

Committees	Dated:
Hampstead Heath, Highgate Wood and Queen's Park Committee	23/05/2018
Finance Committee	05/06/2018
Subject: Land available for acquisition at Hampstead Heath	Non-Public
Report of: Director of Open Spaces	For Decision
Report author: Bob Warnock, Open Spaces Department	

NOT FOR PUBLICATION

By virtue of paragraph [insert exemption clause as per separate guidance] of Part 1 of Schedule 12A of the Local Government Act 1972

Summary

The City of London has been approached by the legal advisors appointed by the charitable beneficiaries of the estate of the late Henry Hallowes, namely Shelter and Centrepont Soho in relation to the sale of 0.17 acres (686 sq m) of woodland that is entirely encompassed by Hampstead Heath.

The land represents a strategic property acquisition for the City of London taking account of its location and the potential disruption to Heath users should the land be acquired with a view to development.

The Heath & Hampstead Society share the City of London Officers view on the strategic significance of this parcel of land to the Hampstead Heath charity and have pledged a contribution of £50,000 towards the cost of purchasing the land.

Taking account of the intense media speculation and public interest in the land should the charitable beneficiaries proceed to sell the land through public auction, there is a risk that the sale price could exceed the market valuation. In recognition of the strategic importance of this land to the Hampstead Heath charity, it is proposed that the City of London commit funds and agree to pay up to £120,000 for the land acknowledging that the Heath & Hampstead Society have pledged to contribute £50,000 on a pro-rata basis towards the maximum purchase price of £120,000 to support the City of London Corporation in acquiring this strategically located land.

Recommendations

- Members approve the acquisition of the unencumbered freehold interest in 0.17 acres of woodland with vacant possession at the northern end of Hampstead Heath and the City Surveyor be instructed to negotiate the best price or bid at auction with an upper limit of £120,000.
- Members of the Finance Committee are asked to allocate £120,000 from the City's Cash Finance Contingency, to fund the acquisition
- Final approval of the terms of the purchase be delegated to the Town Clerk in consultation with the Chairman and Deputy Chairman of the Hampstead Heath, Highgate Wood & Queen's Park Committee, and the Chairman and Deputy Chairman of the Finance Committee.
- Members agree that the Comptroller & City Solicitor be instructed to undertake any necessary documentation.
- Members note the pledge of up to £50,000 from the Heath and Hampstead Society

Main Report

Background

1. The land comprises an area of woodland at the northern end of Hampstead Heath covering an area of approximately 0.17 acres (see Appendix 1). The land was acquired by prescriptive rights by Mr Hallowes in 2007 in a legal action which generated a large amount of media coverage in national and local media.
2. The land is classified as Metropolitan Open Land and there is no vehicle access or utilities serving the land. The land is subject to restrictive covenants that are detailed in the indenture dated 27 July 1923, schedule 1. As such the land is only to be used as a private garden and cannot be built on. No posters or adverts can be displayed on the land and no caravan or mobile home can be parked there. The land cannot be dug and no bricks, tiles, clay or lime can be made on the land or burnt. The land is not to be used for commercial use and nothing can be carried out on the land which would disturb the City of London Corporation, as the owner of the surrounding lands.
3. Mr Hallowes died in January 2015 and left his estate to Shelter and Centrepont Soho. Michelmores LLP were instructed to act on behalf of Shelter and Centrepont in their capacity as the beneficiaries of the Last Will and Testament of Henry Hallowes dated 8 January 2015.
4. The City Surveyor has been liaising with Michelmores LLP since October 2017 to discuss the opportunity for the City of London to acquire the land by private treaty. Michelmores LLP have declined the opportunity to commission a joint binding valuation.
5. The Director of Open Spaces has also written to the Chief Executives of Shelter and Centrepont to request a joint meeting.

6. Currently, the City understands that the charities remain committed to selling the land through a property auction to achieve the best price for the charities and to discharge their perceived duties under the Charities Act.
7. The Heath & Hampstead Society were also approached by Michelmores LLP in October 2017 and, whilst supporting the City of London Corporation's position, have refrained from further discussions whilst the City Corporation has been engaging directly with Michelmores LLP.

Current Position

8. Without formal notice to the City of London Corporation or the Heath & Hampstead Society the land was due to be auctioned by Savills on the 9 May 2018 with a guide price of £95,000 plus. The lot was subsequently withdrawn, and it is understood the land is now due to be auctioned by Savills on the 18 June 2018.
9. Following the correspondence sent to the Chief Executives of the charities, Michelmores LLP have contacted the City Surveyor to arrange a joint meeting with the City of London Corporation and the Fundraising Directors of the respective charities. The City Surveyor has contacted Michelmores LLP to confirm a meeting date and request that a representative from the Heath & Hampstead Society be present at the meeting.
10. The City Surveyor has commissioned a valuation of the land from the Valuation Office, the valuation is expected to be returned on 22 May 2018.
11. The Heath & Hampstead Society have confirmed a pledge of £50,000 to contribute pro rata towards the cost of acquiring the land.
12. The Director of Open Spaces has recommended an upper limit of £120,000 to purchase the land in order to assimilate it with Hampstead Heath. The City Corporation proposes to manage the land as an orchard garden forming part of the Heath, for the benefit and enjoyment of the public. There also opportunities to enhance the biodiversity of the land for nature conservation.

Options

13. Option 1. Pursue the opportunity to meet with representatives from the charitable beneficiaries to discuss the purchase of the land by private treaty in partnership with the Heath & Hampstead Society. **This option is recommended.**
14. Option 2. If the charitable beneficiaries are slow to respond to the request for a meeting or if such a meeting takes place but no sale by private treaty is agreed, the City Surveyor be authorised to bid for the land at public auction with an upper limit of £120,000 taking account of a £50,000 pledge from the Heath & Hampstead Society. **This option is recommended.**

15. Option 3. Defer to the Heath & Hampstead Society to secure the land through either private treaty or public auction. The land was recently listed for public auction with a guide price of £95,000 plus, which exceeds the funds available to the Society. **This option is not recommended.**
16. Option 4. Do not acquire the land and rigorously enforce the restrictive covenants. This option is not recommended as similar sites adjacent to the Heath have been subject to speculative development contrary to Metropolitan Open Land designation. There is currently a case adjacent to Hampstead Heath where illegal development has taken place on designated Metropolitan Open Land and is now subject to an enforcement action by the London Borough of Camden. These cases provide a significant draw on the Superintendent's Local Risk Budget and Officer time. **This option is not recommended.**

Corporate & Strategic Implications

17. The Corporate Plan 2018 – 2023 identifies three overarching aims and 12 outcomes for the whole organisation. This acquisition contributes to the delivery of:
 - Shape outstanding environments:*
 - *We have clean air, land and water and thriving and sustainable natural environment.*
 - *Our spaces are secure, reliant and well-maintained.*

Property Implications

18. The site comprises 0.17 acres (686 sqm) of land which is developing as woodland and encompassed by Hampstead Heath (see Appendix 2 & 3). There is no vehicular or pedestrian access, and the land is subject to covenants, of which the City as surrounding landowner have the benefit, restricting its use to a private garden.
19. The City of London aims to acquire the land on behalf of the Hampstead Heath Charity to provide public access for the recreation and enjoyment of the public. The cost of future grounds maintenance would be negligible and absorbed into the Superintendent's Local Risk Budget. However, the Superintendent estimates that initial costs to clear accumulated rubbish and to treat a small area of Japanese Knotweed will cost £1,000, this would be met from the Superintendent's Local Risk Budget.
20. The City Surveyor has commissioned the Valuation Office to evaluate the open market value of the site and will provide an update at the meeting.
21. Should the site be acquired by a third party, there is potential for the City Corporation to incur significant ongoing management costs in terms of enforcing the covenants, potential squatters, disruption to Heath users etc, and therefore acquiring the site above market value, reflecting the City Corporation's position as a special purchaser, can be justified from a strategic estate management perspective. However, it is not possible to quantify, from a valuation perspective, the level of any offer above market value.

Financial and Risk implications

22. The Chamberlain has confirmed that there are currently sufficient resources remaining within the 2018/19 City's Cash Finance contingency to meet this expenditure.
23. There is a risk that funds will not be allocated from the City's Cash Finance Contingency; this would prevent the potential acquisition of the land as local risk funds are not available for capital expenditure.
24. There is a risk that, should the land be sold via a public auction, the cost will exceed £120,000.
25. There is a potential cost to the Hampstead Heath Charity in relation to enforcing the covenants should the land not be acquired.
26. The Heath & Hampstead Society have confirmed their pledge of £50,000 towards the acquisition cost. A letter from the Society is attached at Appendix 4.

Legal Implications

27. The City has the power under section 120 of the Local Government Act 1972, as applied by The London Government Reorganisation (Hampstead Heath) Order 1989, to acquire land by agreement.

Conclusion

28. Members are asked to support the Hampstead Heath Charity in acquiring the land through purchase by private treaty or through property auction, in partnership with the Heath & Hampstead Society.

Appendices

- Appendix 1 - City Lands Ownership Committee Plan
- Appendix 2 - Aerial map of Hampstead Heath
- Appendix 3 - Aerial map of Hampstead Heath (close up)
- Appendix 4 – Letter from Heath & Hampstead Society

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