



Cabinet
9 April 2018

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

**Report seeking approval to acquire a long leasehold from
Network Rail. Land at Queens Park – South Kilburn
Regeneration Programme**

Wards Affected:	Kilburn, Queens Park
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Part Exempt – Appendix 2 is not for publication as it contains the following category of exempt information as specified in Schedule 12A of the Local Government Act 1972, namely: <i>“Information relating to the financial or business affairs of any particular person (including the authority holding that information)”</i>
No. of Appendices:	4
Background Papers:	None
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1 Purpose of Report

- 1.1 The regeneration of South Kilburn is a fifteen year programme that is approximately half way through. It aims to transform the area into a sustainable and mixed neighbourhood and create a real sense of place and belonging. The programme will deliver around 2,400 new homes of which 1,200 will be made available for social rent for existing South Kilburn, secure council tenants. To date 1073 new homes have been delivered with 60% (639) new homes having been made available for existing secure tenants of South Kilburn. Woodhouse Urban Park was opened to the public in May 2016 and South Kilburn residents are able to utilise St Augustine's Sports Hall.
- 1.2 The Council's objective is to provide high quality new homes with values driven from market sales in order to maintain the viability of the Regeneration Programme in the long-term, and to achieve a substantial improvement in the living conditions of existing South Kilburn secure Council tenants.
- 1.3 The South Kilburn Masterplan review took place in 2016, and the community are at the heart of our decision making process. We have taken an inclusive and participatory approach to consultation and engaged with residents and stakeholders of South Kilburn with extensive local consultation from July through to December, which directly fed into the drafting of a revised South Kilburn Supplementary Planning Document 2017 (SPD). The SPD was adopted by Cabinet on the 19 June 2017 and will be an important document in determining how this area continues to transform over the next 10-15 years.
- 1.4 The South Kilburn Regeneration Programme also includes the delivery of a new larger high quality urban park and an improved public realm, a new local primary school, new health facilities, new retail facilities, an Enterprise Hub and Community Space, improved environmental standards and a South Kilburn District Energy System. The South Kilburn Programme has been recognised for exemplar design for new build homes as well as landscape projects and has won a number of prestigious awards.
- 1.5 This report concerns the land assembly necessary to bring forward the Queens Park/Cullen House development project, which is a fundamental part of the South Kilburn Regeneration Programme sitting in Phase 3a/3b. The Site comprises of Keniston Press (now demolished), Premier House, Salusbury Road public car park, Cullen House and the Falcon Public House together defined as "Queens Park/Cullen House" (see *appendix 1 – Brent Council Freehold Land at Queens Park Cullen House site*) and Network Rail Land (see *appendix 3 - Network Rail strip of land red line plan*).
- 1.6 This report seeks approval for the acquisition of the Network Rail owned strip of land which forms part of the redevelopment site. The Council already holds a leasehold interest in part of the land to be acquired (Title MX322865) with an original term of 99 years from 1954. Network Rail is the freeholder. However a longer term is considered necessary in order to remove any issues concerning the proposed development scheme and acquiring the two parcels of Network Rail land will tidy up the site ownership so as to be parallel with the railway.
- 1.7 Following negotiations with Network Rail, heads of terms for both parcels of land have been agreed between the parties as shown in confidential Appendix 2.

2 Recommendation(s)

That Members:

- 2.1 Approve the purchase of a long leasehold interest in the Network Rail land delineated in red at Appendix 3, on the terms as set out in Appendix 2 and to enter into a long lease

with Network Rail.

- 2.2 Note that the acquisition of the Network Rail land is subject to Network Rail obtaining a full Licence Condition 7, which is part of Network Rail's operating Licence. Thus completion is approximately six months from approval
- 2.3 Agree that land acquired by the Council in order to facilitate the development, shall be acquired for planning purposes pursuant to section 227 Town and Country Planning act 1990.
- 2.4 Agree that the Council may use its powers in accordance with section 203 of the Housing and Planning Act 2016 to override third party rights.

3 Detail

Background and Update

- 3.1 The Council's Scheme for the redevelopment of Queens Park/Cullen House has the benefit of full detailed planning permission granted in 2012 and has since secured further planning approvals which made adjustments to the original consent, most recently in 2017. These adjustments are considered to improve the original scheme but not materially alter the original scheme.
- 3.2 Queens Park/Cullen House is an important gateway site into South Kilburn. The redevelopment will provide 137 new high quality homes of which 39 will be for social rent for existing secure tenants of South Kilburn, along with new public space, 1270 sqm of commercial space, 959 sqm of office space and a new signalled junction at Kilburn Lane.
- 3.3 The scheme will require the closure of the existing spur road and the introduction of a new signalled junction at Kilburn Lane. The Public Notice advising of the intention to close this road has been published and consultations have taken place with Westminster City Council. A Stopping up Order was approved at General Purposes Committee in December 2017.
- 3.4 This development has been in abeyance since 2012 when HS2 safeguarded the site for a vent shaft and ATS. HS2 safeguarding is now removed enabling development to proceed. As such the Council is currently extinguishing third party interests on the land owned by the Council and has secured vacant possession of Cullen House. The Council entered into a Limited Liability Partnership with London Newcastle Capital Limited (Freeholders of the Falcon Public House) on 14 March 2018. The Falcon Public House will form part of the redevelopment site, (*see appendix 4 - All Land titles at Queens Park Cullen Site*) in order to bring forward the comprehensive redevelopment of the site within a timely manner.
- 3.5 The Council has negotiated and acquired by agreement all other leasehold interests bar this Network Rail (NR) land and all secure tenants have already been moved to alternative homes within South Kilburn. Negotiations continue with Transport for London (TfL) in regard to a land swap but if this is not successful officers believe there is an alternative acceptable solution to ensure the development can proceed.

4 Financial Implications

- 4.1 The financial model for the South Kilburn regeneration programme is to be self-financing within the funding envelope generated from on-going disposals. The capital receipts generated are reinvested back into the South Kilburn regeneration programme, to

enable the rolling regeneration programme that delivers new homes.

- 4.2 The South Kilburn model has traditionally worked through a process of procuring delivery partners, who develop an existing site and generate high value properties. In return for this site, they build affordable and social housing, while also delivering capital receipts to support the capital programme. This development will follow a different model in that the Council has entered into a Limited Liability Partnership with the adjoining owner London Newcastle Capital Limited in order to bring forward the redevelopment of this site.
- 4.3 The acquisition cost of the 260 years lease including the associated professional fees will be funded from the approved Queens Park & Cullen House scheme budget within the South Kilburn Capital Programme.

5 Legal Implications

- 5.1 Section 120 of the Local Government Act 1972 enables the Council to acquire any land by agreement for the purposes of:
- a) any of their functions under or any enactment; or
 - b) the benefit, improvement or development of the area.
- 5.2 The Council can also acquire land by agreement for planning purposes under section 227 of the Town and Country Planning Act.

Section 226(1) of the Town & Country Planning Act 1990 defines the purposes for which land may be acquired 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.

A local authority must not exercise the power under (a) unless they think that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the whole, or any part, of their area.

- 5.3 The Public Interest to be achieved in section (b) should be proportionate to any private rights that might be infringed.
- 5.4 The title to the land is unregistered and Network Rail have not yet deduced their title to the land. The Council will take the land subject to any other interest in the land. Depending on Network Rail's title documents, it is likely that the Council we only be able to obtain a good leasehold title rather than absolute leasehold title which is the best form of title.
- 5.5 Where land has been acquired for planning purposes and has been granted planning permission then a local authority can override easements and other rights in the acquired land under section 203 of the Housing and Planning Act 2016 subject to payment of compensation under section 204 of the Housing and Planning Act 2016.
- 5.6 Where third party rights are overridden the Council is required to consult those affected by the loss of their right. Compensation may also need to be paid to those parties affected.

6 Equality Implications

- 6.1 The new affordable homes in South Kilburn are available to all secure tenants currently living in properties due for demolition as part of the South Kilburn regeneration programme within the neighbourhood. Secure tenants within the South Kilburn Regeneration Programme will be offered the opportunity to move into the new affordable (social rent) units when the schemes are delivered.
- 6.2 Every effort should be made to provide the secure tenants with suitable alternative accommodation and to reach mutually acceptable agreements with the leaseholders to buy their properties without seeking legal action. When identifying the options and alternatives put forward, the Council should proactively engage with affected residents and leaseholders. The housing team will carry needs assessments for every secure tenant in order to and make an assessment of their needs and to make a suitable offer of housing in line with the policy.
- 6.3 As with all schemes that are part of the South Kilburn regeneration programme, full consideration is and will continue to be given to residents and leaseholders with protected characteristics, particularly people with disabilities and / or other types of vulnerabilities due to older age, childcare and/or caring responsibilities, socio-economic status (single parents and large families).

Race / Ethnicity

Due to the ethnicity profile of the area, full consideration is and will continue to be given to the impact on black, Asian and minority ethnic individuals/groups. The Council will/has ensured that the options put forward to residents and leaseholders provide reasonable and affordable alternatives that enable them to remain in the area and maintain their family and community ties, as per Article 1 of the First Protocol and Article 8 of the European Convention on Human Rights.

Age/Carers/Disability/Pregnancy and maternity

The requirements for anyone who is older or with a disability, or those who are pregnant or on maternity to have to move from their current property (residential or commercial property) is likely to be more difficult and could suffer greater psychological effects, including stress. This in turn has an impact on people with childcare and caring responsibilities.

- 6.4 To mitigate this, for the secure tenants who are moving, the re-housing team provides help to secure tenants through the moving process, additional support and services to those who require it.
- 6.5 Leaseholders may be affected if they are seeking to acquire a similar sized property in the surrounding area as the value for a Local Authority property tends to be less than a non-Local Authority property. To counteract these implications, the Council offers to resident leaseholders a number of options such as the option of shared-equity or a property swap on the South Kilburn Estate (where available). The purpose of making the offers on the Estate is to allow residential leaseholders to remain on the Estate within the same locality and to help provide for a real sense of social cohesion. For those who move off the estate, they may have to increase/get a new mortgage agreement which could be difficult for older residents or those with caring childcare responsibilities.
- 6.6 The anticipated Social Value benefits from this proposal outlined in section 9 will further enhance the equality outcomes for residents with protected characteristics living in the area.

7 Consultation with Ward Members and Stakeholders

7.1 This paper has been circulated to ward members.

8 Human Resources/Property Implications (if appropriate)

8.1 There are no specific implications for Council staff or accommodation associated with the proposals contained within this report.

9 Public Services (Social Value) Act 2012

9.1 There are no specific implications in relation to the Public Services (Social Value) Act 2012 arising from the Recommendations in this Report.”

Report sign off:

AMAR DAVE

Strategic Director of Regeneration and Environment