



Cabinet Meeting
19th July 2021

Report from
Strategic Director, Community Wellbeing

Kilburn Square Housing Projects

| | |
|--|--|
| Wards Affected: | Kilburn |
| 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) | Open |
| No. of Appendices: | One Appendix 1: Kilburn Square Existing and Proposed Appendix 2: Project Timeline |
| Background Papers: | None |
| Contact Officer(s): (Name, Title, Contact Details) | John Magness Head of Housing Supply & Partnerships Tel: 020 8937 3272 john.magness@brent.gov.uk Kathryn Eames Senior Project Manager Kathryn.Eames@brent.gov.uk |

1. Purpose of Report

- 1.1. This report provides an update on two current Housing projects at Kilburn Square; the major refurbishment of 5-90 Kilburn Square and the proposed infill development of new council homes.
- 1.2. Brent Council is committed to being a good Landlord, both to its existing tenants and residents, but also to the c.1700 families living in Temporary Accommodation and further 900 in priority bands A and B on the Waiting List. Both projects highlighted in this report are being delivered in order to fulfil that commitment.
- 1.3. This report also seeks authority to seek approval from Cabinet, subject to the considerations set out below in sections 5.8 to 5.11, for the appropriation for planning purposes of the Council-owned land within

Kilburn Square under section 122 of the Local Government Act 1972. Appropriation is proposed in order to facilitate the redevelopment of the site for which Planning Permission is being sought.

2. Recommendations

Cabinet is asked to:

- 2.1. Note the importance of the refurbishment works for the tower block and low rise maisonettes, and endorse the timeline and intention to establish a portfolio of options to support leaseholders with the payment of the recharge for the refurbishment works.
- 2.2. Note the increased engagement that is planned, primarily but not exclusively with residents of Kilburn Square for the proposed development, and endorse the project team to recommended changes to the designs following the outcome of engagement.
- 2.3. Delegate authority for the Strategic Director Community Wellbeing in consultation with the Lead Member for Housing and Welfare Reform to consult with those affected by the appropriation of Kilburn Square Site, the Clinic Site or the Brondesbury Road Site, (the Sites) and to consider the results from the equality monitoring highlighted in 6.2 of this report to ensure compliance with the Public Sector Equality Duty as well as the responses of the consultation and thereafter, and where relevant, to appropriate the Sites for planning purposes in order to facilitate the redevelopment of the site for which planning permission is being sought.
- 2.4. Delegate authority to the Strategic Director Community Wellbeing in consultation with the Lead Member for Housing & Welfare Reform to make an application to seek the Secretary of State's consent under section 19 of the Housing Act 1985 to appropriate for another purpose (here for planning purposes in order to facilitate the redevelopment of the Sites for which Planning Permission is being sought) any part of Kilburn Square Site, the Clinic Site or the Brondesbury Road Site including any part consisting of a house or part of a house so that parts of these sites are no longer held for the purposes of Part II of the Housing Act 1985.
- 2.5. Delegate authority to the Strategic Director Community Wellbeing in consultation with the Lead Member for Housing and Welfare Reform to undertake the consultation pursuant to section 122 (2A) of the Local Government Act 1972 to consider the response to the consultation to appropriate the open space for planning purposes in order to facilitate the redevelopment of the open space for which Planning Permission is being sought.

- 2.6. Agree to apply section 203 of the Housing and Planning Act to override third party rights and to pay affected third parties compensation where required by statute

3. Detail

- 3.1. Kilburn Square is located in the south of Brent and is bordered by Victoria Road and Brondesbury Road to the north and south respectively, as well as Algernon Road and Kilburn High Road to the west and east. The current site comprises 9 buildings, 7 that accommodate residential use (please see *Appendix 1* for a site map).

There are 270 residential properties in total. The tenure breakdown is shown below in Table 1.

Table 1: Kilburn Square Tenure Breakdown¹

| Block | Tenants | Leaseholders | Total |
|----------------|----------------|---------------------|--------------|
| Kilburn Square | 70 | 16 | 86 |
| Sandby House | 11 | 17 | 28 |
| Barrett House | 28 | 20 | 48 |
| Rathbone House | 29 | 27 | 56 |
| Varley House | 13 | 15 | 28 |
| Sandwood Court | 24 | 0 | 24 |
| TOTAL | 175 | 95 | 270 |
| | 65% | 35% | |

- 3.2. The site also consists of 2 non-residential buildings. The first of these two buildings is the former Clinic site, which was vacated in 2018 and had prior to being temporarily occupied by the Borough of Culture Team, been vacant for up to two years. The second building, 13-15 Brondesbury Road is currently occupied by the NHS for the provision of mental health services. Discussion on the relocation of this service is ongoing and provides an opportunity to evaluate the current way of working.
- 3.3. Under the New Local Plan both the Clinic site and 13-15 Brondesbury Road form part of the Kilburn Square site allocation (described as the 'principal opportunity site in Kilburn Major Centre'). The allocation, including the market fronting Kilburn High Road is for a mixed-use development including residential (indicative 100 properties), retail including a new market and a new public Square. This paper is concerned only with the housing elements of the proposed development.

¹ Tenure breakdown shown is correct according to current council records

- 3.4. In the autumn of 2020, two significant projects for the Council's Housing service commenced on Kilburn Square: the major refurbishment of 5-90 Kilburn Square and the proposed infill development of new council homes.
- 3.5. Communicating with residents about the projects has been challenging for a number of reasons. The Tenant Management Organisation (TMO) has been undergoing significant change and this has created an unstable (and sometimes volatile) environment. Both the council and TMO are working to regularise and stabilise the situation, but unquestionably this dynamic consumed energy for both parties in the early part of this year. The current MMA (Modular Management Agreement), which sets out the services for which the TMO is responsible, requires updating in line with current practice and this work is ongoing.
- 3.6. Whilst initially the council produced joint communications on both projects, it has become clear that each needs to be approached differently, not least because we understand that leaseholders in particular have legitimate concerns about the potential cost of works.
- 3.7. Finally, the pandemic has prevented the team from being as physically visible as we would like. We are now working hard to improve the situation and indications are that engagement, particularly with tenants, is much improved when we are able to have a physical presence.
- 3.8. A Tenant Management Organisation or TMO is an organisation set up which enables residents of Council housing or Housing Association homes to take over responsibility for the running of their homes. The Kilburn Square TMO was set up formally in 1994 although it is believed that a form of local housing management at Kilburn Square may predate this formal arrangement. The council recognises that this arrangement is historically important and that continuing to support and work constructively alongside the modern TMO is a critical part of both housing projects.

Kilburn Square Refurbishment

- 3.9. The tower block at Kilburn Square and the low rise maisonettes were built in 1966 and are concrete framed purpose built blocks. Whilst the block has been maintained over the years, this has taken the form of key component repair and sometimes replacement. However, many of the block elements and components are now at the end of their serviceable life. These now require replacing in order that the block can achieve another major 40-year lifecycle.
- 3.10. Various works such as external fabric, roofing, windows, sprinklers, lifts, and others, are all required now. The common parts and structural works

proposed are, in the main, necessary works of repair to the fabric of the existing building which the Council is obliged to carry out as landlord under right to buy leases and under Council tenancy agreements in the block.

3.11. The refurbishment impacts on 86 residents of which 70 are council tenants and 16 are leaseholders.

3.12. The aim of the refurbishment is to ensure that the next major lifecycle refurbishment can be extended for a maximum life and that the homes provide a good standard of accommodation for its residents. An additional benefit of the works will be to ensure the block does not look out of place once the proposed infill development scheme is delivered.

3.13. The following works are required:

| Work Required | Tenant | Leaseholder |
|---|---------------|---|
| Kitchens and bathrooms, and associated decoration | ✓ | × Although may be gifted to compensate for disruption |
| Mechanical extract ventilation | ✓ | ✓ |
| Water mains and soil stacks | ✓ | ✓ |
| New insulated roof | ✓ | ✓ |
| High performance windows | ✓ | ✓ |
| Structural repairs | ✓ | ✓ |
| Balcony doors | ✓ | ✓ |
| Sprinkler system to dwellings | ✓ | ✓ |
| Replacement of existing passenger lifts | ✓ | ✓ |
| Replacement of door entry phone system | ✓ | ✓ |
| Installation of smoke alarms to dwellings | ✓ | × |
| Replacement of smoke extract automatic opening ventilators to lift lobby landings | ✓ | ✓ |
| Electrical upgrades to flats and communal areas | ✓ | ✓ |
| Fire compartmentation | ✓ | ✓ |
| External fabric insulation and finish climate emergency | ✓ | ✓ |
| Heating options appraisal – communal heating enabling | ✓ | ✓ |

3.14. In total, the refurbishment works required will cost in the region of £9M and will be delivered over 18 months. The specification of works will be independently verified.

3.15. Some of these works will be intrusive and, for some households, will take 4 to 6 weeks to complete. Residents will be individually assessed regarding their ability to remain in their homes during the internal works phase. This will involve individual household consultations to determine any specific issues or concerns with the practical aspects of the works. Residents will be walked through the proposals in detail, and a personal plan developed for their household. This will include, as best as possible, preferred dates, respite and/or temporary accommodation if necessary. Access to all dwellings is essential so as to minimise the duration of the overall project.

3.16. A high level project timeline is as follows:

- Consultation (throughout)
- Planning approval – Community Engagement Report April 21
- Procurement June 21
- Specification and section 20 Consultation Letter June 21
- Leaseholder section 20 consultation Jul 21
- Tender award and internal sign-off – Oct 21
- Mobilisation – Oct 21
- On site – 18 months

3.17. A comprehensive calendar of resident consultation and engagement was established at project commencement and is being delivered as follows:

| Date | Event | Action |
|-------------------------------|--|---|
| 12 th January | Virtual consultation drop in | Feed back to project team |
| 19 th January | Virtual consultation drop in | |
| 25 th January | Send out colour choice consultation letter /questionnaire | |
| 1 st February | Begin telephone consultation on colour choice with residents | Produce Resident Engagement planning report |
| 29 th March | Virtual consultation drop in | |
| W/C 12 th April | Telephone follow up on mail out questionnaire | Collate responses for further action. |
| W/C 26 th April | Virtual consultation drop in | Update team around the project. |
| W/C 21 st June | Meet the contractors virtual event | Tower block/ Maisonette residents/ Newsletter |
| June/July | Leasehold S20 consultation letter and consultation commences | Entire team/ Leaseholders. |
| W/C 6 th September | Flyer/notice of programme of works. | All tower block and maisonette residents. Information fed into estate newsletter. |

| | | |
|-----------------------------------|---|---|
| W/C 27 th September | Virtual consultation meeting /presentation/display detailing the first stage of refurbishment work. | Information fed into estate newsletter/website. |
|-----------------------------------|---|---|

3.18. Engagement to date has been limited. All impacted residents have been formally contacted and invited to virtual meetings. We expect much higher engagement as we move into more purposeful dialogue with residents on the costs and implications of works for their household.

Leasehold recharge in respect of exterior, structure and common part works to existing buildings at 5-90 Kilburn Square

3.19. The Council is usually obliged as Landlord under Right to Buy Leases, to repair and maintain the structure, exterior and common parts of a building containing flats and maisonettes. It is also entitled to recover its costs of repair and improvement by way of service charges and improvement costs to the extent that the safeguards against excessive charges referred to below are observed.

3.20. Leaseholders do not have an option as to whether to pay for repair and improvement works, as they are contractually obliged to pay for them under their leases, subject to the safeguards, assistance, waivers and reduction referred to in the paragraphs below.

3.21. Successful recovery of service charges depends on the Council's observance of statutory controls and safeguards that protect leaseholders against excessive service charges stemming mainly from the Landlord and Tenant Act 1985 and other mainly housing legislation. The costs of repair and improvement works incurred by a landlord such as the Council must be reasonably incurred and incurred on services or works of a reasonable standard, under section 19 of the Landlord and Tenant Act 1985.

3.22. The service of compliant Notices on leaseholders informing them of the Council proposed works and their costs (section 20 Notices), and subsequent leaseholder consultation prior to the letting of relevant works, is crucial to future recovery. Due consultation may result in the presentation by leaseholders or the TMO of useful representations and even reasonable alternative quotes, which the Council will have to take reasonable account of when planning the letting of the relevant works.

3.23. Once the S20 consultation is completed, the Council will be in a position to verify what the lessees will have to pay for the Council's works to the exterior, structure and common parts of the existing buildings at Kilburn Square. This will enable the Council to assess how feasible it is for

individual lessees to pay the resultant service charge by reference to their individual financial circumstances.

- 3.24. The Council will then be better able to consider what assistance might be offered to leaseholders under the Social Landlords Discretionary Reduction of Service Charges (England) Directions 2014, or under the Housing (Service Charge Loans) Regulations 1992 SI 1992/1708 or other similar legislation or Guidance.)
- 3.25. A portfolio of support options will be established for exploration with leaseholders. The options available could range from voluntary charges against the equity held by the lessee agreed with independent legal advice to leaseholders, buy back and change of tenure, loans or the opportunity to spread payments and other legal means of support that may be available at the time.

The Council could also consider the waiver and reduction of service charge and any other means by which the Council might assist leaseholders under the Social Landlords Discretionary Reduction of Service Charges (England) Directions 2014, or under the Housing (Service Charge Loans) Regulations 1992 SI 1992/1708 or other similar legislation or Guidance.

Infill Development

- 3.26. There is a shortage of truly Affordable Housing in London, including Brent. To address this, Brent Council has committed to developing 1,000 new Council homes between 2019 and 2024. Officers have identified that most opportunities to supply new and affordable homes in the most cost effective way will come from developing estates owned by The Council. Accordingly, Kilburn Square has been identified as providing a significant development opportunity to increase the amount of affordable housing.
- 3.27. In March 2020, Cabinet received and approved a report that sought approval to enter into Collaboration Agreement with Network Homes to share resources and expertise in the delivery of housing schemes at Watling Gardens, Windmill Court and Kilburn Square. Network Homes are responsible for the project management of the design stage, submitting Planning Applications, managing the detailed design and construction process and the co-ordination and resolution of defects once the properties have been built. The Kilburn Square is currently at the design stage.
- 3.28. The current development proposal (please see *Appendix 1*) retains all the existing residential properties and demolishes The Clinic and 13-15 Brondesbury Road sites that are part of the New Local Plan as

development opportunities. The current project timeline can be seen at *Appendix 2*.

- 3.29. The proposal provides 179 high quality energy efficient homes, a much needed Extra Care facility and a revised landscape strategy to reorganise the amenity and parking facilities with a focus on designing out crime. The proposals also provide residents on the estate, with a housing need, the opportunity to apply for one of the new properties through the Local Lettings Plan.
- 3.30. In accordance with 'Better Homes for Local People: The Mayor's Affordable Housing Capital Funding Guide', the scheme does not require a resident ballot to deliver it (and be eligible for GLA funding), as although the scheme currently proposes the construction of more than 150 new homes, there is no demolition of social homes. Both conditions have to be met in order to require a resident ballot under current GLA guidance. As such it is not considered and nor should it be referred to as 'regeneration' as this implies a more resource intensive approach to design and delivery.
- 3.31. The current accommodation schedule for the proposal provides:
- **Block A**, 5 & 7 storeys, 57x Extra Care properties
 - **Block B**, 17 storeys, 79 flats mostly 1 and 2 bed
 - **Block C**, 5 storeys, 19 flats, mainly 3bed+
 - **Block D**, 5 storeys, 14 flats, all 3bed+
 - **Block E**, 6 storeys, 10 flats, all 3bed+
- 3.32. £12.3m of GLA funding has been secured for the General Needs properties and an additional £5.7m is being negotiated for the Extra Care development. Start on site conditions are in place for both elements of grant funding. Estimated total scheme costs are currently £57m.
- 3.33. There is no cost to leaseholders for the construction of the new homes or associated external landscaping being delivered as a result of the housing development.
- 3.34. Some individuals, by virtue of leases held or other means, may have gained rights such as a "Right of Way" or a "Right to Light". The process of appropriation converts an individuals' rights to the benefit bestowed by the right to compensation for the loss of the benefit. Once effected, appropriation would enable the use of the powers in section 203 of the Housing and Planning Act 2016 which allow development with the benefit of planning permission and which accords with the purpose of the appropriation to proceed despite breach of existing third party rights (such as easements, restrictive covenants and rights of light), thereby facilitating the redevelopment proposals. Accordingly, this report seeks

approval to appropriate the site at Kilburn Square for planning purposes in order to facilitate the redevelopment of the Sites for which Planning Permission is being sought.

Communications and Engagement

- 3.35. Alongside the refurbishment project, communications with residents across the estate started with a newsletter in October 2020. The TMO Board were also briefed. The strategy for engagement focused on putting in place Resident Panels and virtual drop-ins, with wider communication through estate newsletters. This was made more difficult due to Covid restrictions.
- 3.36. A communications and engagement programme has been established with monthly Resident Panel meetings, estate wide questionnaires supported by phone calls and most recently, an in person estate exhibition. Monthly newsletters have continued and a dedicated Kilburn Square Estate webpage has been established.
- 3.37. In response to resident feedback, an Independent Tenant and Leasehold Advisor (ITLA) has been appointed, with the involvement of residents in the drawing up of the specification and the scoring of bids. This is considered good practice.
- 3.38. Approximately 22% of households have provided input to the design of the scheme through panel meetings and events. In addition, 111 questionnaire responses have been received over two questionnaires, although these were anonymous so can't be tracked. Attendance at panel meetings has been primarily from leaseholders.
- 3.39. In May, engagement with wider stakeholders and neighbours commenced. The project team hired a market stall just outside the estate to be used as base of resident and wider engagement. This was communicated to almost 5000 addresses, the area for which was determined by Planning. A consultation brochure is being developed to share with wider stakeholders and neighbours and a series of virtual engagement meetings for both residents and, separately, community groups has been arranged.
- 3.40. Given the relatively low levels of engagement to date as referenced at paragraph 3.28, it is recommended that the project team increase the engagement with Kilburn Square residents, in order to get a better sense of how residents on the estate feel about the proposed development. This will be supported by the new ITLA Source Partnership, which will have the added advantage of being independent of the Council thereby potentially encouraging greater engagement from some residents.

- 3.41. The project team will present the plans as they stand throughout the consultation so that everyone has seen the same proposals. Depending on the outcome of this consultation, changes may be made to the designs, but no final decision will be made on the proposal until the consultation is complete, including statutory consultees like the Kilburn Neighbourhood Forum.

4. Financial Implications

- 4.1. The total cost of the scheme is expected to be £66m, of which £57m relates to the development of c.180 homes and £9m to the refurbishment of the tower blocks. The total development cost of £57m includes professional fees and contingency.
- 4.2. The cost of the scheme for the affordable homes will be supplemented by a GLA grant of £100k per home, which equates to £18m. This includes £5.7m being negotiated for the extra care development
- 4.3. The scheme is financially viable, based on LAR rent levels and payback period in year 49.
- 4.4. The 2021/22 Housing Revenue Account (HRA) budget for the major works programme was approved by Cabinet in February 2021 for £15m. The planned programme was re-profiled and the £9m refurbishment works to Kilburn Square will be contained within the existing programme for 2021/22 and 2022/23 in line with the HRA Business Plan. The budget profile for Kilburn Square consists of £1m in 2021/22 and £8m in 2022/23. The major works budget for 2022/23 will be sought as part of the budget setting process by Cabinet in February 2022.
- 4.5. These refurbishment costs would make up a significant allocation of the major works budgets over the next two years. It is highly likely that the re-profiling of the planned maintenance works could create a requirement for an increased call on capital in future years due to the delaying of a number of planned activities. This would result in a requirement for a revenue contribution in the form of additional capital financing, so will need to be accounted for in setting future years HRA budgets.

5. Legal Implications

- 5.1. If the Council engages with residents in respect of infill design, it is advisable to ensure that engagement occurs at a time when proposals are still at a formative stage; sufficient reasons for any proposed design are given to permit intelligent consideration and response; adequate time is given for consideration and response; and that any decision taken as to the final design takes into account the product of that consultation.

- 5.2. The Council has some flexibility in the way consultations are carried out during the pandemic. The Council may be entitled to shorter timescales or it may be entitled to consult by informal means such as letters, website publication, e-mails and phone call. However, the fundamental principles of good consultation practice as described in paragraph 5.1 must still be complied with to comply with the law.
- 5.3. In relation to consultation for the purpose of recovering service charges from leaseholders in relation to major works, such consultation in relation to major works will need to comply with the Service Charges (Consultation Requirements England) Regulations 2003 and section 20 of the Landlord and Tenant Act 1985 or else the Council will only be able to recover £250 per year from each leaseholder in respect of the major works. Leaseholders can challenge major works charges in the First Tier Tribunal on grounds that (i) the works are of the sort that are not recoverable leaseholders under the lease, (ii) the works are not reasonably required, (iii) the charges for those works are not reasonable, (iv) the works have not been carried out to a reasonable standard for the cost; and (v) neglect and repair has affected the leaseholder's property.
- 5.4. The Housing (Service Charge Loans) Regulations 1992 (SI 1992/1708) sets out certain circumstances where a leaseholder can apply to the Council for a loan in respect of service charges where the Council is the freehold landlord. The criteria as set out in the Social Landlords Discretionary Reduction of Service Charges (England) Directions 2014 will need to be considered where applications are made to seek a waiver or reduction of service charge, including applications are made on the grounds of exceptional hardship where the landlord should have regard to certain circumstances. The Social Landlords Mandatory Reduction of Service Charges (England) Directions 2014 will not apply as they only apply to a certain specific set of Government funds (Decent Homes Backlog) which Councils were able to apply for in 2014 and Brent Council did not apply for such funds.
- 5.5. The balance of Legal Comment in respect of service charge recovery for the Council's Works to the exterior, structure and common parts of 5-90 Kilburn Square is incorporated within Paras 3.20 - 3.30 of this report.
- 5.6. In relation to the development of open space, Section 122 (2A) of the Local Government Act 1972 provides that prior to the appropriation of any land consisting or forming part of an open space, the Council must advertise its intention to appropriate the open space and must consider any representations or objections made by the public in response to the advert. Accordingly, the Council is required to advertise its intention to appropriate the open space for two consecutive weeks in a local newspaper circulating in the area in which the land is situated. Section

241 of the Town and Planning Act 1990 provides for the development of open space.

- 5.7. Following the advertisement of the Council's intention over two consecutive weeks, there must be a two week period for consultation during which the public may make and submit representations (objections) to the Council. After the two week consultation period, the Strategic Director Community Wellbeing, in consultation with the Lead Member for Housing and Welfare Reforms, will decide whether the appropriation of the open space should occur, having taken into consideration the representations made in response to the advertisement and consultation, together with consideration of matters set out in the paragraph below.
- 5.8. In considering whether or not the Council-owned land within the Sites should be appropriated for planning purposes, thereafter engaging the powers conferred by Section 203 of the Housing and Planning Act 2016, the Strategic Director Community Wellbeing, in consultation with the Lead Member for Housing will consider:
- Whether the land which is to be appropriated is already owned by the Council (this is a prerequisite to appropriation);
 - Whether the land which is to be appropriated is no longer required by the Council for the purposes it is currently held (this is a prerequisite to appropriation);
 - Whether the purposes for which the Council would be appropriating the land is a purpose authorised by statute (in the case of land to be appropriated for planning purposes, the relevant purposes would be authorised by sections 226 and 227 of the Town and Country Planning Act 1990);
 - Whether the proposed redevelopment of the site would be in the public interest;
 - Whether the public interest benefits which would arise from the redevelopment of the site would be sufficient to justify the interference with any private rights, such that the interference was proportionate;
 - Whether the Council could (in the alternative) acquire the land compulsorily for the purposes of the redevelopment;
 - Whether any related financial liabilities of the Council would be indemnified and
 - Whether prior consultation had taken place (as outlined above).
- 5.9. The Sites are currently held for Housing purposes pursuant to part II of the Housing Act 1985. Accordingly, prior to appropriating the sites the Council must seek the consent of the Secretary of State pursuant to section 19 of the Housing Act 1985, Appropriation of part of the Sites for

planning purposes would facilitate the carrying out of the development. There is a compelling case in the public interest to appropriate the sites for planning purposes, as developing the sites would serve the public interest by providing new and improved housing and accordingly, such development outweighs the effect of the appropriation on the private rights of individuals.

In addition, the carrying out of the proposed development and improvement of the Sites will ultimately contribute to the promotion and improvement of the economic and social wellbeing of the Council's area – and these benefits could not be realised within a reasonable timescale (in the context of the GLA Deadlines) without interference with the private (third party) rights affected by the appropriation.

- 5.10. If a third party is able to establish that it has an easement or a right over the Sites or part thereof (such easements could include but not limited to a right of way or a Right of Light) then the third party could potentially obstruct the redevelopment of the Sites by applying for an injunction to prevent the delivery of the development. The effect of appropriation, and the resulting engagement of the powers in section 203 of the Housing and Planning Act 2016, is therefore to facilitate the re-development and improvement of the Sites despite interference with the existing third party rights over the site (subject to the payment of compensation as required by statute). It should be noted that third parties may be entitled to compensation for loss of their rights. Such compensation would be awarded for injurious affection (compensating for any depreciation in the value of the land or property arising from the interference with the right) rather than on a reinstatement or ransom basis.
- 5.11. Section 204 of the Housing and Planning Act 2016 provides for compensation payable to third parties in respect of the diminution in value of the third party's land. A specialist valuer will need to be undertake assessment to confirm the amount of compensation payable in respect of such loss.

6. Equality Implications

- 6.1. When making decisions in regards to service delivery, the Council has a duty to prevent discrimination, harassment and victimisation in relation to the Public Sector Equality Duty that covers the nine protected characteristics. The Council must also advance equality of opportunity and foster good relations between persons who share and do not share a protected characteristic. This would involve removing or minimising disadvantages and taking steps to meet the needs of each individual.
- 6.2. Throughout the engagement to date, equality monitoring has been undertaken at all events to track progress on reach and identify gaps.

The project team are in the process of analysing the feedback in order to identify if persons who share a relevant protected characteristics have been reached.

- 6.3. Targeted initiatives and approaches will be implemented to increase reach with certain groups if required.
- 6.4. Through ongoing equality impact assessment, the project team will continue to monitor the reach and the targeting of the engagement, and the impact of the proposed development plan on residents with protected characteristics, considering and implementing measures to mitigate negative impacts and maximise positive impacts.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 The Cabinet Member for Housing and Welfare Reform and the ward councillors have been consulted on the recommendations in this report.

8.0 Human Resources/Property Implications

- 8.1 None.

Report sign off:

Phil Porter

Strategic Director of Community Wellbeing