



**Cabinet Meeting**  
20 January 2016

**Report from the Strategic  
Director of Regeneration &  
Environment**

For Action

Wards affected  
Dudden Hill  
Harlesden  
Welsh Harp

**Church End Redevelopment Update and Investment  
Proposals**

## 1.0 SUMMARY

- 1.1 The Cabinet decision on 11 March 2013, approved redevelopment plans at the Church End Car Park (the subject site), a site that is in dual ownership between the Council and Catalyst Housing, this report provides an update.
- 1.2 Since approval, the Council has adopted the Strategic Property Plan 2015-19, that sets out a presumption for Brent to retain its limited property assets, utilising them to support regeneration and for income generation, Church End is one of the Borough's five designated growth areas. This report proposes that capital investment be approved to enable Brent to implement the current planning consent, delivering 34 new homes, retail, and a new market square.
- 1.3 The report proposes bringing forward the development of both land parcels (the Council and Catalyst lands) concurrently, thus significantly reducing delivery time, this would require the termination of the existing market arrangement and its replacement through the period of redevelopment by a new facility at Neasden.
- 1.4 A report will be brought forward to Cabinet in March 2016 seeking authorisation for the procurement of a contractor to deliver the scheme.

## 2.0 RECOMMENDATIONS

- 2.1 That Cabinet agree to capital investment of £8.2m, to bring forward the 34 planning consented homes on the Council's portion of the site, comprising 33 flats for sale or rent and 1 affordable home along, with the non-residential floor-space and a market square, subject to resolving planning requirements.

- 2.2 That Cabinet authorise the Strategic Director of Resources in consultation with the Chief Legal Officer and Chief Finance Officer to appropriate the land shown coloured pink and green on the plan in Appendix [1], comprising the Church End Car Park and other land to be acquired by the Council by agreement or compulsory purchase ("the Site") for the planning purposes of facilitating the development or redevelopment of the Site when the Church End Car Park is no longer required for the purposes for which it is held immediately before appropriation pursuant to the provisions of section 122 of the Local Government Act 1972.
- 2.3 That Cabinet agree that: officers will make a submission to the General Purposes Committee, to stop up the paths on the car park site and landscaped area; that Eric Road remains as Public Highway; and that the new market square site will be adopted as Public Highway, as outlined in Appendix 2.
- 2.4 That Cabinet note that Officers are still pursing the CPO and land swap as detailed in the March 2013 Cabinet paper, but that the funding arrangements have changed as outlined in Section 4.
- 2.5 That Cabinet note that the existing Church End market arrangements will be terminated and that a replacement market facility is proposed in Neasden Town Centre, the existing market operator has been informed, following Cabinet approval a consultation exercise will be undertaken with stall holders.

### **3.0 DETAIL**

#### Background

- 3.1 The Church End car park site is split between two owners – the Council (the half to the South-West of Eric Road) and Catalyst Housing Group (Catalyst) (the half to the North-East of Eric Road) as detailed in Appendix 1. On 11<sup>th</sup> March 2013 the Executive agreed to bring forward redevelopment of the Council owned car-park. This included:
1. A land swap with Catalyst;
  2. Compulsory purchase of the land and structure to the rear of 203 Church Road;
  3. Authorising officers to undertake the process of the 'stopping up' of Eric Road;
  4. To dispose of the council owned land to a development partner;
  5. Delegating authority to Directors to set evaluation criteria and assess bids.
- 3.2 In respect of the subject site, in July 2013 full planning permission was granted subject to conditions and the completion of a satisfactory Section 106 agreement for the demolition of 205 Church Road; a new market square to replace Eric Road; the demolition of a 3 storey building to the rear of 203 Church Road; and the development of 34 residential dwellings (see below for mix), and ground floor non-residential space (class A1/A3/B1/D1); and the stopping up of Eric Road.

Type	Square Meter	Number of Units
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1b2p	51	13
2b3p	61 + 63	9 +4
2b4p (WCA)	75	2
2b4p	70 + 74	2 +3
House 3b5p (affordable)	135	1
		34

- 3.3 The application was supported by a financial appraisal which, in the context of the wider regeneration of Church End, indicated that as the development would fund the provision of the re-provided market, only one affordable unit was able to be provided.
- 3.4 In respect of the Catalyst land, in July 2014 full planning permission was granted subject to the completion of a satisfactory Section 106 agreement for the demolition of buildings within 205 and 235 Church Road, redevelopment of section of Church Road car park site to the rear of 207-233 (odds inc.) Church Road to erect a part 2, 3, 4, 5 and 6 storey building containing 65 residential units, 298m<sup>2</sup> (GEA) retail floorspace together with 7 car parking spaces and associated works as revised by plans and details.

#### Capital investment to develop council owned site

- 3.5 The 2013 Executive report identified that the Council would dispose of the Council owned land to a development partner. Since the Executive report, the Cabinet have approved the Strategic Property Plan 2015-19, which proposed that there be a more proactive approach to investment and acquisition by the Council, primarily focussed on land and property for residential purposes, but recognising the need for a balanced portfolio of land uses in order to spread risk. In addition, in response to housing needs, new housing solutions are needed to assist with discharging the Council's homelessness duty and meeting demand, through a private rented sector or alternative solution.
- 3.6 As a result it is proposed that the Council develop the Church End scheme itself, providing an intermediate rent product, whereby rents are set at: 1 bed at 80% of market rent ("MR") and 2 beds at 70% MR as per Brent's rent setting policy, subject to rents not exceeding Local Housing Allowance (LHA) caps. A development financial appraisal summary is at Appendix 3.
- 3.7 If the rents are capped at the LHA levels, or lower rents are provided, the properties can help the Council to meet its housing duties through providing accommodation for homeless families. This could equate to a saving for the Housing Needs budget of between £55p.w. and £136p.w. per unit, or in total, between £94,380 and £233,376 per annum.
- 3.8 It is important that the homes are built to affordable homes standards, in order to provide flexibility to convert homes to a traditional affordable tenure, if that becomes desirable at a point in the future.
- 3.9 In order to bring forward this development, capital investment of £8.2m is required.

## Church End Market

- 3.10 The Church End site is constrained and difficult to develop in practical terms. Regrettably, in order to progress both the Brent and Catalyst development, the current market will need temporarily to cease to operate on the subject site. Through the statutory planning consultation process, that includes local signage, on both Brent and Catalyst land in 2013 and then 2014, market traders would have become aware of plans. Brent has been in direct discussion with the existing market operator, to inform of the proposed termination and relocation opportunity. Following Cabinet approval a consultation exercise will be undertaken with stall holders.
- 3.11 Officers have considered locations for an alternative market during the period of construction, ideally located as close to the current site as possible. The preferred option is for a temporary market to be located on Neasden Lane (as detailed in Appendix 4). The site is preferred as it is the nearest site to Church End where a market could practically be located which is also within a town centre location which should provide footfall for the market traders. The set up costs required are estimated as £11,000. These are included within the overall redevelopment costs of £8.2m.
- 3.12 In respect of the proposed Neasden market, a report was approved by Highways Committee on 20<sup>th</sup> October 2015 which recommended:
- That the Committee authorise the Head of Transportation to undertake in conjunction with Regeneration and Growth, a public consultation with local residents and businesses for road closures in Neasden Lane to facilitate a temporary street market.
  - That the Committee authorises the Head of Transportation to undertake statutory consultation for the necessary Traffic Management Order in parallel with the public consultation, to consider any objections or representations to either consultation, and to implement the necessary signing and road markings or to report back to Highways Committee if objections are substantial.
- 3.13 An operator for the Neasden market would be identified through a marketing campaign. Interested companies would submit their proposals for this opportunity, including considerations that mitigate against environmental concerns, which have been evident at the current market location. The current operator would be able to bid for this opportunity. A Traffic Management Order (TMO) would be required for the closure of Neasden Lane and suspension of parking bays.
- 3.14 As reported to Highways Committee in October 2015, it is currently assumed that a rental income will be derived from the Neasden market, but this amount is not known at present due to the market being a new proposition. As the market will be a street market, there will be a loss of on street parking revenue estimated at £12,200 per annum.

## Appropriation

3.15 In order to provide sensitive re-use and redevelopment within the land, it is considered to be in the public interest that the site be appropriated under Section 122 of the Local Government Act 1972 (“LGA”) for planning purposes.

3.16 This will enable the Council to utilise powers under Section 237 of the LGA to facilitate reuse or redevelopment and proposals that will secure a long term community provision.

3.17 In making a decision as to whether to appropriate land for planning purposes of facilitating development or redevelopment, the following considerations are relevant:

3.17.1. Whether the land is no longer required for the purposes for which it is held immediately before appropriation?

The Church End Car Park Site is surplus to the requirements of the Council and therefore no longer required for the purpose which it is held immediately before the appropriation. The car park site was closed to members of the public on 1<sup>st</sup> of November 2013.

3.17.2. The likely extent of infringement?

The land comprises in part the Church End Car Park and in part land in the ownership of Catalyst, which is proposed to be transferred to the Council under the land swap agreement with Catalyst, and other land comprising the rear of 203 Church Road.

The land is subject to various rights, some of which may pose a risk of enforcement by injunction, thus inhibiting the construction and use of the site for any development, redevelopment, or improvement.

The appropriation and use of Section 237 powers is required with the object of removing this risk and to facilitate the carrying out of any reuse, development, or redevelopment scheme.

3.17.3. Whether appropriation will facilitate the carrying out of development or a redevelopment scheme?

The appropriation will allow for the development which has planning permission subject to informatics, the completion of a satisfactory Section 106, or other legal agreement.

3.17.4. Whether the reuse development or redevelopment scheme will contribute to one or more of the following and thus be in the public interest:

- a) The promotion or improvement of the economic well being of the area?
- b) The promotion or improvement of the social well being of the area?
- c) The promotion or improvement of the environment well being of the area?

The Cabinet is referred to the Planning Committee submissions of 17th July 2013 and associated documents. The development will contribute to the economic, social and environmental well being of the area.

It is considered that the use of Section 237 powers will contribute to the achievement and improvement of the economic well being of the area as a whole and the environmental and social well being of the area.

### 3.17.5. Are the public benefits proportionate to the interference?

Human rights issues arise in respect of the proposed arrangements. Following the introduction of the Human Rights Act 1988, the Council is required to act in accordance with the European Convention on Human Rights (EHRC) in deciding whether or not to implement the arrangements.

However the rights to peaceful enjoyment of possessions is a qualified rather than absolute right as the wording of Article 1 of the Protocol 1 permits the deprivation of an individual's possessions where it is in the public interest and subject to the conditions provided for by law, and Article 8(2) allows for interference which is:

"in accordance with the law and necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the protection of health and morals, or for the protection of the rights and freedoms of others".

- 3.18 There must be a balancing exercise between the public interest and the individual's right whereby any interference in the individual's rights must be necessary and proportionate.

'Proportionate' in this context means the interference must be no more than is necessary to achieve the identified legitimate aim. A 'fair balance' must be struck between the rights of the individual and the rights of the public.

- 3.19 The infringement with the individual's rights is set out in 2 above. Any lawful holder of the benefit of the restriction may have a claim for compensation for the interference or breach of the restriction.

- 3.20 The public benefits arising from the redevelopment are set out therefore, the surplus nature of the site and the planning guidance for its reuse provide support for the appropriation for planning purposes so that it can be reused and redeveloped in the public interest.

- 3.21 It is considered that the public interest in facilitating the development, redevelopment and improvement outweighs the rights of individuals to peaceful enjoyment of their possessions and that the proposed use of Section 237 powers amounts to proportionate interference in all the circumstances.

### Stopping up

- 3.22 Any paths that exist across the car park site and landscaped area, including land to be acquired, will be stopped up with the exception of Eric Road. The previous Cabinet report authorised officers to "stop up" Eric Road but following review by officers it is now proposed that Eric Road will remain Public Highway. This will be reported to the General Purposes Committee.
- 3.23 Following the stopping up of any paths that exist across the car park site and landscaped area, it is proposed that the market square site along Eric Road and to the High Street would all become Public Highway and Members are referred to Appendix 2

#### Acquisition/CPO of rear of 203 Church Road

- 3.24 As reported in the March 2013 Executive Report, premises at the rear of 203 Church Road are required for the development, and the Council is continuing to pursue the acquisition. In line with other such transactions, Brent has a position where it proposes to purchase through agreement but may if necessary call upon the compulsory purchase powers as approved by the Executive. Savills have been appointed to negotiate on behalf of the Council, and an 'in principle' agreement has been reached, subject to contract. Currently the Council is reviewing the detailed implications of separating the premises from the remainder of 203 Church Road.

#### Next steps

- 3.25 The land swap agreement with Catalyst will be finalised and is required for both the Council and Catalyst to build out their sites. The agreement should be signed by March 2016, but is subject to the prior completion of Catalyst's S106 Agreement.
- 3.26 The acquisition of land and buildings at the rear off 203 Church Road is required and the Council has engaged representation to carry this out. This is expected to be completed by March 2016.
- 3.27 Consultation process to be undertaken with market stall holders at Church End and to progress preparations to provide a temporary market at Neasden in summer 2016.
- 3.28 Agree a delivery mechanism with Catalyst across the two sites, and seek cabinet authorisation for the necessary procurement arrangements by April 2016, to include provision for formal resident/shop keeper consultation before commencement of any works.
- 3.29 The Council will appropriate the site as discussed above by summer 2016.
- 3.30 Officers will make a submission to the General Purposes Committee (to be confirmed) to stop up the paths across the car park site and landscaped area as discussed above by Summer 2016.

3.31 The management options for the scheme will be developed, and a report bought to Cabinet, in advance of the construction contractor starting on site (date to be determined).

3.32 Church End is one of Brent's deprived neighbourhoods, it would benefit from a community shop, working with Catalyst, Brent will review if the proposed retail space on both sites is suitable for such use and any opportunity would be marketed at the appropriate time.

3.33 The above dates maybe subject to change.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 The scheme costs for delivery of the preferred option are forecast to be £8.2m to build out the scheme with no external grant, as per the attached financial appraisal summary (Appendix 3). The Council could seek to get grant into the scheme by converting the homes to affordable housing. This will be subject to Cabinet agreement to bid for grant beyond the GLA's 2015/18 programme. It is noteworthy that this will result in the investment performance worsening (with payback delayed), as the grant will result in lower rents.
- 4.2 The capital programme currently includes the sum of £991k for this scheme predominantly associated with the costs of CPO and the new market square. This sum is funded from the capital receipt that was previously to be arising from the sale of the land. These costs are within the development appraisal.
- 4.3 In order to fund the costs of the preferred option for delivery it will be necessary for the Council to undertake additional borrowing of £8.2m. The financial appraisal model assumes an interest rate of 4% for borrowing (see Appendix 3).
- 4.4 The financial appraisal demonstrates that borrowing costs associated with the development cost can be met from rental income net of management costs, maintenance and void allowances. However, during scheme construction the Council will have to meet debt costs associated with the development, until the rental stream from the new properties becomes available.
- 4.5 Under the proposed scheme the Council will have ownership of the newly constructed properties on the Council's land. If there was a requirement for early repayment of the scheme costs, this could be met through the sale of properties.
- 4.6 The capital programme currently includes provision for a £650k capital receipt associated with the previously assumed land sale. This has been factored into the development financial appraisal.
- 4.7 The Council currently derives a rent of £15k per annum from its section of the Church End car park used for the market. It is assumed that a rental income will be derived from the alternative temporary market. It is difficult to estimate this at this stage due to it being a new proposition, and a marketing exercise

will determine the value. The annual loss of parking income is estimated at £12,200 per annum.

- 4.8 With the exception of costs to build the new market square at Church End (£357,500), payments due under planning requirements will be negligible, and costs are included in the development appraisal.
- 4.9 Using the properties to help the Council to meet its housing duties through providing accommodation for homeless families could equate to a saving of between £55p.w. and £136p.w. per unit to the Housing Needs budget, equating to an annual saving of between £94,380 and £233,376 for the 33 new homes.

## **5.0 LEGAL IMPLICATIONS**

### Appropriation

- 5.1 The Council can appropriate land under section 122 Local Government Act 1972 which states the following:

"A principal Council may appropriate for any purpose for which the Council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the Council and is no longer required for the purpose for which it is held immediately before the appropriation".

- 5.2 The purposes for which land may be acquired are defined in Section 226(1) Town & Country Planning Act 1990 as follows:
  - (a) If the authority thinks that the acquisition will facilitate the carrying out of development/redevelopment or improvement on or in relation to the land; or
  - (b) If the land is required for a purpose which it is necessary to achieve in the interests of proper planning of an area in which the land is situated.
- 5.3 In this case, the purposes fall within the ambit of section 226(1)(a) as the carrying out of the redevelopment of the site would be facilitated as described in this report.
- 5.4 A local authority must not exercise the power under paragraph (a) unless they think that the development, redevelopment or improvement is likely to contribute to the achievement or the promotion or improvement of one or more of the following objects (namely) the economic, social or environmental well-being of their area.
- 5.5 Under Section 237 of the Town & Country Planning Act 1990 the erection, construction or carrying out or maintenance of any building or work on land or the use of any land which has been acquired or acquired or appropriated by a local authority for planning purposes (whether done by the local authority or by a person deriving title under them) is authorised by virtue of this section if it is done in accordance with planning permission, notwithstanding that it involves interference with an interest or right to which this section applies. The

appropriation will be subject (if applicable) to the payment of compensation in respect of third party interests or rights interfered with.

- 5.6 The land must no longer be required for the purpose for which it is held immediately before appropriation. Once the appropriation is effected, the appropriated land will be held for planning purposes.

#### Ownership and Renting of Units

- 5.7 Unless the completed units are sold onto a Registered Provider or funded through the Housing Revenue Account, the units can not be classified as affordable rent, although the Council can set rent levels similar to affordable rent levels and can utilise these as intermediate products.
- 5.8 The Council cannot be the landlord of properties for market rent or intermediate rent unless non secure tenancies are granted.
- 5.9 If the Council wishes to grant secure tenancies in respect of these units it should be possible to arrange for the land to be transferred to the Council's Housing Revenue Account. The Council is considering options of setting up an investment vehicle which could be used for this purpose.
- 5.10 However, if the plan is for the Council to grant secure tenancies for these properties outside the Housing Revenue Account and in the Council's General Fund, this will require the consent of the Secretary of State to hold the properties outside the Housing Revenue Account (pursuant to section 74 of the Local Government and Housing Act 1989). This would not be a straightforward process and there are limited examples where this has occurred.

#### **6.0 EQUALITY AND DIVERSITY IMPLICATIONS**

- 6.1 The market relocation will negatively impact market users in Church End that are young, old, disabled or pregnant with young children. Although by contrast it will have a positive impact for people that live near Neasden.
- 6.2 Marketing the proposed new market in Neasden will have a negative impact on the existing market operator and traders in Church End. However the operator can bid for the new market in Neasden. The competitive process will be open to all. It will test for outcomes and social impact, and through the competitive process will provide for the best possible outcome for local people in both Church End and Neasden, creating new opportunities for traders (although this may not be the existing traders). Moving the market today will enable delivery of much needed new homes over a shortened period of time.
- 6.3 Having a form of joint working with Catalyst on the build will provide that both Brent and Catalyst's sites can be built out at the same time, possibly with the contractor's site compound sitting on Eric Road (subject to contractors confirmation).
- 6.4 Delivery of the new homes will have a positive impact on people in housing need. A market site and improved public realm will have a positive impact on

the wider local community. Regeneration will provide for new investment in an area where it is much needed. The investment will provide opportunities for young people and those in employment to access training, apprenticeships and opportunities for jobs while the construction phase is underway. There is a benefit of combining both sites as it will provide for quantum and continuity. New retail units will provide opportunities for businesses.

- 6.5 The positives of redevelopment far out weigh any negative impacts and these will primarily be only temporary with a mitigation plan proposed. See appendix 5 for the full equality analysis.

## **7.0 STAFFING/ACCOMMODATION IMPLICATIONS**

- 7.1 There are no staffing or accommodation implications for Council employees.
- 7.2 There are staffing and accommodation implications for the exiting market operator and traders. As a result of the development the current Church End market will cease to operate. A temporary market will be established at Neasden although this opportunity will be advertised.

## **8.0 ADDITIONAL INFORMATION**

Appendix 1. Subject site

Appendix 2. Highway Arrangements

Appendix 3. Financial Appraisal

Appendix 4. Temporary Market Location at Neasden Lane

Appendix 5. Equality Analysis

## **9.0 Background Papers**

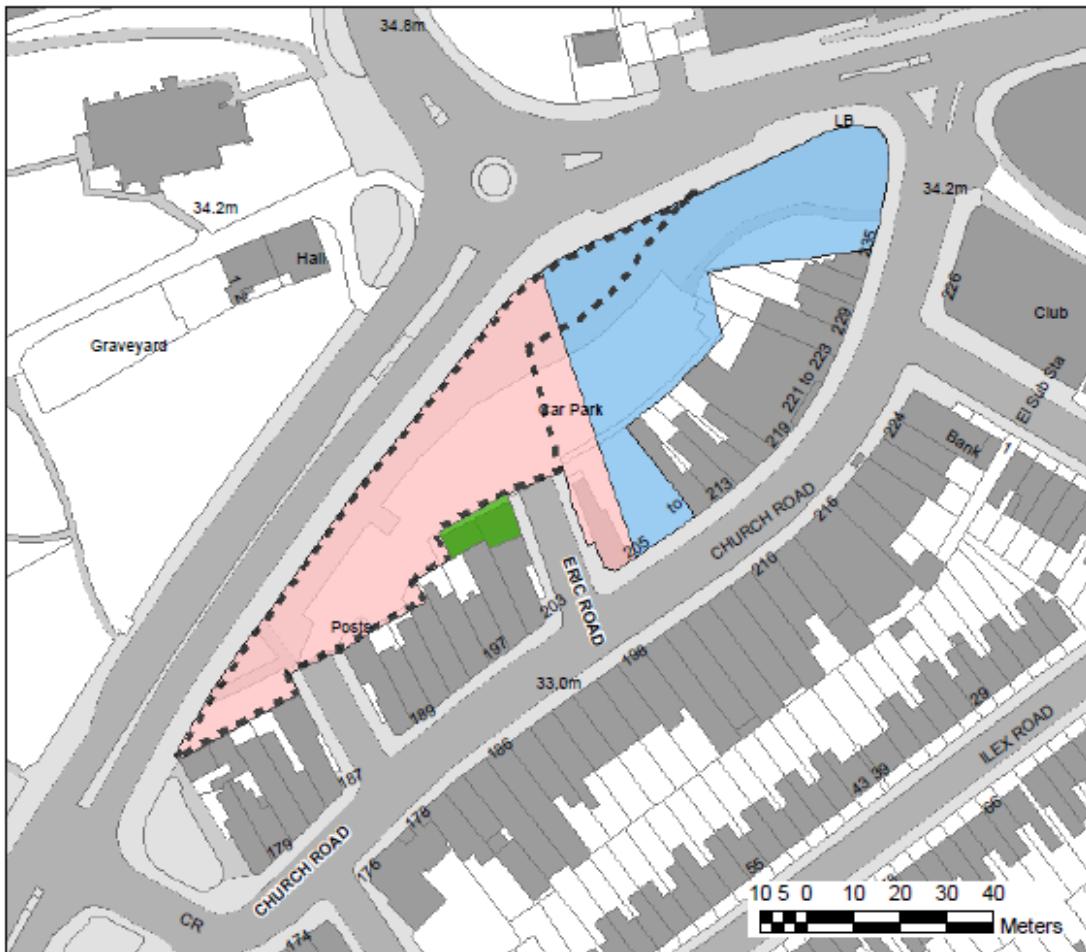
1. 11th March 2013 Church-End Car Park Redevelopment, Executive.
2. 17 July 2013 planning consent subject to legal agreement – application number 13/1098 full planning permission in respect of 205, 205A, 205B and Church Road car park rear of 189-203 Church Road, London NW10 9EP and the proposal for demolition of 205 Church Road and proposal for a new market square to replace Eric Road. Demolition of a 3 story building to the rear of 203 Church Road and proposal of 34 residential dwellings and ground floor non-residential space (class A1/A3/B1/D1). Stopping up of Eric Road as revised by plans.
3. 29 August 2013 CHG registered planning application, application number 13/2213.
4. 20<sup>th</sup> October 2015 Neasden Town Centre – Road Closure for Street Market, Highways Committee

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### **Strategic Director of Regeneration & Environment**

# Appendix 1 Redevelopment Site, Church Road Car Park, rear of 189-203, Church Road, London NW10



CPO Land



Land to be Appropriated



Current Ownership



Catalyst Development Site



Brent

1:1,250

Plan to stated scale if printed at A4.

NORTH



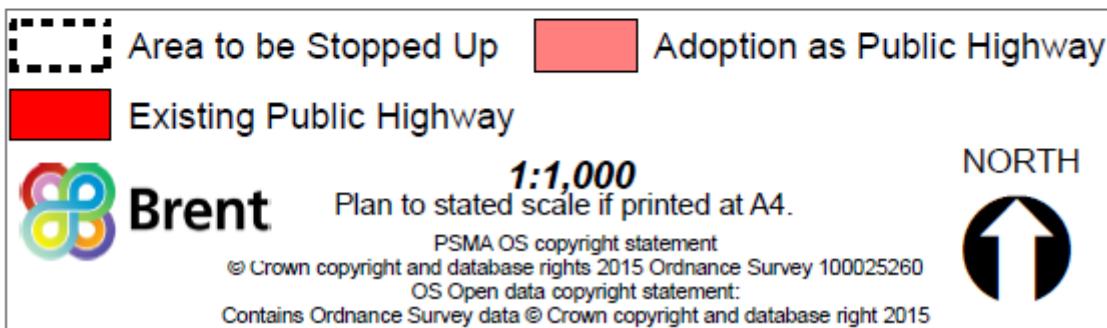
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## Redevelopment Site, Church Road Car Park, rear of 189-203, Church Road, London NW10 Highway Arrangements.



### Appendix 3: Financial Appraisal

The (feasibility) investment appraisal was run in August 2015, a range of options and sensitivities were considered and the final scenarios considered were:

- Market Rent
- Affordable Rent
- LHA Rent Cap (Intermediate Option)

The preferred option as outlined in the report is for the Intermediate option. The Total Scheme Costs for the preferred option is £8,175,216; the Gross Development Value is £9,533,714.

	Loan Repaid	NPV at First Handover	IRR	TSC/MSV	Loan at Handover from Development Cashflow Yr1	Closing Loan Yr 1	Closing Loan Yr 30
Intermediate	32	290,699	3.77	85.75	8,175,216	8,098,182	765,813

Reinstatement costs have not been included at the end of 30 years but assuming £30,000 per unit the cost at todays prices would be £1,020,000

Table below shows the rent and sale assumptions

Type	Intermediate Option	50% Market Rent
1b2p	260.64	
2b (3 or 4P)	302.33	
3b5p	531	265.5

For the flat rental prices, the LHA rent figures are as per the post code. Higher rental values have been used for the 3 bed house (affordable property) as this will be 50% of market value.

Commercial

The new commercial space has been included as one space in the appraisal for build cost assumptions. The new market square has been included as a lump sum build cost. The rent has been included for both the commercial units and the market square as a single figure at £43,200 per annum.

The values assumed, will need to be confirmed by a suitably qualified RICS chartered surveyor, independent from the Council, the investment approval is intended to create a financial costs and revenue income envelope, for project delivery.

# Market Site, Neasden Lane, London, NW10



Market Site Potential Market Trader Parking



Brent

1:1,250

Plan to stated scale if printed at A4.

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