



**Executive**  
15 November 2010

**Report from the Director of  
Regeneration and Major Projects and  
Director of Housing and Community  
Care**

Wards Affected:  
Kilburn, Queens Park

**South Kilburn Regeneration Acquisition of Additional Land**

**1.0 Summary**

1.1 This report provides an update of progress of the regeneration of South Kilburn since the Report to the Executive meeting on 23<sup>rd</sup> June 2010. It also seeks member's decisions for a range of items in order to progress the regeneration objectives for the South Kilburn estate.

It seeks approval to:

- (a) proceed with Compulsory Purchase of all interests (inclusive of freehold interests) in land in addition to the leasehold interests mentioned in the Report on 23<sup>rd</sup> June 2010 necessary to facilitate the delivery of the South Kilburn Regeneration Phase 1;
- (b) the serving of demolition notices in respect of the blocks on the South Kilburn estate which the Council plan to demolish;
- (c) applying to the Secretary of State to rely on Ground 10A of Schedule 2 of the Housing Act 1985 to cover Bronte House, Fielding House and Wood House in addition to Bond House, Cambridge Court, Ely Court, Hicks Bolton House and Wells Court approved on 23<sup>rd</sup> June 2010 on the South Kilburn estate; and
- (d) the appropriation of land for planning purposes where applicable.

**2.0 Recommendations**

- 2.1 That Members note progress of regeneration and the clarifications to the phasing plan for the regeneration of the South Kilburn estate, and that work is proceeding to update this phasing plan.
- 2.2 That Members authorise the immediate cessation of permanent lettings on the properties at Bond House, Cambridge Court, Ely Court, Bronte House, Fielding House, Hicks Bolton House, Wells Court and Wood House.
- 2.3 That Members authorise the service of demolition notices in relation to secure tenancies at Bond House, Bronte House, Cambridge Court, Ely Court, Fielding House, Hicks Bolton House, Wells Court and Wood House, which are all on the South Kilburn estate, and authorise the Director of Housing and Community Care to issue all and any notices required to be issued in connection with such demolition.
- 2.4 That Members authorise the Director of Housing and Community Care to carry out the prescribed statutory consultation procedure and seek the Secretary of State's consent to the phased disposal and redevelopment of Bronte House, Fielding House, Wells Court and Wood House in addition to the Phase 1 sites on the South Kilburn estate referred to in paragraph 3.26 of this report for the purposes of Ground 10A of Schedule 2 to the Housing Act 1985 to enable the Council to apply for a court order to obtain vacant possession of those residential dwellings let under secure tenancies.
- 2.5 That Members authorise:
  - (a) the making of compulsory purchase orders (the CPO's) to acquire all interests and rights in the properties listed in appendix 1 [and otherwise comprised in the land edged in bold black and hatched on the draft Plan headed [the Map Referred to in the London Borough of Brent South Kilburn Regeneration Compulsory Purchase Order 2010-11] inclusive of the leasehold interests set out on Appendix 2 to the Report to the Executive meeting on 23<sup>rd</sup> June 2010 being interests in the South Kilburn estate which properties are referred to hereafter as "the CPO Land" under section 226 (1)(a) of the Town and Country Planning Act 1990 and any new rights in the CPO Land which may be required under section 13 of the Local Government (Miscellaneous Provisions) Act 1976.
  - (b) the Director of Housing and Community Care in consultation with the Director of Legal and Procurement to include in the Compulsory Purchase Orders authorised by the Executive on 23<sup>rd</sup> June 2010 and at this Executive meeting such other additional interests and rights as are disclosed during the land referencing exercise which the Director of Regeneration and Major Projects in consultation with the Director of Housing and Community Care and the Director of Legal and Procurement deem it necessary to facilitate the delivery of the South Kilburn Regeneration Phase 1
- 2.6 That Members authorise the submissions of the CPOs, once made, to the Secretary of State for confirmation whilst at the same time seeking to acquire

the land by private negotiated treaty on such terms as may be agreed by the Director of Housing and Community Care.

2.7 That Members authorise the:

- 2.7.1 Director of Housing and Community Care to enter into agreements and make undertakings on behalf of the Council with the holders of interests in the CPO Land or parties otherwise affected by the Scheme setting out the terms for the withdrawal of their objections to the confirmation of the CPOs and including the offering back of any part of the CPO Land not required by the Council after the completion of the development or the acquisition of rights over the CPO Land in place of freehold acquisition, where such agreements are appropriate;
- 2.7.2 Making of one or more general vesting declarations or service of Notices to Treat and Notices of Entry (as appropriate) pursuant to the Compulsory Purchase (Vesting Declarations) Act 1981 and the Compulsory Purchase Act 1965 respectively should the CPOs be confirmed by the Secretary of State;
- 2.7.3 Service of all requisite notices on the holders of the CPO Land including rights in the CPO Land relating to the making and confirmation of the CPOs;
- 2.7.4 Director of Housing and Community Care to remove from the CPOs any plot (or interest therein) no longer required to be acquired compulsorily for the scheme to proceed and to amend the interests scheduled in the CPOs (if so advised) and to alter the nature of the proposed acquisition from an acquisition of existing property interests to an acquisition of new rights (if so advised);
- 2.7.5 Director of Housing and Community Care within the defined boundary of the CPO Land, to acquire land and/or new rights by agreement either in advance of the confirmation of compulsory purchase powers, if so advised, or following the confirmation of compulsory powers by the Secretary of State;
- 2.7.6 Director of Housing and Community Care, if so advised, to seek to acquire for the Council by agreement any interest in land wholly or partly within the limits of the CPO Land for which a blight notice has been validly served.

2.8 That Members authorise the Director of Housing and Community Care (in conjunction with the Director of Legal and Procurement) to seek the consent of the Secretary of State under Section 19 of the Housing Act 1985 (where applicable) to the appropriation of housing land for planning purposes.

2.9 The Members authorise the Director of Housing and Community Care (where the Director of Housing and Community Care in conjunction with the Director

of Legal and Procurement consider applicable) to commence and comply with the procedure as set out in section 122(2A) of the Local Government Act 1972 by publishing a public notice in the local newspaper on two consecutive publication dates of the Council's intention to appropriate public open space in the South Kilburn estate to planning purpose and in particular to consider any objections made to the appropriation, and unless there are objections received which in his opinion are significant, to implement the proposed appropriation. If such objections are received then a further report should be brought back to the Executive for consideration.

### **3.0 Detail**

#### Overview

- 3.1 At the meeting of the Executive on 23<sup>rd</sup> June 2010, members approved the preparation of detailed planning applications for the remaining phase 1 sites at Cambridge Court, Wells Court, Ely Court, Bond House and Hicks Bolton House to provide (alongside housing for market sale) decant accommodation for tenants currently residing within blocks identified for redevelopment. This work is now being progressed with planning applications expected to be submitted around December 2010. These sites are all within phase 1 of the regeneration. The phasing plan is to be updated to reflect these clarifications.
- 3.2 At the Executive meeting of 14<sup>th</sup> July 2009, members noted the proposed draft master plan outlining Wells Court to be redeveloped in phase 1. Wood House was previously considered within phase 3, but is now included within phase 1. Wells Court will be redeveloped alongside Cambridge Court, while the demolition of Wood House will be brought forward as Bond House and Hicks Bolton House are redeveloped. For the avoidance of doubt, sites now coming forward within phase 1 are:
- Former Marshall House, Albert Road (11a) – currently under construction
  - Carlton Vale Roundabout, (3c) – new development expected to commence Autumn 2011
  - Bond House (13n) – planning application expected January 2011
  - Hicks Bolton House (13s) – planning application expected January 2011
  - Wood House (12N) – demolition to be included within application for Bond House and Hicks Bolton House
  - Cambridge Court (6i) – planning application expected December 2010
  - Wells Court (6d) – planning application expected December 2010
  - Ely Court (6iii & 6iv) – planning application expected December 2010
  - Former Texaco Garage, Carlton Vale – currently under construction

- Gordon House – currently under construction

- 3.3 Alongside planning and design work relating to particular sites, the Council has also embarked on projects that consider the quality of the public realm and neighbourhood management, and the optimum level locations of resident car parking.
- 3.4 In addition to design concurrent work-streams have also been progressing in relation to the acquisition of leasehold flats and where appropriate freehold property and decanting of council tenants to new homes within the phase 1 development sites.

#### Acquisition of property

- 3.5 To acquire property, negotiations have progressed with leaseholders and at the time of writing, the council has completed the acquisition of 2 leasehold flats and has exchanged contracts for the acquisition of 2 leasehold flats while a further 5 have sales agreed. A further 5 continue to be negotiated.
- 3.6 As a backup position, the council is preparing a Compulsory Purchase Order should negotiations not be successful. The Executive agreed to proceed with the preparation of a Compulsory Purchase Order for leasehold properties at the meeting of 23<sup>rd</sup> June 2010. The relevant leasehold properties are listed in Appendix 1 and identified on the CPO Plans at Appendix 2.
- 3.7 Requisition notices requesting information in respect of the properties have now been served on all known interests in these properties. Requisition notices requesting information will be served in respect of the additional properties listed in the Appendix 1 and identified on the CPO Plans at Appendix 2.
- 3.8 In addition to leasehold interests, the council also requires the acquisition of freehold property interests and third party rights over property to complete phase 1 of the South Kilburn regeneration.
- 3.9 These freehold interests include the convenience store of 1 – 2 Denmark Road which is required for the redevelopment of Bond House and a section of land currently owned by the Kosova Islamic Centre UK at the former Shamrock Public House which is required to reconnect Rupert Road with Carlton Vale and Canterbury Road. Part of the vision for regenerating South Kilburn is to restore a traditional and legible street pattern across the estate, therefore moving away from a series of culs-de sac and dead ends.
- 3.10 The reconnection of Rupert Road with Canterbury Road and Carlton Vale is required to provide circulation, access and on street car parking for the phase 1 redevelopment of Bond House and Hicks Bolton House. Secondary requirements are that development sites within phase 2 are able to go ahead at Peel Precinct with Canterbury Road connected to Carlton Vale, and the

identified delivery vehicle for the re-connection is the Hicks Bolton House and Bond House development within phase 1.

- 3.11 The Council wish to acquire the freehold interest in a parcel of land between the existing Wells Court building and the office building known as number 3 Cambridge Avenue, The land is required within phase 1 of the regeneration of the estate to provide parking spaces as required by planning policy for the redevelopment of the Cambridge Court and Wells Court site.
- 3.12 The Council wish to acquire the freehold interest in a parcel of land between Kilburn Park Station and the existing building of numbers 17 to 24 Cambridge Court. The land is required to provide pedestrian access from Cambridge Avenue to new mews types homes that would otherwise only be accessible from Alpha Place being delivered as part of the Cambridge Court and Wells Court.
- 3.13 Discussions with the freeholders regarding the acquisition of these interests are by negotiated treaty. These negotiations are ongoing and will continue but as a fallback position, the council requires Executive approval to include these freehold interests within the Compulsory Purchase Order.
- 3.14 In addition the Council wish as part of the compulsory purchase to extinguish various generic rights granted over the South Kilburn estate which may exist over the amenity land forming part of phase 1 as part of the re-configuring of the estate and development of open spaces.
- 3.15 The Compulsory Purchase Order shall also include areas of public highway and other small areas of land within phase 1 which the Council has historically occupied but to which there is no clear title. It is likely that title to such areas may be successfully registered at the Land Registry through the use of statutory declarations recording the Council's long term use and occupation, but in the event that this is unsuccessful the Compulsory Purchase Order will provide reassurance that control of these areas can be gained. These areas of public highway are required within phase 1 as they are required for access into phase 1 development sites. The routes and points of ingress and egress will be altered by the design of new development within phase 1.

#### Withdrawal of right to buy/demolition notices

- 3.16 Former Marshall House, Carlton Vale roundabout, former Texaco Garage and Gordon House within phase 1 of the regeneration will provide accommodation that can be offered to council tenants that currently live in Bond House, Cambridge Court, Ely Court, Hicks Bolton House, Wells Court, Wood House and Bronte House and Fielding House. The transfer of the tenants is subject to permission being granted by the Secretary of State on Ground 10A of Schedule 2 to the Housing Act 1985.
- 3.17 Members are therefore asked to authorise the cessation of permanent lettings in blocks listed in 3.16 on the South Kilburn Estate and also withdraw the provision of right to buy from existing tenants on a number of blocks on the

South Kilburn Estate upon the Council serving demolition notices. The blocks on the South Kilburn estate where the Council seeks the authorisation of the Executive to cease permanent lettings and serve demolition notices are the properties where there are secure tenants at Bond House, Cambridge Court, Ely Court, Fielding House, Hicks Bolton House, Wells Court and Wood House.

- 3.18 Initial Demolition notices will need to be served on secure tenants in accordance with the provisions of Section 138A and Schedule 5A of the Housing Act 1985 as amended by the Housing Act 2004 to prevent the Council from having to complete Right to Buy sales. Schedule 5A sets out what must be included in the Initial Demolition Notice, including the intention to demolish, the reasons for demolition and identifying the period within which the landlord intends to demolish.
- 3.19 The period set out in the notice to carry out the demolition works must be more than reasonable to carry out the proposed demolition of the relevant properties or in any case not expire more than five years after the date of service of the notice.
- 3.20 In the case of Wood House, this site will be the location of the energy centre that will provide the apparatus for the district wide heating system for phase 1 sites at Albert Road, Bond House, Hicks Bolton House, Cambridge Court and Wells Court and Ely Court. These phase 1 sites will be delivered with infrastructure that is ready to “plug in” to the energy centre. The site has also been identified as a new urban park that is required to provide open space for new developments within South Kilburn, including the additional population generated by phase 1 sites.
- 3.21 As part of the redevelopment of Bond House and Hicks Bolton house within phase 1, Rupert Road, that sits adjacent to Wood House, will be widened and realigned to accommodate new car parking spaces and an improved street and the re-connection of Rupert Road with Carlton Vale and Canterbury Road.

#### Appropriation of land for planning purposes

- 3.22 There may be issues predominately centred around areas of old title encumbrances and generic rights granted over the South Kilburn estate under the disposals of Council housing which could be infringed by the re-configuring of the estate and development of open spaces. Some of the encumbrances are unspecified encumbrances because they are either not registered or have been mislaid by the Land Registry or are lost deeds.
- 3.23 To obtain indemnity insurance, an insurer will often want the relevant land to be hoarded for a significant period of time and require associated statutory declarations. Furthermore, the insurers may not even insure in the first place if the risk of a leaseholder claim is too high. An insurance policy would only deal with one site at a time and, should any insurer refuse to quote for a policy or require further conditions to be satisfied prior to insuring, any site relying on this could be delayed.
- 3.24 As an alternative a Council wishing to dispose of land for development

purposes, may decide to appropriate the land under Section 122 of the Local Government Act 1972 to planning purposes pursuant to Section 237 of the Town and Country Planning Act 1990 as amended (subject to the payment of compensation if applicable). Any appropriation will be undertaken if required or applicable.

- 3.25 In respect of any appropriation of land comprising a dwelling or part of a dwelling inclusive of rights over Council amenity land the Council will in addition need the prior consent of the Secretary of State under Section 19 of the Housing Act 1985.

#### Use of Ground 10A of Schedule 2 to the Housing Act 1985 to obtain vacant possession of the South Kilburn properties

- 3.26 At its meeting of 23 June 2010, the Executive authorised the Director of Housing and Community Care to seek the Secretary of State's consent to the disposal and development of phase 1 sites on the South Kilburn estate for the purposes of Ground 10A of Schedule 2 to the Housing Act 1985. At the time of June 2010, Cambridge Court, Wells Court, Hicks Bolton House, Bond House and Ely Court were and still are phase 1 sites. As Bronte House and Fielding House are phase 2 sites and as Wells Court and Wood House have only recently been named as phase 1 sites on the regeneration project involving the South Kilburn estate, authorisation is sought from the Executive to enable the Director of Housing and Community Care to apply to the Secretary of State for consent to the disposal and development of Bronte House, Fielding House, Wells Court and Wood House for the purposes of Ground 10A of Schedule 2 to the Housing Act 1985 in addition to the above-mentioned phase 1 sites on the South Kilburn estate.

## **4.0 Legal Implications**

### ***Compulsory Purchase Orders***

- 4.13 The Council has power to make a compulsory purchase order under section 226 (1)(a) of the Town and Country Planning Act 1990 if it thinks that the acquisition will "facilitate the carrying out of development, redevelopment or improvement or in relation to the land". Under section 226(1)(A) the Council must not exercise the power under sub paragraph (a) unless it thinks that the development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objects – (a) the promotion or improvement of the economic wellbeing of their area; (b) the promotion or improvement of the social wellbeing of their area; (c) the promotion or improvement of the environmental wellbeing of their area.
- 4.14 Compulsory purchase orders must only be made if the Council is satisfied that there is a compelling public interest to do so. Para. 17 of Part 1 of the Memorandum to ODPM Circular 06/04 states:

*"A compulsory purchase order should only be made where there is a compelling case in the public interest. An acquiring authority should be sure*



*that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention.”*

For the reasons set out in this report and the report to the Executive meeting on 23<sup>rd</sup> June 2010, it is considered that there is such a compelling case for properties within Phase 1 of the proposed regeneration programme and that the public interest requires that the order be made in order to carry through the necessary redevelopment of the CPO Land.

- 4.15 Further, in making the order there should be no impediments to its eventual implementation. Para’s 22 and 23 of Part 1 of the Memorandum to ODPM Circular 06/04 advise (in part):

*“22. In demonstrating that there is a reasonable prospect of the scheme going ahead, the acquiring authority will also need to be able to show that it is unlikely to be blocked by any impediments to implementation. In addition to potential financial impediments, physical and legal factors need to be taken into account. These include the programming of any infrastructure accommodation works or remedial work which may be required, and any need for planning permission or other consent or license. Where planning permission will be required for the scheme, and has not been granted, there should be no obvious reason why it might be withheld...”*

Members will note that there will be sufficient funds available to meet the compensation costs for the acquisition of the land as South Kilburn Partnership has approval from Government Office for London, as well as funds secured from previous land receipts. Officers consider that there is a reasonable prospect of the Scheme going ahead subject to HCA funding being obtained. Whilst planning permission has not been granted for the development, it is considered that there is no obvious reason why it might be withheld, taking into account that a Masterplan has already been approved albeit that it is now intended to revise this slightly. Accordingly, it is considered that there are unlikely to be any impediments to implementation.

- 4.16 It is necessary to consider the human rights implications of making CPOs. The Convention Rights applicable to the making of any CPO orders are Articles, 6 and 8 and Articles 1 of the First Protocol. The position is summarised in para. 17 of Part 1 of the Memorandum to ODPM Circular 06/04.

- 4.17 Article 6 provides that:

*“In determining his civil rights and obligations...everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”*

- 4.18 Consultation has already taken place with communities that will be affected

by any orders made, and further consultation is proposed as set out in this report.

4.19 All those affected by the Orders will be informed and will have the right to make representations to the Secretary of State and to be heard at a Public Inquiry. Those directly affected by the Order will also be entitled to compensation for any losses that they may incur as a result of the acquisition.

4.20 Article 1 of the First Protocol states that:

*“Every natural or legal person is entitled to peaceful enjoyment of his possessions” and “(n)o one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law....”*

4.21 Whilst occupiers and owners will be deprived of their property if an Order is confirmed, this will be done in accordance with the law. It is being done in the public interest as required by Article 1 of the First Protocol. The reasons for this are set out in this Report and the Report to the Executive meeting on 23<sup>rd</sup> June 2010

4.22 Members need to ensure that there is a reasonable prospect of the Scheme underpinning the CPO proceeding. This is addressed in paragraph 5.10 below

4.23 The consequences of abandoning a confirmed CPO depends on:

- (a) whether a notice to treat or entry has been served on the owner of the land or not; and
- (b) whether the Council has entered the land following the service of the notice or made a General Vesting Declaration in respect of the land.

4.24 The passing of a resolution to make a CPO does not trigger the right to serve a blight notice. However, residential occupiers could claim blight after a CPO has been submitted to the Secretary of State for confirmation and notices have been served on owners and occupiers.

4.25 If the CPO is not acted upon at all, then no compensation is payable. Where notice to treat and entry have been served, and then not acted upon, the Council is under an obligation to inform the owner of the withdrawal of the notices or expiry as the case may be (as notice to treat has a life span of three years from date of service) and will be liable to pay compensation to the owner for all losses and expenses occasioned to him by the giving of the notice and its ceasing to have effect. The amount of compensation shall in default of agreement be assessed by the Lands Tribunal. Interest is payable on the compensation.

- 4.26 The acquisition procedure is governed by the Acquisition of Land Act 1981, the Compulsory Purchase of Land Regulations 2004 and the Compulsory Purchase of Land (Vesting Declarations) Regulations 1990.
- 4.27 The CPO must be advertised locally and copies served on any owners, lessees, tenants (whatever the tenancy period), occupiers, all persons interested in, or having power to sell and convey or release, the land subject to the CPO. In addition the CPO must be served on persons whose land is not acquired under the CPO but nevertheless may have a claim for injurious affection under Section 10 of the Compulsory Purchase Act 1965, such as owners of rights of access to and from the public highway, easements and covenants that are affected by the CPO. Officers will prepare a detailed Statement of Reasons setting out the justification for compulsory acquisition. This statement will cover all the issues set out in this Report and the Report to the Executive meeting on 23<sup>rd</sup> June 2010
- 4.28 If any duly made objections are not withdrawn, the Secretary of State must hold an Inquiry and consider the conclusions and recommendations of the Inspector before confirming the Order.
- 4.29 Before and during the compulsory acquisition process, the Council is expected to continue the process of seeking to acquire the properties sought by negotiation and private agreement: see Part 1 of the Memorandum to Circular 06/04 Paras. 24 and 25. Para. 25 notes that “undertaking informal negotiations in parallel with making preparations for a compulsory purchase order can help to build up a good working relationship with those whose interests are affected by showing that the authority is willing to be open and to treat their concerns with respect...”.
- 4.30 Any dispute as to the amount of compensation to be paid is referred to the Lands Tribunal for determination.

#### ***Appropriation of land for planning purposes***

- 4.31 Section 122 of the Local Government Act 1972 provides that a principal Council may appropriate for any purpose for which the Council are authorised to acquire by agreement land which belongs to the Council and is no longer required for the purpose for which it is held immediately before the appropriation.
- 4.32 Appropriation is subject to third party rights over the land and in respect of the South Kilburn Estate as it is housing land the prior consent of the Secretary of State under Section 19 of the Housing Act 1985, if the appropriation includes land on which dwellings have been built or land over which owners or occupiers of dwellings have rights.
- 4.33 Section 237 of the Town and Country Planning Act 1990 provides where land has been appropriated for planning purposes any easements such as rights of way which may exist for the benefit of third parties are overridden on erection, construction or carrying out of maintenance of any building and

change of use in accordance with planning permission, subject to payment of any compensation. The practical effect is that any rights which may exist do not delay or obstruct the development. This provides effective assurance to the developer that he will have a good title to the land.

- 4.34 The land must no longer be required for the purpose for which it is held immediately before appropriation. This test will be satisfied by deferring the date of the appropriation to a time when it is clear that the scheme will proceed. Once the appropriation is effected, the appropriated land will be held for planning purposes.

### ***Withdrawal of Right to Buy / Demolition Notices***

- 4.35 Initial Demolition Notices need to be served on secure tenants in accordance with the provisions of Section 138A and Schedule 5A of the Housing Act 1985 as amended by the Housing Act 2004 to prevent the Council from having to complete right to buy sales. Schedule 5A sets out what must be included in the Initial Demolition Notice, including the intention to demolish, the reasons for demolition and identifying the period within which the landlord intends to demolish. The period set out in the notice to carry out the demolition works must be more than reasonable to carry out the proposed demolition of the relevant properties or in any case not expire more than five years after the date of service of the notice.

### ***Ground 10a of Schedule 2 to the Housing Act 1985***

- 4.35 The Council is required to obtain the approval of the redevelopment scheme from the Secretary when seeking to re-house secure tenants who will not leave the properties that are due to be demolished. Before seeking approval, the Council is required to consult with tenants. Approval from the Secretary of State will enable to Council to use Ground 10A of Schedule 2 to the Housing Act 1985. The paragraph states that the landlord must first:

(a) serve a notice in writing on all secure tenants whose dwellings are affected by the scheme, stating: the main features of the scheme (or the scheme as it will be after a proposed variation to it); that the Secretary of State's approval is to be sought; and the effect of such approval in relation to proceedings for possession of the dwellings;

(b) inform the tenants that they have a specified period (which must be at least 28 days) in which to make representations to the landlord; and

(c) consider any representations received during that period.

- 4.36 Unlike a tenanted transfer, however, no formal ballot will be carried out. However, the Secretary of State before giving his consent will consider the following:

(a) the effect of the scheme on the extent and character of housing accommodation in the neighbourhood;

(b) over what period of time it is proposed that the disposal and redevelopment will take place in accordance with the scheme;

(c) to what extent the scheme includes provision for housing provided under the scheme to be sold or let to existing tenants or persons nominated by the landlord.

- 4.37 The landlord, in this case, the Council, must not apply to the Secretary of State for approval of a scheme unless the statutory consultation procedure has been carried out.

### ***Disposal of Sites – Secretary of State’s consent***

- 4.38 At the appropriate time, officers will seek the approval of the Executive to dispose of relevant sites that need to be disposed of pursuant to the South Kilburn regeneration scheme to relevant organisations/housing providers at relevant values and seek the approval of the Executive to apply to the Secretary of State to obtain his consent to dispose of such sites, either under the relevant General Consents that have been granted under the Housing Act 1985 or the Local Government Act 1972 or pursuant to specific applications to the Secretary of State. In respect of Housing Revenue Account land, consent is required under sections 32 to 34 and 42 to 43 of the Housing Act 1985. If the sites are disposed of for less than market value, consent is also required from the Secretary of State under section 25 of the Local Government Act 1988. In respect of Council owned land that is not Housing Revenue Account land, the Council must take into account the content of section 123 of the Local Government Act 1972 and either confirm that the General Consent under that section applies or apply to the Secretary of State to obtain his specific consent to the disposal of the necessary sites.

- 4.39 The Prudential Capital Finance System, which was introduced in 1<sup>st</sup> April 2004, under regulation 12(1) imposes a pooling requirement (percentage of capital receipt to be payable to the Secretary of State) on receipts from sales of housing land which regulation 1(5) defines as any land, house or other building which was held within the Housing Revenue Account immediately before its disposal. The pooling rate for HRA assets (non RTB sales) is 50%. However, the regulations allow for certain types of capital receipts to be treated as reduced before calculating the pooling percentage by reference to the “capital allowance”, which is the total of past or planned expenditure on affordable housing and regeneration projects as specified in regulations 17 and 18. The overall effect of the capital allowance is to allow capital receipts to be recycled into the authority’s own affordable housing and regeneration projects. Currently there are sufficient resources in the authority’s Capital Allowance to provide that none of the forecast capital receipts earmarked to this scheme would need to be pooled.

### ***Procurement Issues***

- 4.40 Regarding the procurement issues related to the disposal of the sites and the framework, Members gave approval in June 2010 to authorise Officers to

commence the procurement process for the framework of development partners and detailed legal implications were set out in the report to the June 2010 Executive meeting. Officers will need to seek authority from Members of the Executive in due course to award the framework for development partners as this procurement process will be considered to be a High Value contract under the Council's Standing Orders as set out in Part III of the Council's Constitution.

- 4.41 The appointment of a development partner following a mini-competition under the framework may or may not require approval from Members of the Executive and this depends on the value of the proposed development agreement. As development agreements have been construed as a form of procurement works, any development valued at £1 million or more let following a mini-competition would therefore require the approval of the Executive as it would be classed as a High Value contract under the Council's Standing Orders. Further legal implications will be provided when Officers report to the Executive in due course regarding the award for framework for development partners and to appoint a development partner(s) following a mini-competition regarding the development sites at South Kilburn.

## **5.0 Financial Implications**

- 5.1 The resource envelope for taking forward the South Kilburn regeneration programme in 2010/11 is determined by the level of the capital receipts to be secured from the disposals (by way of the 999 year lease) of the Albert Road site and the Carlton Vale roundabout site to L&Q. The Council received the receipt for Albert Road in June 2010 whilst the timing of the receipt for Carlton Vale roundabout site is dependent on satisfying all conditions precedent, including completing the highways stopping up order and subsequently the enabling works. The earliest this is likely to be achieved is mid 2011.
- 5.2 In effect the financial model for South Kilburn is for the regeneration scheme to 'wash its face' from this point forward. In other words the Council should be able to progress the scheme on an ongoing basis within the cash envelope generated from ongoing disposals, provided it remains committed to ring fencing these receipts into South Kilburn. This delivery strategy has been agreed and endorsed by the Homes & Communities Agency, and is a condition of their grant funding for both the Albert Road and the Carlton Vale roundabout sites. A consequence of this approach is that the Council makes a saving on the previous £1m per annum expenditure identified within the capital budget for South Kilburn.
- 5.3 Other sources of income for the South Kilburn programme over the course of the year include New Deal for Communities funding, funding from the South Kilburn Neighbourhood Trust (including the Council's share of the receipt from the sale of the Texaco site), and growth area funding.
- 5.4 The key expenditure items for the year will be:  
Leaseholder buy backs – a full paper will be prepared in collaboration with the Director of Finance and Corporate Resources setting out proposals for

prudential borrowing arrangements to facilitate the early buy backs of leaseholder properties.

- 5.5 This will be through an Invest to Save approach whereby this enabling expenditure will allow capital receipts to be generated which will be utilised to repay the debt and end interest incurred.
- 5.6 Design fees –design teams from the Homes & Communities Agency consultants’ panel have been appointed to bring forward design work for the three sites (Cambridge & Wells, Ely, and Bond & Hicks Bolton). All initial contracts are for less than the £500,000 threshold for Executive approval and are resourced from the resource envelope outlined above. Depending on end sales values it should be possible to recoup these costs when the sites are ultimately disposed.
- 5.7 Strategic acquisition of property – there are a number of opportunities within South Kilburn for the Council to acquire property that will be required to bring forward both the next and future phases of the scheme. Individual acquisitions will need to be approved by Executive in the usual way throughout the year.
- 5.8 Repayment of £2.5m of resources expended by the New Deal for Communities grant during the period since 2009 and used for leaseholder buybacks, to the South Kilburn Neighbourhood Trust. This is a condition imposed by government on the NDC expenditure and is designed to ensure the resources are recycled back into South Kilburn. Officers are currently working with the Trust Board to prepare an ongoing capital strategy for the Trust to ensure that the resources make a positive contribution to the programme.
- 5.9 The key challenge for the programme is to ensure that the cashflow remains positive, or within acceptable tolerances. New project management arrangements are being introduced to ensure that officers are equipped to manage the cashflow, and that there are clear lines of responsibility and accountability for doing so.
- 5.10 Clearly the key funding risk for the regeneration programme is the ongoing level of grant funding that can be secured from the government (through the Homes & Communities Agency) to support future development sites in South Kilburn. The Council is well advanced with its ‘single conversation’ discussions with the HCA, and South Kilburn is identified as a key priority within the Local Investment Framework that both the Council and the HCA will ultimately sign up to. The HCA are supportive of the Council’s overall approach to regeneration in South Kilburn, and its specific delivery strategy of incremental development, supported by a recycling of capital receipts.
- 5.11 Nevertheless in the current economic and political climate it would be prudent to assume that there will be less grant funding available for access by the Council in the immediate short term. South Kilburn is fortunate in that it is located in an area of high potential land value. With the Council firmly in control of the regeneration process, it would be possible at a future date to

dispose of sites identified for predominantly private housing on the open market, thus generating a receipt to cover expenditure and potentially maintain the regeneration momentum. Experience from the initial sites has demonstrated the additional value that can be secured for sites if they are de-risked – ie. with planning permission secured and with vacant possession.

- 5.12 Based on the sales values secured for Albert Road and Carlton Vale sites, it is estimated that the three remaining Phase 1 sites to be taken forward in 2010/11 could realise capital receipts of up to £12million. Officers remain confident that the overall phasing strategy will ultimately deliver a significant final capital receipt.

## **6.0 Diversity Implications**

- 6.1 South Kilburn is a designated New Deal for Communities area and as such all interventions are specifically targeted at those people who suffer disadvantage in society. South Kilburn Partnership has a Race & Equality strategy, and through its widening participation theme seeks to find ways of involving and engaging with all local residents and particularly those who traditionally are 'hard to reach'. There has been and will continue to be widespread consultation and community engagement as proposals for the physical regeneration of the area are developed and delivered.

- 6.2 At a project level, each South Kilburn Partnership sponsored and supported project is subject to a full and independent appraisal undertaken by a panel of local residents and relevant officers. Part of the appraisal process is to test each activity against the Partnership's Race & Equality strategy to ensure full compliance. In line with the Council's Equality standards, all expenditure is monitored against equalities indicators on a regular basis.

## **7.0 Staffing / Accommodation Implications**

- 7.1 There are no specific staffing or accommodation implications associated with the proposals contained within this report.

## **APPENDICES**

### Appendix 1: Proposed CPO land

#### LIST OF PROPERTIES /PLOTS

*(This appendix is not for publication as it contains the following category of exempt information as specified in paragraph 3, schedule 12(A) of the Local Government Act 1972 namely "information relating to the financial or business affairs of any particular person (including the Authority holding the information).*



## Appendix 2: draft CPO plan

### Background papers:

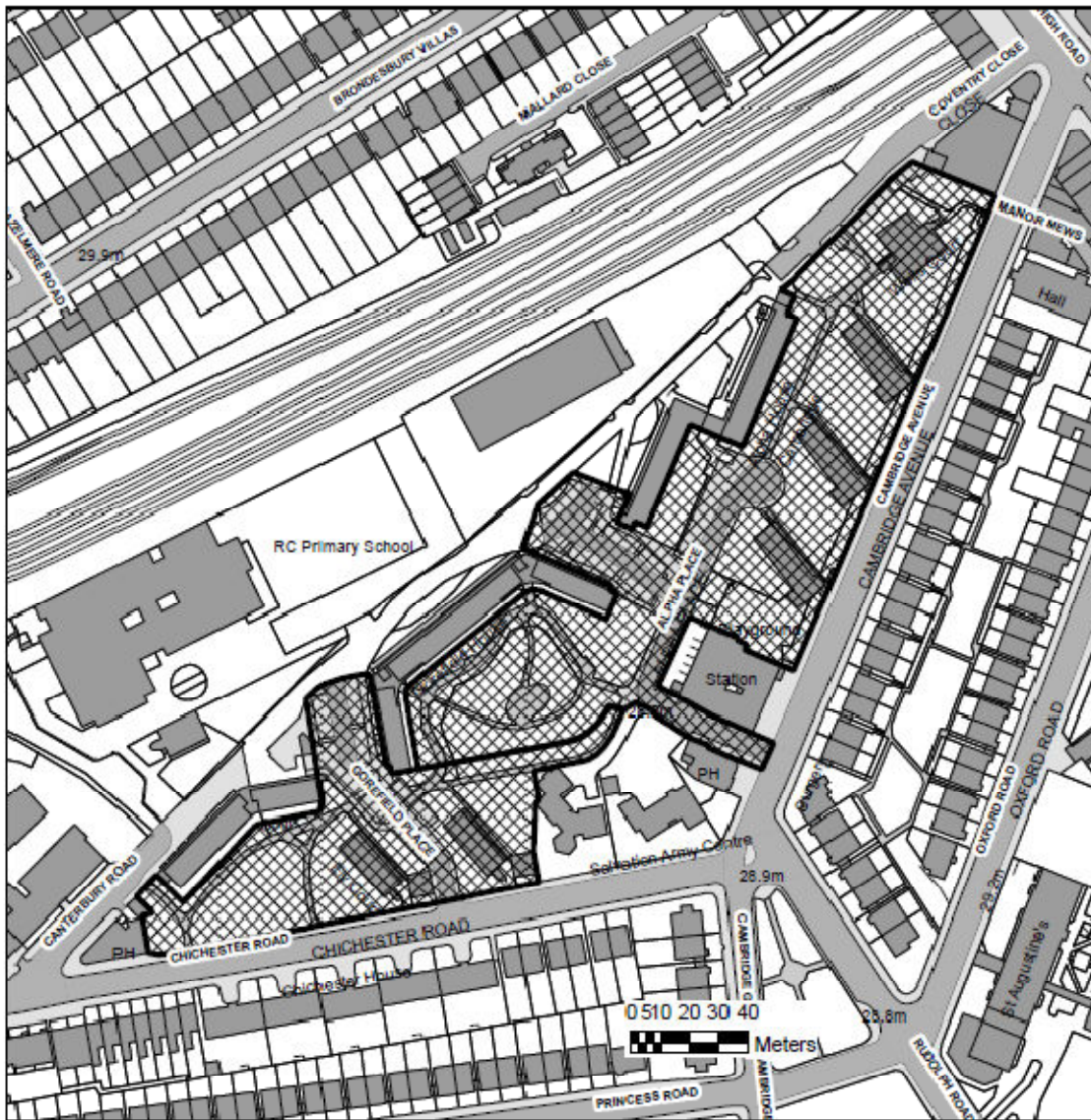
1. Report to Executive 23<sup>rd</sup> June 2010
2. South Kilburn Regeneration phasing plan
3. Report to Executive 14<sup>th</sup> July 2009

Martin Cheeseman  
Director of Housing and Community  
Care

Andy Donald  
Director of Regeneration and Major  
Projects

# EXECUTIVE COMMITTEE

## South Kilburn Regeneration - Zone 6



Zone 6 shown heavily outlined black.  
Areas subject to CPO shown cross hatched.

**NORTH**

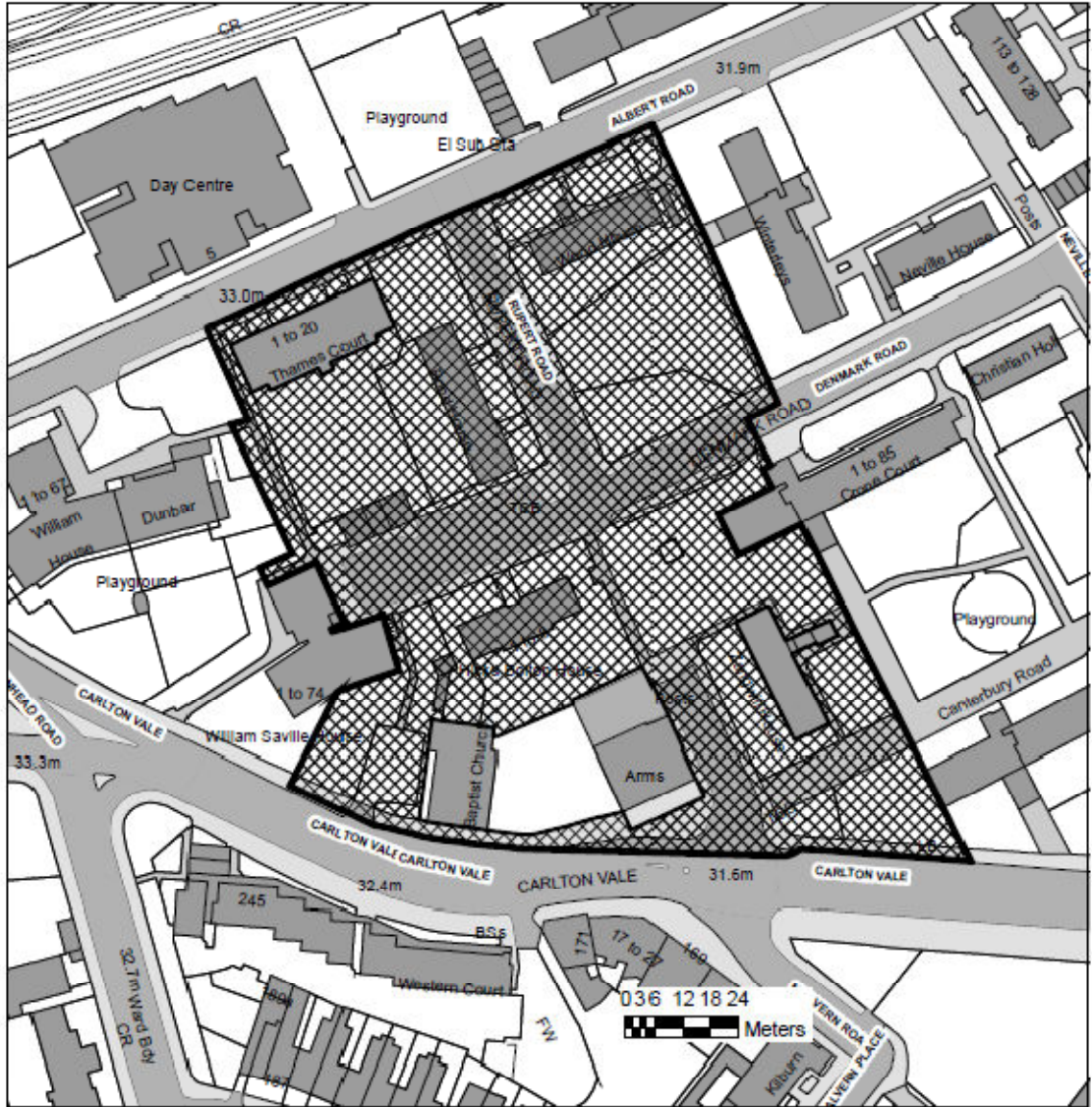


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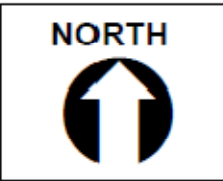
# EXECUTIVE COMMITTEE

## South Kilburn Regeneration - Zone 13



Zone 13 shown heavily outlined black.  
Areas subject to CPO shown cross hatched.

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