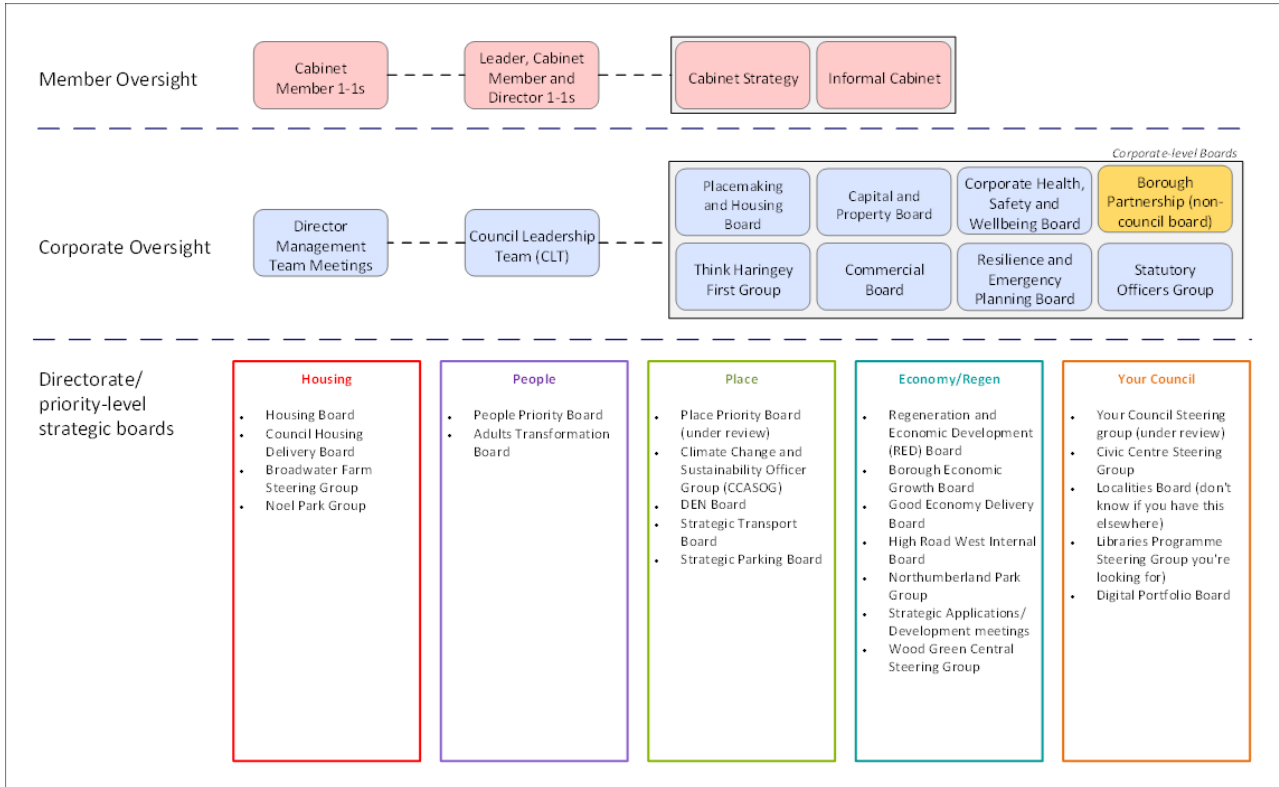
Haringey Council Governance – June 2019



November 2021



STRUCTURE OCTOBER 2022



LIST of Sites Reviewed.

Gourley Triangle

Alexandra House

104-106 Woodside Ave / Cranwood

Red House

West Indian Cultural Centre

141 Station Road

Fortismere School

Forster Road / 138 Winchelsea Road

Shaftesbury Road

GOURLEY TRIANGLE

(i) Summarise the transaction(s) in question;

Assembly of site to enable redevelopment of area, where the Council only owned one element of the site.

(ii) Summarise the concerns that have been expressed, or which appear to the investigator potentially pertinent, to the transaction(s);

The concerns were:

- 1) That the Council paid more than it needed to for one section of the site (Metalcraft), and
- 2) That prior to that, that the Council may have considered entering into an agreement with others that may not have been best value to the Council.

(iii) Consider whether the Council's governance arrangements were followed and, if not, explain in what ways and what explanations there are (or may be);

The site was subject to two cabinet reports in respect of the Metalcraft acquisition. The first was in March 2021 in respect of grant funding for the assembly of the redevelopment site and then July 2021. The Council's governance requirements were followed.

The Council had been considering the development of the site for a number of years going back to 2010, when the cabinet agreed to sell the Council's interest to an adjoining owner, this never occurred. Over the years discussions had taken place with the same landowner which had reached potential heads of term stage in Autumn 2019 on a potential joint arrangement, this never occurred, and the landowner was advised that the Council would not be pursuing that joint venture in January 2020. This was not referred back to cabinet between 2010 and 2021. The decisions were taken by a mix of officer and members acting through the board structure that existed at the time.

The decision in July 2021 was governance compliant.

(iv) Consider whether the Council's governance arrangements were sufficiently robust and fit for purpose, in particular:

- a. Was it clear in relation to each proposed transaction who the decision maker was, whether or not each one progressed;

The eventual decision in 2021 to acquire was made by the cabinet, with delegation to Director of Housing, Planning and Regeneration to agree detailed heads of terms and legals.

With regard to the earlier 2010 decision, I can find no record of this decision being retracted and no instruction to enter into discussions with landowners. There is no clarity as to who made any decision between 2010 and 2021.

The decisions around the potential joint development do not appear to have been approved either at inception or any other stage to be made by Cabinet and were not compliant with the Councils governance arrangements

- b. Was it clear what information was considered by the decision maker in each case;

Yes, the July 2021 report sets out options available to the Cabinet. The report includes estimated costs and income in the event of the wider scheme not being undertaken.

There is no evidence as to who made the decision a) not to sell following the 2010 report, b) who decided to enter into discussions with landowners & c) who decided not to continue the dialogue.

- c. Was the information provided to the decision maker sufficient to enable an informed decision to be made, and were the reasons for each decision adequately expressed;

Yes, see b above re the Metalcraft site.

- d. Were the arrangements for valuation sufficiently robust;

A commercial valuation was obtained to justify the Metalcraft purchase. The eventual purchase price was 6% above the valuation received by the Council and can be considered to be within an acceptable range.

- e. Were changes to agreed programmes transparently documented;

There were no changes to programme on the Metalcraft purchase. On the earlier arrangements there are no available records to document whether there were any changes to programmes.

- f. Did decision makers understand and where appropriate declare any interests in accordance with the Member Code of Conduct;

No interests have been declared.

- g. Did the provisions for scrutiny and/or oversight work?

There has been no reference to Scrutiny or Corporate committee.

- (v) Provide an assessment on the validity (or otherwise) of the concerns summarised in (ii) above.**

With regards to the Metalcraft site purchase there is no evidence to justify the claim that the Council overpaid for the site.

With regard to the earlier arrangements there is no comprehensive audit trail to determine who authorised, decided or agreed anything and as such the conclusion must be that the arrangements were not compliant, however as no joint arrangement was agreed there was no loss to the Council.

ALEXANDRA HOUSE

i. Summarise the transaction(s) in question;

The Council was given the option of purchasing the freehold of the property which it occupied as a leaseholder, in January 2019 for £14.5 m, this was not taken up and subsequently the Council purchased the property just over a year later for over £21m.

ii. Summarise the concerns that have been expressed, or which appear to the investigator potentially pertinent, to the transaction(s).

The concern was that the Council effectively overpaid for the property compared to what it could have purchased the property for a year earlier.

iii. Consider whether the Council's governance arrangements were followed and, if not, explain in what ways and what explanations there are (or may be);

Regarding the eventual purchase, proper due process was followed on the assumption that the purchase was undertaken purely as a result of the revised office accommodation strategy and not on the basis of stopping the conversion of the building into small units of accommodation.

There are insufficient records to determine whether the original decision not to purchase was made in line with Council governance arrangements. It is clear however, that there was no reliable office accommodation strategy or condition surveys of the office stock at that time that could have been utilised to support purchase based on need for that purpose in a way that was justified a year later. This appears to have been solely an officer decision.

In the absence of an office accommodation at the time (2019) or a wider regeneration strategy for Wood Green that referenced this building. There was no strategic or policy reason to purchase the building and as such the decision albeit at an officer level was policy compliant.

iv. Consider whether the Council's governance arrangements were sufficiently robust and fit for purpose, in particular:

a. Was it clear in relation to each proposed transaction who the decision maker was, whether or not each one progressed;

It is unclear as to who made the decision not to make purchase, it had been discussed between officers and lead members and the valuation advice implied that the vendors valuation could not be justified. However, there is no record of who decided to notify the vendors that the Council would not be following up the option to purchase the freehold.

The final purchase decision in 2020 was undertaken in line with Council governance decisions were made by full cabinet with a reasoned case and were compliant.

- b. Was it clear what information was considered by the decision maker in each case;

In the case of the original decision not to purchase the decision appears to have been based on valuation advice. There was no consideration of any operational need based on office accommodation needs which justified the later purchase or the future benefit that the site might have for a comprehensive regeneration of the Wood Green area as the latter were not available in 2019.

The Cabinet report to purchase refers solely to the operational requirements with regard to Office accommodation and the comparative costs of the scheme compared to other options to provide the same level of office space. There is no reference in the cabinet report to the desire to prevent the conversion of the property to housing using permitted development rights. Evidence exists that this was a major factor in the Council's purchase of the site and may have been of equal reason as to why the site was acquired.

- c. Was the information provided to the decision maker sufficient to enable an informed decision to be made, and were the reasons for each decision adequately expressed;

SEE COMMENT ABOVE & BELOW.

- d. Were the arrangements for valuation sufficiently robust;

The basis of the original valuation was not comprehensive, no consideration was given to the valuation of the site on the basis of it being acquired for permitted development for housing, although the Council is unlikely to have undertaken such a conversion, consideration should have been given to that as a method of the potential purchase price of the property. Similarly, as late as July 2019, the site is not listed in the cabinet report on the regeneration of the Wood green area, it was included in 2020. The longer-term regeneration benefit from site assembly could have been used to justify the acquisition or the benefits to a wider office accommodation strategy but neither appear to be considered.

The basis of the subsequent valuation to purchase the property as shown in the exempt cabinet agenda shows that the acquisition cost was justified by reference to the cost of alternative means of meeting the assessed need for office space.

- e. Were changes to agreed programmes transparently documented;

The original acquisition was not in the capital programme.

The final purchase was met from approved capital budgets. There were no changes to agreed programmes to fund the acquisition.

- f. Did decision makers understand and where appropriate declare any interests in accordance with the Member Code of Conduct;

There were no declarations of interest.

- g. Did the provisions for scrutiny and/or oversight work?

The cabinet report was not called in by Scrutiny. It was subject to a report to the Corporate Committee. Oversight did function in the eventual purchase.

- v. Provide an assessment on the validity (or otherwise) of the concerns summarised in (ii) above.**

In hindsight, the Council should have foreseen that there was the possibility that the property could be acquired by a developer for permitted development for housing, with the access to the Piccadilly line, it would be a prime site for such a conversion, particularly with no requirement to obtain planning approval. On this basis the original price from the freeholder could have been justified. However, the absence of a cohesive strategy for either office accommodation at the time or a comprehensive vision for the regeneration of Wood Green area meant that this opportunity was missed, and the Council eventually acquired the site at a higher the price than it might have done.

CRANWOOD / WOODSIDE AVENUE

i. Summarise the transaction(s) in question;

Purchase of 104/106 Woodside Ave & Redevelopment of Cranwood site.

ii. Summarise the concerns that have been expressed, or which appear to the investigator potentially pertinent, to the transaction(s).

The concerns were:

- 1) that the valuations for the purchase of 104/106 were too high
- 2) The basis of the eventual decision not to purchase 104 & not to develop part of the scheme was not clear and
- 3) that information in confidential exempt report leaked to interested third party.

iii. Consider whether the Council's governance arrangements were followed and, if not, explain in what ways and what explanations there are (or may be).

The original decision to purchase & redevelop the whole of the Cranwood site were in line with the Council's governance arrangements at the time and were as a result of a cabinet decision in September 2018. The decision not to continue with the scheme was taken unilaterally by the leader of the Council at the time in March 2020, this was apparently after verbal officer advice had been given to the leader advising that the purchase of 104 could not occur until after a third-party option on that site had lapsed. This decision does not appear to be in line with Council governance arrangements. Eventual decision confirmed by Cabinet in March 2022.

iv. Consider whether the Council's governance arrangements were sufficiently robust and fit for purpose, in particular:

- a. Was it clear in relation to each proposed transaction who the decision maker was, whether or not each one progressed.

There are effectively two separate transactions in this case, the first was the decision to redevelop the whole of the Cranwood/Woodside Ave site which would have required the acquisition of the two former Council houses. As stated above this was considered by Cabinet in September 2018. The primary issue was the values attached to the two acquisitions (see below).

The second decision not to proceed in 2020 was effectively made by the Leader of the Council and was not formally reported to and agreed by Cabinet until 2022. This was reported as a consequence of a complaint to the Local Government Ombudsman, who had requested that the Council reconsider whether to proceed with the original scheme. Both the response to the LGO and the development decision were on the March 2022 Cabinet agenda. The fact that the 2020 decision not to purchase was

not reported as not proceeding at that time indicates that the governance mechanisms were not robust, the fact that a scheme has been delayed or stopped was not publicly reported and there was no record of the reason for the decision not to proceed.

The Council's constitution does allow the Leader to act unilaterally on any Executive matter. But it also requires in the Protocol for decision making that any such action should be on the basis of a written report from officers. There is no evidence of the latter although verbal advice was given. Under the Protocol exercising a decision in this manner is a breach of the members code of conduct

- b. Was it clear what information was considered by the decision maker in each case.

With regard to the original decision a full cabinet report was made, which included valuations and the likely costs of using CPO powers rather than a negotiated purchase. The basis of purchase was on a smaller scheme not being viable this was on a desk top study not a full feasibility study.

On the second decision, there is no written evidence available to show why the scheme was stopped by the leader in 2020, although the stated reason was public concern of the demolition of existing housing units and not the advice on the vires to purchase 104 without the option lapsing.

- c. Was the information provided to the decision maker sufficient to enable an informed decision to be made and were the reasons for each decision adequately expressed.

The Information provided to the decision maker in terms of the original decision was insufficient. It is clear from the report that the feasibilities on the alternatives to the schemes were at a high level and as such difficult to support the level of proposed investment. The Section 151 officers' advice on the restricted paper in 2018 with regard to the premium being paid was considered but on balance other factors such as speed of delivery and potential CPO costs led to a decision to purchase.

- d. Were the arrangements for valuation sufficiently robust.

The basis of valuation on the purchase of 104 and 106 changed when it became clear that the two properties had third party options on them. In order to expedite the scheme, the view was taken in 2018 that the additional cost could be justified despite the finance comments set out in the exempt cabinet report that the additional costs of delay by waiting for a CPO would not outweigh the costs of the purchase, and that the premium of c£0.99M was a matter for members to decide if it was acceptable which members clearly did.

- e. Were changes to agreed programmes transparently documented.

The addition of the values to the property to the HRA capital programme were included in the cabinet report. However, the decision not to proceed was not formally reported until two years after it was communicated to residents. The decision was not transparently documented until first reported to Scrutiny panel and followed by the LGO's report requiring the Council to reconsider the decision not to acquire.

The scheme has now proceeded, following a recent report to cabinet.

- f. Did decision makers understand and where appropriate declare any interests in accordance with the Member Code of Conduct.

There was no declaration of members interests.

- g. Did the provisions for scrutiny and/or oversight work?

No, there was a report to the Scrutiny panel in November 2020, this was deferred and then discussed in March 2021. On review this report was not accurate. The report states that the decision not to go ahead with the wider scheme was made in 2019, this is at odds with other evidence that indicate that the scheme was still being considered much later in 2019 and into 2020. The date was at best erroneous at worse misleading, subsequent enquiry shows that the date was an error. In addition, the scrutiny report states that the original proposal represented value for money. In the light of the original comments from the Sec 151 officer back in 2018 this is debatable and a more nuanced comment in the Scrutiny report might have been more accurate. There is no reference in the Scrutiny report of the verbal advice given to the leader by officers concerning the purchase of the second property.

The report to cabinet was eventually made in 2022 as it was required as part of the response to the resident complaint to the LGO.

The Scrutiny panel report was requested to be considered by the Corporate Committee and or the internal audit service. There is no record of this happening.

- v. **Provide an assessment on the validity (or otherwise) of the concerns summarised in (ii) above.**

The proposal to develop the site had existed prior to 2018 under the HDV arrangements, so the offer of an option to buy the sites by a developer at an inflated price, should not have been too much of a surprise to the Council. Particularly with the expressed commitment to end the HDV proposal and

start on a 1000 homes self-development housing programme. There is clear evidence that there was communication of confidential information to an interested third party. But there is no evidence of clear links between any individual within the Council and a third party. The priority to acquire the sites to contribute to the 1000 homes seems to be the primary reason for paying the price of the property when delay could have led to a better financial arrangement. The Council should have carried out more detailed feasibility studies prior to purchase with appraisals, if these had happened then based on the 2022 report 106 would not have been purchased.

The decision not to proceed appears to be a single decision made by the Leader with verbal professional and technical advice and not just as a result of local resident & political pressure, it was not in line with the Council's protocols.

RED HOUSE

i. Summarise the transaction(s) in question;

Sale of Red house, a former Council care home for development in a mix of Council and private housing original proposal in 2015 and then confirmed in 2018. Suggested disposal of adjacent site – Mitalee centre to same developer.

ii. Summarise the concerns that have been expressed, or which appear to the investigator potentially pertinent, to the transaction(s);

The concern is that the sale of the Red House site in 2019 was at an under value. Suspicion that same developer then approached Council for sale of adjacent site for a deal on preferable terms.

iii. Consider whether the Council's governance arrangements were followed and, if not, explain in what ways and what explanations there are (or may be);

The sale of the site was subject to a full cabinet report in 2019, it was then called in by Scrutiny & referred back to Cabinet. Arrangements were followed.

iv. Consider whether the Council's governance arrangements were sufficiently robust and fit for purpose, in particular:

a. Was it clear in relation to each proposed transaction who the decision maker was, whether or not each one progressed;

It was clear regarding the Red house site that the cabinet made the decision. Regarding the Mitalee centre officer advise to members was that no disposal was possible at the time of the suggestion due to lease arrangements and in any event, there were no grounds for special purchaser arrangements. The proposed sale never happened. The original enquiry came from a developer to elected members who requested what the status of this site was investigated. There is no evidence to indicate that the suggestion to develop the Mitalee centre arose from either officers or elected members.

b. Was it clear what information was considered by the decision maker in each case;

Yes, the Red House sale decision was made by cabinet. The Mitalee centre never reached the position where a sale decision was required as the circumstances were such that a sale would not have been practicable.

c. Was the information provided to the decision maker sufficient to enable an informed decision to be made, and were the reasons for each decision adequately expressed;

The final report to cabinet on the sale and buy back was extensive dealing with the questions raised through the scrutiny process, the reasoning behind the decision to sell the land and buy the completed housing units is explained in this report in detail.

- d. Were the arrangements for valuation sufficiently robust;

Valuation received from Carter Jonas in February 2019, estimated valuation of site at £260,000 and assumed a purchase price of £281,000 by the Council for each of the 46 units to be purchased. The eventual value received was £500,000 with the same purchase price per unit. The value would have been higher if less affordable units were being constructed. There is no indication of under valuation of this transaction.

- e. Were changes to agreed programmes transparently documented;

There were no adjustments to agreed programmes

- f. Did decision makers understand and where appropriate declare any interests in accordance with the Member Code of Conduct;

No declarations were made

- g. Did the provisions for scrutiny and/or oversight work?

On the face of the matter, yes Scrutiny called in the decision & referred it back to cabinet who dealt with the matters raised and confirmed the decision to sell.

- v. Provide an assessment on the validity (or otherwise) of the concerns summarised in (ii) above.**

There is no evidence that the land has been disposed of at below market rate. As the proposal was to build affordable rent units, this deflates the value of the land. The proposed purchase price of the new units which was used to calculate the value is within the range of prices to be expected for units of that type.

Detailed costing could have been provided of the preferred option and the option of direct delivery which would have provided a clear financial appraisal.

The Mitalee centre suggested redevelopment looks like a “kite flying” exercise by the developer which was referred to officers to look at. The basis of the lease of the centre meant that development of the site was not possible at the time of the enquiry by the developer.

WEST INDIAN CULTURAL CENTRE (WICC)

i. Summarise the transaction(s) in question;

The proposed redevelopment of Council owned freehold site, known as the West Indian Cultural Centre. The site is part of a wider potential redevelopment plot known as Clarendon Road South. This wider site was on the planning major redevelopment site list between Feb 2018 & June 2021 when it was removed due to land ownership issues.

ii. Summarise the concerns that have been expressed, or which appear to the investigator potentially pertinent, to the transaction(s);

Concern was about the role of potential developer, and leading councillors involved in the management of the club and agreement to redevelop entered into in 2015 between third party & leaseholder -West Indian Leadership Council (WILC). This did not involve the Council who was the freeholder of the site.

iii. Consider whether the Council's governance arrangements were followed and, if not, explain in what ways and what explanations there are (or may be);

Apart from one reference in January 2020, there has been no formal reference of the above site in any cabinet report and no formal decision to develop other than as a possible housing site by the Council in that January report. There has been no formal report back on whether a scheme on this site is feasible or viable although officer work was undertaken on feasibility in 2020. It is understood that any scheme on the site is in abeyance.

During 2020 there were internal Council meetings involving officers & members on whether any development should be by the Council directly or via a third-party developer. Finally determined approach was direct delivery by the Council but would require agreement of WILC. This has not been able to be achieved to date.

The Council's governance arrangements concerning the lease and conditions attached to the lease has been inadequate for many years. The peppercorn lease requires WILC to provide services which are unmonitored and for WILC to keep the internal property in good repair, the Council is responsible for external repairs. As assessed in 2020 both parties had not undertaken works

iv. Consider whether the Council's governance arrangements were sufficiently robust and fit for purpose, in particular:

- a. Was it clear in relation to each proposed transaction who the decision maker was, whether or not each one progressed;

The Council was not a party to the 2015 decision by WILC to enter into an agreement with a developer to redevelop the site. Although a Councillor

was on the WILC board and if aware of the agreement should have advised the Council of this or objected to it at a WILC board as the lease is for community purposes only. There is no evidence that this occurred.

- b. Was it clear what information was considered by the decision maker in each case;

As referred to above there is no evidence that the Council was formally involved in the original agreement between WILC and the developer.

The developer had pre application discussions with the planning service on this site in 2020, but no formal application has been made. Throughout 2020 and into 2021 there were meetings involving officers & leading members on the future of the site. In December 2020 officers & members met with the developer & WILC concerning the development of the scheme. No agreement was reached on a way forward.

- c. Was the information provided to the decision maker sufficient to enable an informed decision to be made, and were the reasons for each decision adequately expressed;

There has been no formal decision made by the Council to approve a business case agreeing the redevelopment of the WICC site. Agreement requires the consent of the leaseholder WILC which has not been forthcoming. Until agreement is reached with WILC it would be premature for a decision report to go to cabinet.

- d. Were the arrangements for valuation sufficiently robust;

There has been no valuation advice.

- e. Were changes to agreed programmes transparently documented;

There has been no notification back to cabinet that the proposal to redevelop the site for housing purposes is in abeyance.

- f. Did decision makers understand and where appropriate declare any interests in accordance with the Member Code of Conduct;

There are no declarations of interest.

- g. Did the provisions for scrutiny and/or oversight work?

There has been no reference to scrutiny or corporate resources on this matter.

- v. **Provide an assessment on the validity (or otherwise) of the concerns summarised in (ii) above.**

There is no evidence of impropriety regarding this site. Although, the decision by the leaseholder to enter into an agreement with a developer when they had no power to do so should have been a matter of concern to the Council's representative on the board, if they were aware of it and should have been reported.

i. Summarise the transaction(s) in question;
Letting and subletting of a shop unit to a voluntary organisation and failure to deal with complaints about the use of the site promptly.

ii. Summarise the concerns that have been expressed, or which appear to the investigator potentially pertinent, to the transaction(s);

Concern was about how the unauthorised use of property by sub tenants including anti-social behaviour was allowed to occur.

iii. Consider whether the Council's governance arrangements were followed and, if not, explain in what ways and what explanations there are (or may be);

The Council's governance arrangements for the management of property were not followed. In part this was due to the running down of the property division in the potential hand over of the service to lend lease prior to May 2018. However, there was an absence of systematic review of properties particularly low value ones let to voluntary organisations.

iv. Consider whether the Council's governance arrangements were sufficiently robust and fit for purpose, in particular:

a. Was it clear in relation to each proposed transaction who the decision maker was, whether or not each one progressed;

This would have been an officer decision, which should have followed standard management arrangements.

The audit review of late 2021 made a number of recommendations including that "A monitoring mechanism that ensures there is strategic oversight of all land and property owned by the Council should be implemented concerning monitoring these are detailed below. "

"This monitoring should include periodic strategic decision making, in line with any approved Asset Management Plan or Strategy, about:

- *the use of the land or building (commercial or otherwise);*
- *Range of opportunities if investments were made;*
- *How greatest outcomes can be achieved.*

There are several data sources that could assist in risk-based oversight:

- *Void / Vacant Property;*
- *Lease / Occupation status;*
- *End date of current lease;*
- *Rental debts;*
- *Complaints (formal);*

- *Complaints (informal and via Members);*
- *Inspection / Visits;*
- *Building Compliance. “*

These should have been implemented by April 2022.

A follow up report has been produced in October 2022 detailing progress on each issue and with a timeline for completing the recommendations. There has been progress and the original audit report which would have been nil assurance has progressed to limited. Due to the likely time needed to update and coordinate financial records, this may not be completed until March 2024.

- b. Was it clear what information was considered by the decision maker in each case;

There was no decision actually made in this case as the sub tenancy just “happened”. The Council was slow to respond to complaints and the issues raised by the complainants

- c. Was the information provided to the decision maker sufficient to enable an informed decision to be made, and were the reasons for each decision adequately expressed;

See b above

- d. Were the arrangements for valuation sufficiently robust;

No valuations were required.

- e. Were changes to agreed programmes transparently documented;

Not in any programme.

- f. Did decision makers understand and where appropriate declare any interests in accordance with the Member Code of Conduct;

No declaration of interests made.

- g. Did the provisions for scrutiny and/or oversight work?

The matter has been fully investigated by audit and an action plan produced and acted upon by the service department.

- v) Provide an assessment on the validity (or otherwise) of the concerns summarised in (ii) above.**

The fact that the Council had to provide an action plan following the initial complaint shows that there was some validity to the claim. The Action plan when fully implemented should ensure that lease arrangements are fully

maintained in the future and complaints are dealt with better. But all sites occupied by voluntary sector groups should be reviewed to ensure there is no scope for a repetition of the issues raised in other properties.

The original letting in 2014, does not seem to have been undertaken in an open and transparent way. This was not part of the original concern, but the nature of how the letting was made gives cause for concern.

i. **Summarise the transaction(s) in question;**

The addition of the scheme to redevelop part of the school for housing purposes to renew part of the school accommodation as part of the budget setting process in 2019.

ii. **Summarise the concerns that have been expressed, or which appear to the investigator potentially pertinent, to the transaction(s);**

The concern is that due process was not followed when the scheme was added to the Capital programme in 2019 and that potential member pressure led to scheme being added to programme.

iii. **Consider whether the Council's governance arrangements were followed and, if not, explain in what ways and what explanations there are (or may be);**

The proposal was subject to reports through officer level boards (Corporate Board) & informal member board, before submission as part of Council wide budget report. With the size and nature of the scheme it could have been subject to a separate report to cabinet but there was no requirement for that at the time. The governance arrangements extant at that time were met.

iv. **Consider whether the Council's governance arrangements were sufficiently robust and fit for purpose, in particular:**

a. Was it clear in relation to each proposed transaction who the decision maker was, whether or not each one progressed;

The decision maker was the cabinet & as the decision was part of the budget report by default the full Council.

b. Was it clear what information was considered by the decision maker in each case;

There was no full business case submitted in the budget report, but reference was made for the need for the scheme to be self-financing. The report to full Council stated *"This scheme is a proposed redevelopment of the Fortismere Secondary School site. The scheme involves the demolition and re-provision of sub-standard education accommodation. There would be residential development on the site which would pay for the re-provision of the education accommodation. The budgetary assumption is that this scheme will be self-financing with no call on the Council's general fund resources. A business case is being developed that would need approval before the scheme progressed."*

Approval to the scheme was therefore in concept only.

- c. Was the information provided to the decision maker sufficient to enable an informed decision to be made, and were the reasons for each decision adequately expressed;

The inclusion of the scheme at a high level and the caveats re the need for a formally approved business plan indicate that further information would be needed at a later stage to make an informed decision on whether to proceed with the scheme.

- d. Were the arrangements for valuation sufficiently robust;

The scheme was reviewed by officers later in 2019 and then dropped in the 2020 budget as a named scheme from the capital programme on the basis that it would need to compete with other education schemes for available resources.

- e. Were changes to agreed programmes transparently documented;

Although contained within 300 pages plus reports, the addition of and removal of the scheme was documented.

- f. Did decision makers understand and where appropriate declare any interests in accordance with the Member Code of Conduct;

Interests re the school were properly recorded at the 2019 cabinet meeting.

- g. Did the provisions for scrutiny and/or oversight work?

The Scheme was not referred to scrutiny.

- v. Provide an assessment on the validity (or otherwise) of the concerns summarised in (ii) above.**

There is no evidence of undue influence, the scheme was originally promoted by the school, on the basis of self-funding it was reasonable, on the basis of Haringey's, then basis of establishing a capital programme to include it in the 2019 budget. When wider work was undertaken on the whole Schools portfolio, it was then reasonable to review and remove the scheme in 2020.

FORSTER ROAD/ WINCHELSEA ROAD

i. Summarise the transaction(s) in question;

Redevelopment of a strip of land in Forster Road abutting 138 Winchelsea Road. Council's interaction with owner of neighbouring property which had an authorised extension, and the council has undertaken enforcement action.

ii. Summarise the concerns that have been expressed, or which appear to the investigator potentially pertinent, to the transaction(s);

The concern is that the Council exercised undue pressure on an adjoining landowner.

iii. Consider whether the Council's governance arrangements were followed and, if not, explain in what ways and what explanations there are (or may be);

No formal Council Decision to purchase or sell the site. The decision to develop has gone through formal procedures as has the requirement for planning approval.

The matter of planning enforcement would appear to be in line with Council arrangements.

iv. Consider whether the Council's governance arrangements were sufficiently robust and fit for purpose, in particular:

a. Was it clear in relation to each proposed transaction who the decision maker was, whether or not each one progressed;

The decision trail regarding the site development is clear from the initial reference to cabinet, through to decision to let contract which was a delegated decision due to size of contract (below £500K).

Similarly, the action on planning enforcement is clear, action has been appropriately taken up to Court action. Enforcement of the court decision has not happened.

b. Was it clear what information was considered by the decision maker in each case;

The initial inclusion of the site as a development site was a one-line reference in a cabinet report. There were no plans or details of interactions with other landowners.

The planning enforcement case would have been officer level decision.

- c. Was the information provided to the decision maker sufficient to enable an informed decision to be made, and were the reasons for each decision adequately expressed;

There was insufficient detail at the initial stage of cabinet report (2019) as to the current use of the land. However, this decision was only to investigate use of site for house building programme.

- d. Were the arrangements for valuation sufficiently robust;

There were no valuation issues on this site.

- e. Were changes to agreed programmes transparently documented;

There were no documented changes to the programme.

- f. Did decision makers understand and where appropriate declare any interests in accordance with the Member Code of Conduct;

There were no declarations of interest.

- g. Did the provisions for scrutiny and/or oversight work?

Officer oversight of the development was maintained by the appropriate officer board.

- v. Provide an assessment on the validity (or otherwise) of the concerns summarised in (ii) above.

There is a related issue concerning an unauthorised extension relating to 138 Winchelsea Road, which abuts the site in question. The Council has as the planning authority a court judgement from 2020 enforcing planning requirements which would mean the demolition of the extension. This is the probable cause of the dispute that might at first sight appear to be undue pressure on the owner of 138. However, the fact that the matter has been upheld in court would indicate that the Council has acted reasonable and that there is no validity to the claims made in (ii) above.

SHAFTESBURY

i. Summarise the transaction(s) in question;

Purchase of a commercial / industrial Estate on the borough boundary, to potentially allow the relocation of existing businesses from the High Road west, development area.

ii. Summarise the concerns that have been expressed, or which appear to the investigator potentially pertinent, to the transaction(s);

The concern was that the Council overpaid for the site.

iii. Consider whether the Council's governance arrangements were followed and, if not, explain in what ways and what explanations there are (or may be);

The site was acquired following a cabinet report in 2019, the report was approved by Cabinet and thus the formal governance arrangements were followed.

iv. Consider whether the Council's governance arrangements were sufficiently robust and fit for purpose, in particular:

- a. Was it clear in relation to each proposed transaction who the decision maker was, whether or not each one progressed;

The Cabinet were the decision maker for the site purchase.

- b. Was it clear what information was considered by the decision maker in each case;

The Cabinet decision was based on the information within the report to cabinet.

- c. Was the information provided to the decision maker sufficient to enable an informed decision to be made, and were the reasons for each decision adequately expressed;

The report could have been clearer, there was only one other option in the report which was a do-nothing option. There appears to have been no consideration of other options for relocation. The report does not consider the concerns of some of the potential relocated businesses of the proposed tenure on the units. There is no reference to the physical condition of the site. Overall insufficient information was provided to the cabinet, in effect guiding them to the preferred option in the report.

- d. Were the arrangements for valuation sufficiently robust;

The Valuation advice given on the site was robust, the eventual purchase price was 6% above the original valuation estimate. This would be a reasonable variance on a scheme of this size.

- e. Were changes to agreed programmes transparently documented;

The funding requirements are documented in the open report. There were no other documents concerning the impact on programme.

- f. Did decision makers understand and where appropriate declare any interests in accordance with the Member Code of Conduct;

There were no declarations of interest.

- g. Did the provisions for scrutiny and/or oversight work?

There was no referral to scrutiny

- v. Provide an assessment on the validity (or otherwise) of the concerns summarised in (ii) above.

It is understood that officers are currently drafting a paper to dispose of the site, on that basis the concerns expressed about not needing the site would appear to be valid.

If sold the eventual sale price will assist in determining whether the Council overpaid. Current valuation advice would infer that this is not the case.