



**Report of: Executive Member for Housing and Development**

<b>Meeting of:</b>	<b>Date:</b>	<b>Ward(s):</b>
Executive	24 March 2022	All

<b>Delete as appropriate:</b>	Non-exempt	
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## **SUBJECT: Holloway Prison Site Planning Application – Fit out Costs of Women’s Building**

### **1. Synopsis**

- 1.1 Peabody has submitted a planning application for the Holloway Prison site. This application was presented to the Planning Committee on 10 February 2022 and 8 March 2022. At its meeting on 8 March 2022 the Planning Committee resolved to grant planning permission subject to: planning conditions as set out in the Committee report; consultation with the GLA (known as a Stage Two referral to the Mayor of London); completion of a s106 agreement; and a £2.9 million contribution to the fit out of the proposed Women’s Building being secured.
- 1.2 The purpose of this report is to ask the Executive to agree that the council will contribute up to £2.9 million of strategic CIL (to be index linked) towards the fit-out costs of the Women’s Building on the site. This allocation was supported by the Borough Investment Panel on 21 February 2022, subject to Executive approval.
- 1.3 This contribution will be funded from the strategic element of the total £13.6m CIL (also to be index linked) payable on the site. The total strategic CIL on this site amounts to £6.8m (prior to indexation). Because this funding will come from strategic CIL there will be no reduction in either the local CIL (£2m prior to indexation) or the local/strategic CIL (£4.8m prior to indexation) that is allocated by the Borough Investment Panel based on recommendations from Ward Councillors.

- 1.4 Peabody will be required to take every practical step to secure alternative sources of funding to minimise the CIL contribution to the fit-out of the women's building, and this activity will be monitored through a framework set out in the s106 agreement.

## **2. Recommendations**

The Executive is asked to:

- 2.1 Agree that up to £2.9 million (index linked) of Strategic CIL can be allocated to fund the fit-out costs of the Women's Building on the Holloway Prison site subject to a S106 agreement being entered into as outlined in 2.3 and 2.5 below.
- 2.2 Note that such an allocation of funding will only be required if the council as the Local Planning Authority grants planning permission for the redevelopment of the Holloway Prison site and the permission is built out.
- 2.3 Note that the s106 agreement attached to the grant of planning permission will require that Peabody has taken every practical step to raise the funding itself and will set out clear criteria to enable the council to measure whether Peabody has taken every practical step possible. These steps shall include the employment of a professional fundraiser for a requisite period.
- 2.4 Note that the phasing of any such payment needs to be agreed in a way that ensures that there is no further loss of income to the council in respect of (for example) any interest that would otherwise be accrued by the council in relation to any funding.
- 2.5 Note that Peabody has offered to include a mid-stage financial viability review mechanism within the s106 agreement. If this mechanism demonstrates that the scheme is in surplus, any surplus will be used to improve the delivery of affordable housing in Phase Three of the development and/or fund the fit out of the Women's Building.

## **3. Background**

- 3.1 Holloway Prison closed in 2016 with its female prisoners being relocated to HMP Downview and HMP Bronzefield. In 2018 the council adopted the Holloway Prison Site Supplementary Planning Document (SPD) following public consultation. The purpose of the SPD was to guide the future purchasers of the site in respect of the council's key planning policies and priorities.
- 3.2 Section 3.1 of the SPD describes the key planning and development objectives for the site including:

*'The provision of a women's building/centre that incorporates safe space to support women in the criminal justice system and services for women as part of a wider building that could also include affordable workspace to support local organisations and employment opportunities'*

- 3.3 The Ministry of Justice sold the site to Peabody in 2019. Peabody submitted a planning application for the site in November 2021. This application includes proposals for a Women's Building. The building will be located on the upper and lower ground floor levels of two residential buildings containing social housing. The building has a primary frontage

onto Camden Road and Parkhurst Road, a secure courtyard garden to the rear, and a secondary entrance from a new public park. The total internal floor space of the building is 1,489sqm.

3.4 In accordance with the SPD, the building has been designed with the needs of two separate user groups in mind i.e.:

- the provision of support and rehabilitation services to women with experience of the criminal justice system; and
- local women wishing to access support services and other women centred services and activities.

The current design of the building has evolved through extensive research and engagement with a broad range of women's organisations including: women with lived experience of the criminal justice system; local grass roots women's organisations; the operators of women's buildings; and groups with expertise in relation to women and the criminal justice system.

3.5 The current proposals are not universally supported with some organisations calling for a larger stand - alone building. There are however no planning policy requirements for a larger or standalone building and the current proposals are considered to comply with the relevant planning policies subject to the internal fit out of the building being secured.

3.6 Peabody proposes to deliver the Women's Building to a shell and core standard only. There is no universally accepted definition of a 'shell and core' standard although this is generally held to mean that the construction of the exterior of the building is complete, but the interior would be a shell with no lighting or other facilities. Such a building is not considered to meet the planning policy requirements for a Women's Building on the site.

3.7 To meet the council's planning policy requirements, the building must be fitted out to a Category B standard. Again, there is no single agreed definition of a Category B fit out. However, this is generally held to mean the fit out of a building so that it is available for the tenant to move into and that has been fitted out for their specific needs and requirements. The cost of this fit out is estimated, using current costs, to be £2.9 million.

3.8 The recommendations set out in the case officer's reports dated 2 February 2022 and 8 March 2022 stated that the Planning Committee is recommended to grant planning permission for the redevelopment of the Prison site conditional upon 'a £2.9 million contribution to the fit out of the Women's building being secured'. Planning permission cannot therefore be granted until a £2.9 million contribution to the fit out of the Women's Building has been secured.

3.9 Peabody states that the scheme is unable to afford the fit out of the Women's Building for financial viability reasons. Peabody indicates that the Holloway Prison development has a financial deficit of circa £44 million.

3.10 The council has appointed BPS consultants to undertake an independent review of the financial viability of the proposals. BPS advise in a report dated 4 February 2022 that the scheme is in deficit by £3,375,186.

3.11 If planning permission is granted, the development will deliver 985 new homes. 60% of these homes will be affordable. This includes 415 homes for social rent including 60 extra care homes for older people. The development will also deliver a new public park and substantial employment and training benefits. The delivery of the Women's Building is an important opportunity to provide a dedicated high-quality space in which to deliver services and activities for women and girls in Islington and across Northeast London.

3.12 At a meeting on 21 February 2022 the Borough Investment Panel was consulted on a proposal for the council to fund the fit out of the Women's Building from the strategic CIL payable on the site.

3.13 The Panel supported this proposal subject to:

- the insertion of a clause within the s106 Agreement requiring Peabody, working with partners including the council, to take every practical step to raise the £2.9m itself. The council would therefore be underwriting the costs of the fit out if this funding cannot be secured from other funding bodies.
- the council being satisfied that Peabody has taken every practical step to raise the funding itself.
- the Planning Committee resolving to grant planning permission for the Holloway Prison site planning application at its meeting on 8<sup>th</sup> March 2022.
- a formal decision by the Executive on 24 March 2022.
- the phasing of any payments being phased in such a way as to ensure that the council does not incur any financial loss in relation to for example interest.

3.14 This matter was considered at length at the meeting of the Planning Committee on 8 March 2022. The Planning Committee resolved to grant planning permission subject to: planning conditions as set out in the report; the stage two referral of the planning application to the Mayor of London; S106 agreement heads of terms set out in the report including a requirement to appoint a fundraiser; and £2.9 million being secured to fund the fit-out costs of the Women's Building.

3.15 The Planning Committee also resolved that planning permission should be subject to:

*"Prior to Implementation of Phase 3 of the Development, the Developer will conduct a voluntary mid-stage viability review to be secured in accordance with the GLA standard formula. If the review shows a surplus, this will be used (in the following order of priority) to: (i) convert proposed shared ownership units to London Living Rent units; (ii) towards the fit-out and/or running costs of the Women's Building; and/or (iii) conversion of additional market housing units to social rent."*

Negotiation of the s106 agreement is continuing and the detailed drafting of the clauses in relation to the mid-stage review mechanism will be brought back to a future meeting of the Planning Committee.

## 4. Implications

### Financial implications:

- 4.1 As detailed in the report the Strategic CIL liability arising from this development is £6.8m and it is proposed to allocate up to £2.9m to fund the fit out costs of the women's building on the Holloway Prison Site. The forecast income from Strategic CIL for the next five years is £6.7m (based on liability notices/demand notices issued to developers) increasing to approx. £13m including Holloway Prison (at pre-app stage).

If the actual income is lower than forecast or if the Strategic CIL is utilised on other priorities the cost of £2.9m will need to be funded from borrowing requiring an additional £0.3m capital financing allocation.

### 4.2 Legal Implications:

This report seeks authorisation for the allocation of £2.9 million (index linked) to underwrite the cost of fitting out the Women's Building on the Holloway Prison site. The allocation of CIL monies to specific projects may be authorised by Executive, or may be dealt with under delegated powers for allocations totalling under £1 million per project. Because this allocation exceeds £1 million this decision must be made by the Executive.

The Planning Act 2008 and the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) require the authority that charges CIL to apply it to supporting development by funding the provision, improvement, replacement, operation or maintenance of infrastructure. Infrastructure includes: a) roads and other transport facilities b) schools and other educational facilities c) medical facilities d) sporting and recreational facilities e) open spaces.

The National Planning Practice Guidance says that the levy can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities. This definition allows the levy to be used to fund a very broad range of facilities such as play areas, parks and green spaces, cultural and sports facilities, academies and free schools, district heating schemes and police stations and other community safety facilities. This flexibility gives local areas the opportunity to choose what infrastructure they need to deliver their relevant Plan (the Local and the London Plan). Charging authorities may not use the levy to fund affordable housing.

Local authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed. The levy is intended to focus on the provision of new infrastructure and should not be used to remedy pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by new development.

The levy can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development.

The fit out of the Women's Building falls within the definition of community infrastructure.

#### **4.3 Environmental Implications and contribution to achieving a net zero carbon Islington by 2030:**

The planning application for the Holloway Prison site was accompanied by an Environmental Statement (ES). This ES was subject to an independent assessment by AECOM. AECOM assessed the ES against the requirements set out in Schedule 4 of the Town and Country Planning Act (EIA) Regulations 2017. AECOM found that there was no need for the council to request any substantial further information environmental information from the applicants.

In reaching its decision on the planning application, the Planning Committee was provided with a copy of the AECOM report. In reaching a decision on the planning application, the Planning Committee carefully considered all the relevant environmental matters prior to making its resolution. There are no further environmental impacts arising from a decision by the Executive to underwrite the fit - out costs of the Women's Building via strategic CIL.

#### **4.4 Equalities Impact Assessment:**

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

An Equalities Impact Assessment was completed on 16 March 2022 and the summary is included below. The complete Equalities Impact Assessment is appended to this report.

Subject to all the other planning requirements being met (as set out in the resolution made by the Planning Committee at its meeting on 8 March 2022), a positive decision by the Executive will enable planning permission for the redevelopment of the Holloway Prison site to be granted. The Equalities Impact Assessment identified that a decision by the Executive to underwrite the fit - out costs of the Women's Building will have a positive impact on equalities target groups.

Subject to planning permission being granted and the scheme being built out, the redevelopment of the Holloway Prison site will deliver 415 homes for social rent including 60 extra care homes, a Women's Building, jobs apprenticeships and training; and a new public park. This will deliver significant benefits for equalities target groups including women, girls and older people. The provision of 415 new homes for social rent is also likely to significantly benefit equalities target groups.

## 5. Reason for recommendations

- 5.1 The council wishes to secure both the fit out of the women's building and the other benefits to be delivered through the redevelopment of the Holloway Prison site notably 415 homes for social rent. Peabody indicates that its current proposals are not financially viable and the council's viability consultants indicate that the scheme has a deficit of circa £3.375 million. The s106 agreement for the Holloway Prison site will be drafted to: encourage Peabody to secure the £2.9 million for the fit out costs by other means including through fund raising; and to secure the mid-stage review mechanism offered by the applicants. The Executive is asked to underwrite the fit-out costs of the Women's Building if: external funds cannot be secured by Peabody; and the mid stage review mechanism indicates that the scheme continues to be in financial deficit or the council considers that the improvement of the affordable housing offer should take greater priority.

**Appendices:** Equalities Impact Assessment

**Background papers:** None

**Final report clearance:**

**Signed by:**



16 March 2022

Executive Member for Housing and Development

Date:

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