



LONDON FIRE BRIGADE

z Report title

Disposal of St Columba Radio Mast

Report to	Date
Commissioner's Board	3 June 2020
Deputy Mayor's Fire and Resilience Board	16 June 2020
London Fire Commissioner	

Report by	Report number
Assistant Director, Property	LFC-0364z

Protective marking: **OFFICIAL**

Publication status: Published with redactions

Summary

This report seeks approval to progress the sale of the freehold property known as St. Columba Radio Station, Spaniards Road, Hampstead Heath, London NW3. The property would be sold with vacant possession granted by the London Fire Commissioner (LFC) and the lease to the City Corporation would remain in place. The property currently generates £4,500 annual income from the City of London Corporation's use of the telecoms mast and costs LFC £16,034 in annual maintenance plus £9,605 in rates.

Due to complex lease restrictions which impact on an open market approach to disposal, Heads of Terms have been negotiated with a 'special purchaser' for the sale of the LFC freehold interest. The terms agreed have proposed a sale price of £850,000. This exceeds both the market value (£400,000) and the proposed market plus marriage value (£750,000) as advised by LFC estate management consultants Dron and Wright in a Red Book Valuation report.

The Heads of Terms include further protection of interest for LFC in the form of an overage clause. This will entitle LFC to receive further funds after completion if the purchaser sells the property within 5 years without having obtained and implemented planning consent for a development and /or alternative use. The overage clause will entitle LFC to obtain 50% of any increased sale price above the agreed price of £850,000 negotiated with the purchaser.

Recommended decision

That the London Fire Commissioner

1. Provides delegated authority to the Assistant Director of Property to dispose of LFC's freehold interest in St. Columba Radio Station to Elms Nominees for an amount not less than 5% of the negotiated sum of £850,000.

Background

1. Hampstead is a prosperous suburb of north-west London. St. Columba Radio Station (the property), is located in the north-west section of Hampstead Heath, within the London Borough of Camden. Hampstead Heath is owned and managed by the City of London Corporation. The property comprises a section of heathland enclosed by mature trees, housing a radio telecoms mast and an associated single storey building. The total site area is approximately 0.42 acres. (See Appendix 1 for site map).
2. The surrounding area is predominantly parkland and heathland in a rural setting which is used for leisure purposes, with some residential property. There is a very large residential property with extensive grounds and gardens to the east adjoining the site. This is known as The Elms, Spaniards End and is owned by Elms Nominees.
3. The property was formerly used by LFC as one of its paging sites. That use ceased relatively recently and LFC no longer has any equipment on the mast, or in the associated building. The mast and associated building does not support national telecommunication infrastructure associated with 4G/5G comms. It's current use is by the City Corporation for the purpose of operating the radio system used by its Park Rangers who are involved in the management of Hampstead Heath.
4. The property is not well placed for access to public transport facilities. Hampstead underground station (Northern Line), is approximately three quarters of a mile to the south of the property and Hampstead Heath mainline station is about a mile to the south-east.
5. LFC own the freehold interest in the property which was transferred by Loup Limited to LFC in the late 1980's. The transfer was made subject to severe restrictions on use in favour of Loop Limited and their successors in title. Loup transferred its interest in the adjoining land to Elms Nominees, under a Deed in May 2001.
6. LFC have granted a 10 year lease to the City Corporation at a rental of £4,500 per annum in respect of communication equipment on the mast and a dedicated room in the associated building. The lease expires in 2025 and the proposed sale of the freehold will include the transfer of this lease. The lease is contracted out of the 1954 Tenant and Landlord Act therefore there will be no automatic right for a purchaser of the freehold to renew this lease.
7. LFC has the benefit of a licence granted by the City Corporation recording access rights over the track between Spaniards Road and the property to support the operation, repair and maintenance of the property (outlined in Appendix 1). The rights are expressly stated not to be for the purposes of redeveloping the property. Critically, access rights granted by the City Corporation do not extend right up to the boundary of the property and the property is, in effect, 'landlocked' in terms of access rights and subject to the restrictions in favour of Elms Nominees which are contained in the LFC freehold title.

Valuation Approach

8. A Red Book Valuation report that adheres to the RICS (Royal Institution of Chartered Surveyors) valuation professional standards was commissioned from Dron and Wright and is available on request. The market valuation, or estimated amount for which an asset or liability should exchange on the valuation date, has taken into account the following factors:-

- The restrictions on the use and development of the property in the freehold title.
 - Limitations on access to the property arising from the licence Deed from the City Corporation and the access track which does not reach the boundary of the property.
 - There is no planning consent in place for the use of the property as anything other than a telecoms mast and an associated building.
 - LFC's active use of the mast to support paging has ceased.
 - The terms of the lease to the City Corporation, in respect of their telecoms equipment on the mast and in the associated building.
 - The potential requirement to remove the mast and associated building from the property in the future and the costs to LFC associated with that.
 - The requirement that any purchaser would need to obtain consent from Elms Nominees to cross the area of land currently owned by them to access the site
9. With regard to above constraints, it is considered that the most likely purchaser of the property would be a speculator, who is willing to buy the property on the basis of 'hope value'. In particular, there will be interest in the potential for a future sale of the property to Elms Nominees or the City Corporation.
10. Informed by the Red Book valuation standards which incorporate relevant factors (as listed above) and on comparable freehold land sold recently subject with a number of restrictions on use, LFC's property consultants consider the Market Value of the freehold interest in the property is £400,000.

Equitable Value and Special Purchaser status

11. Equitable value is an internationally recognised valuation basis discrete from market value and applies to a party having special interest where special value and marriage value would arise on the acquisition of the LFC freehold interest. In the situation of the proposed disposal of St. Columba Radio Station, Elms Nominees have a designated 'special purchaser' status as this asset has attributes which make it more attractive to them than to the general market.
12. Should the property be sold to the adjoining owner Elms Nominees, the various restrictions and limitations which affect the freehold title and the access to the property will, to a large extent, cease to be relevant. Hence, Elms Nominees will benefit from a site of approximately 0.42 acres, which can be incorporated within the already extensive gardens and grounds of their adjoining residential building.
13. In addition, there is medium to long term development potential, subject to Elms Nominees obtaining vacant possession from the City Corporation of their premises and securing planning and the other requisite consents.
14. A residual appraisal of the site on the basis that it is redeveloped to provide residential space of a similar size has been undertaken. Alongside assumptions and variables reflecting the very unusual circumstances of the property, and costs associated with the removal of the mast and the demolition of the associated building, it is considered a figure for the site is in the order of £1.1m.
15. In assessing the equitable value for a transaction between LFC and Elms Nominees it is considered that this should comprise the Market Value of the property (£400,000), plus 50% of the marriage value arising from the deal. That is the site value for residential development

purposes as referred to in paragraph 14 (£1.1m) less the Market Value of £400,000. Hence an appropriate figure is considered to be £750,000 (£400,000 plus 50% of £700,000).

Negotiations With Elms Nominees

16. Elms Nominees first expressed an interest to purchase the LFC freehold interest shortly after they acquired The Elms (the adjoining land). This was not an option during the period of LFC utilisation as a key paging site.
17. Elms Nominees retained their interest in buying the property over many years. In November 2019, when Elms Nominees became aware of LFC ceasing to utilise the site for paging, they offered to purchase the freehold interest for the sum of £400,000. Following subsequent negotiations, Elms Nominees finally submitted a best and final offer of £850,000. This offer is substantially in excess of Dron and Wright's Red Book valuation outcome of the Market Value of the property, as well as £100,000 higher than their view of the Equitable Value of £750,000.
18. It should be noted that the valuation was undertaken before the current market uncertainty caused by the Covid-19 pandemic. The International Valuation Standards Council (IVSC), whose standards have been adopted by 'RICS Red Book', issued a letter in March 2020 with the title 'Dealing with valuation uncertainty at times of market unrest'. This confirms that valuers should not apply pre-crisis criteria to their valuations as this approach is based on the potentially erroneous assumption that values will return to their pre-crisis levels and there is no way of predicting this assumption is in fact correct. As a result of the purchaser tries to re-negotiate this value to the 5% threshold recommended in this paper, a new red book valuation would be required and a new LFC report submitted.
19. In addition to the enhanced offer, further protection of interest for LFC has also been negotiated and included in the Heads of Terms in the form of an overage clause. This will ensure that if the purchaser sells the property within five years of the purchase without having obtained and implemented planning consent for a development and/or alternative use, 50% of any increase in price above the original purchase price is to be paid to LFC. LFC estate management consultants will monitor any movement of this freehold as part their periodic monitoring of disposed LFC assets and their present day use.

Proposed Disposal – outline benefits

20. Approving the negotiated Heads of Terms on the sale of LFC's freehold interest in St. Columba Radio Station will realise the following outline benefits:
 - Securing a capital receipt not less than 5% of the negotiated sum of £850,000 for a complex freehold site no longer required by LFC to support operational delivery. The offer made by Elms Nominees is in excess of both the Market and Equitable Values assessed by Dron and Wright's Red Book Valuation report and provides an opportunity to support investment in LFC's Transformation Plan 2020.
 - Elms Nominees have agreed to progress issues in relation to obtaining vacant possession of the City Corporation's premises.

- There is no requirement or cost to LFC to dismantle and remove the mast as part of the proposed transaction, hence a cost avoidance estimated at between £100,000 - £125,000.
- Expected revenue savings in the region of £21,139 per annum (£25,639 business rates and maintenance costs less £4,500 income from lease to City Corporation).
- The Dron and Wright costs of the sale from this point onwards have been agreed as £750 to provide the available Red Book Valuation report and £2500 for managing the transaction in relation to a range of compliance and legal activities associated completing the sale. This equates to an agreed fee totalling 0.38% of the sale value.

Outline Programme

21. Heads of Terms with Elms Nominees have provisionally been agreed. General Counsel to LFC plan to commence preparation of the legal process in readiness of achieving LFC agreement. At this stage both parties would use reasonable endeavours to effect an exchange of contracts within 20 working days of the purchaser's solicitors receiving a draft sale contract and full legal pack subject to compliance with LFC's governance requirements. A 10% deposit (£85,000) is payable by the purchaser to LFC on exchange of contracts.
22. Completion of the sale is to take place within one month of exchange of contracts.

Conclusion

23. Given LFC have no further use for the property, the complexities associated with the freehold, and the anticipated benefits in the disposal of this asset, it is recommended that a sale of the freehold interest in the property is progressed in line with the Heads of Terms negotiated with Elms Nominees not less than 5% of the sum of £850,000. This conclusion accommodates a Covid-19 tolerance, is informed by a Red Book Valuation report by Dron and Wright and would represent 'the best consideration which is reasonably obtainable' by LFC, in accordance with the terms of Section 123 of the Local Government Act 1972.

Finance comments

24. This report recommends the sale of the St. Columba Radio Station for an amount not less than 5% of £850k. This proposed receipt does not currently form part of the capital programme and will be considered as part of the budget process for 2021/22 and future years. The report also notes that there is also a cost of sale of £3,250 to Dron and Wright.
25. The sale will also result in reduced revenue costs of £26k annually offset by lost income of £5k, for a net financial saving of £21k. This saving will also be considered as part of the budget process.

Workforce comments

26. No workforce implications have been identified therefore no staff side consultations have taken place.

Legal comments

27. Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") is established as a corporation sole with the Mayor appointing the occupant of that office. Under section 327D of the GLA Act 1999, as amended by the Policing and Crime Act 2017, the Mayor may issue to the Commissioner specific or general directions as to the manner in which the holder of that office is to exercise his or her functions.
28. By direction dated 1 April 2018, the Mayor set out those matters, for which the Commissioner would require the prior approval of either the Mayor or the Deputy Mayor for Fire and Resilience (the "Deputy Mayor").
29. Clause 2.1 paragraph (a) of Part 2 of the said direction requires the Commissioner to seek the prior approval of the Deputy Mayor before "the acquisition or disposal of any freehold interest in land (including buildings)...".
30. The Deputy Mayor's approval is accordingly required for the Commissioner to dispose of this Site on the basis set out in this Report.
31. The disposal price set out in this Report satisfies the LFC's legal requirement to obtain best consideration on disposal of its assets as required by Section 123 of the Local Government Act 1972.
32. Terms have been negotiated with the owner of the adjacent property due to their status as a special purchaser, being the beneficiary of access restrictions binding this landlocked site. Their initial offer was £400,000 but terms now agreed have set a sale price of £850,000. This exceeds both the market value (£400,000) and the proposed market plus marriage value (£750,000) as advised by LFC estate management consultants Dron and Wright in a Red Book Valuation report.

Sustainability implications

33. As this report is recommending the disposal of an LFC asset with a tenant in situ, there are no future sustainability impacts to consider as this would be the purchaser's responsibility.

Equalities implications

34. The London Fire Commissioner and decision takers are required to have due regard to the Public Sector Equality Duty (s149 of the Equality Act 2010) when exercising our functions and taking decisions.
35. It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.
36. The protected characteristics are: Age, Disability, Gender reassignment, Pregnancy and maternity, Marriage and civil partnership (but only in respect of the requirements to have due regard to the need to eliminate discrimination), Race (ethnic or national origins, colour or nationality), Religion or belief (including lack of belief), Sex, and Sexual orientation.

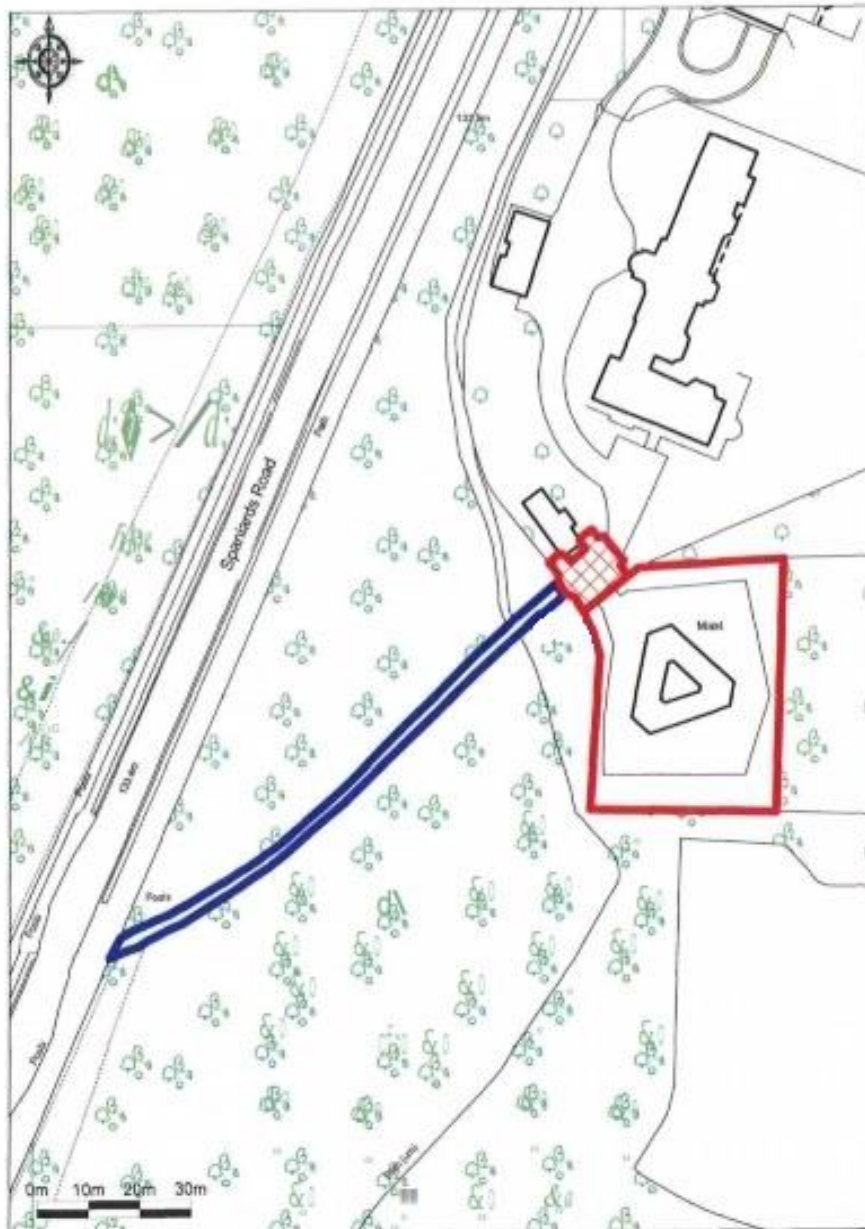
37. The Public Sector Equality Duty requires us, in the exercise of all LFC functions (i.e. everything the LFC does), to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation and other prohibited conduct.
 - (b) Advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it.
 - (c) Foster good relations between people who share a relevant protected characteristic and persons who do not share it.
38. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
39. The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
40. Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
- (a) tackle prejudice, and
 - (b) promote understanding.
41. An Equality Impact Assessment (EIA) has not been undertaken. An EIA was not required as the sale of the freehold property of St Columba radio station is unlikely to have a disproportionately adverse effect on any persons with a particular characteristic.

List of Appendices

Appendix	Title	Protective Marking
1.	Site map of St Columba radio mast showing ownership	None

KEY

Red Outline	LFC Freehold Ownership
Red Hatching	Elms Nominees Freehold Ownership
Blue Outline	Access Track, Rights Granted By City Corporation



St Columba Radio Station, Hampstead Heath
London NW3