

	<p align="center">Cabinet 7 March 2022</p>
	<p align="center">Report from Strategic Director, Community Well Being</p>
<p>Purchase of Site known as 381-397 Edgware Road, Colindale, NW9</p>	

Wards Affected:	Fryent
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Part Exempt – Appendix 1 is exempt as it contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)"
No. of Appendices:	One Appendix 1(exempt) Financial Implications
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Hakeem Osinaike Operational Director of Housing 020 8937 2023 Hakeem.Osinaike@brent.gov.uk Nick Ljustina Operational Director of Property & Assets 020 8937 5025 Nick.Ljustina@brent.gov.uk

1.0 Purpose of the Report

- 1.1 This report seeks permission to purchase the freehold of the site known as 381-397 Edgware Road, Colindale, NW9 (the Property) for planning purposes pursuant to section 227 Town and Country Planning Act 1990 (the 1990 Act) planning approval reference 17/2284.

- 1.2 The purchase price discussed for the site as set out in Appendix 1 this sum is exclusive of Stamp Duty Land Tax (SDLT) and disbursements – see financial model in Appendix 1.
- 1.3 The Council will then procure a contractor and deliver the site as part of its New Council Homes Building program.

2.0 Recommendation(s)

2.1 Cabinet is asked to:

- (i) Note the contents of this report;
- (ii) Approve the proposed acquisition of the freehold interest of the site for purchase price set out in the appendix., subject to contract and subject to a) clean and marketable title b) financial and legal due diligence and c) vacant possession, with a target exchange of contract in June 2022; and;
- (iii) Delegate authority to the Strategic Director of Regeneration & Environment in consultation with the Lead Member for Regeneration, Highways, Planning, and Property to negotiate and agree the terms and thereafter enter into a contract with the seller for the purchase of the site.
- (iv) Approves the engagement of section 203 of the Housing and Planning Act 2016 (2016 Act) in order to override third party rights and to delegate authority to the Strategic Director of Regeneration & Environment to consult and enter into agreements and if required to pay compensation to third parties whose rights may be affected by the engagement of the 2016 Act

3.0 Detail

- 3.1 The proposed 381-397 Edgware Road, Colindale, NW9 mixed use development will deliver a total of 110 homes and commercial (retail) space in the Fryent area. It has received planning permission; the planning application reference of the site is 17/2284.
- 3.2 Pursuant to the terms set out in the section 106 agreement between the developer and the Council dated 2nd July 2021, 13% of these homes will be affordable. This totals 14 homes which will be shared ownership. The rest will be for market sale.

The Council proposes to deliver the block as per the planning permission, but to change the tenure to 100% Temporary Accommodation rented. The rent will be capped at Local Housing Allowance (LHA).

- 3.3 The developer is seeking a buyer for the Property (freehold) with planning permission.

3.4 The breakdown of the 110 homes pursuant to the terms of the section 106 agreement is:

	UNITS				TOTAL NSA		AVERAGE NSA	
	TOTAL	1 BED	2 BEDS	3 BEDS	SQ M	SQ F	SQ M	SQ F
PRIVATE	96	53	26	17	5,527	59,493	58	620
SHARED OWNERSHIP	14	3	4	7	976	10,506	70	750
TOTAL	110	56	30	24	6,503	69,998	59	636

3.5 The Head of Housing Needs has confirmed that the size breakdown will meet the requirements of short and medium term temporary accommodation needs.

3.6 Officers have approached the developer regarding the possibility of purchasing this Property. An offer has been provided on the basis set out in Appendix 1.

3.7 The planning permission also includes the provision of 5 retail units. It is proposed that these are either leased directly by the council to generate additional income, or sold on 125 year leases to recoup some of the capital expenditure on the site acquisition and construction cost.

3.8 There are considerable public interest benefits in acquiring the Property pursuant to section 227 of the 1990 Act and to engage section 203 of the 2016 Act such public benefits are associated with the purchase of the Property because the 110 units will be let on affordable rates.

4.0 381-397 Edgware Road Site

4.1 The site is bounded by Grove Park.

4.2 To the north, the A5 to the east and the Colindale retail park to the south.

4.3 The existing site measures approximately 0.41 acres (0.16 ha) in size. It is comprised of two separate titles, which form a rectangle. In its existing form, the property consists of two elements:

- 1) The title to the north, which comprises the apex of the corner with Grove Park and Edgware Road - consisting of a double frontage of ground floor shops with two storeys of uppers, currently use as an HMO. Rear car parking sits behind this.
- 2) The title to the south – this comprises a former Victorian house, which is now used as part residential, part commercial at ground floor level. Parking servicing this sits in front of it.

The existing properties are now fully vacant and are set to be demolished as per the current planning permission. These buildings are no more than three stories in height and the site sits on a minor gradient; sloping downhill from north to south. As part of the planning permission, the proposed scheme utilises this slope to benefit from additional height, grading the slope to provide

additional parking.

- 4.4 The scheme will be a mix site development, which will also include offices, a nursery, shops, cafes, bars and a community centre.

5.0 Financial Implications

- 5.1 The analysis assumes that 110 homes will be let at London Housing Allowance Rent (LHA) rates.

- 5.2 The purchase price offer is as set out in the Appendix 1.

- 5.3 The appraisal shows the scheme to be financially viable.

5.4 Main Assumptions

The following assumptions have been made in undertaking the financial viability:

- Rents assumed at LHA rates for all TA units
- Rent increase assumed at CPI plus 1%
- CPI assumed at 2%
- Housing management at £600 and maintenance cost at £600, per property
- 2% Bad debt and 2% Void
- Service charges will be cost neutral
- Cost of Capital – Interest rate on borrowing at 3%

6.0 Legal Implications

- 6.1 Section 120 of the Local Government Act 1972 provides that

For or the purposes of:

- (a) Any of their functions under this or any other enactment; or
- (b) The benefit, improvement or development of their area.

The Council may acquire by agreement any land, whether situated inside or outside their area.

- 6.2 Section 227 of the 1990 Act provides that the Council is able to acquire land for planning purposes

In considering whether the Council is able to engage section 203 powers pursuant to the 2016 Act in relation to the Property the Strategic Director of Regeneration & Environment, in consultation with the Cabinet Member for Regeneration, Property & Planning should consider:

- Whether the land is already owned by the Council.

- 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 pursuant to S226 of the 1990 Act;
- Whether any related financial liabilities of the Council would be indemnified; and
- Whether prior consultation had taken place with the third party owners.

The purchase of the proposed Property will ultimately contribute to the promotion and improvement of the economic and social wellbeing of the Council's area – and it is believed that these benefits may not be realised within a reasonable timescale without interference with the private (third party) rights.

- 6.3 If a third party is able to establish that it has an easement or a right over the Property Land or part of the Land (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 Property by applying for an injunction to prevent the delivery of the development. The effect of the resulting engagement of the powers in section 203 of the 2016 Act, is therefore to facilitate the development and improvement of the Property despite interference with existing third party rights over the Property (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
- 6.4 Section 204 of the 2016 Act 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 any such losses.
- 6.5 Section 79 of the Housing Act 1985 provides that the tenant of a council property will be a secure tenant provided that in accordance with section 81 of

the Housing Act 1985 the dwelling is the tenant's main or principal home. Accordingly, the provisions of the Housing Act will entitle the secure tenant to purchase their home under the right to buy scheme. The Tenancy Agreements will however need to ensure that the tenancy agreement provides for a non-secure tenancy by virtue of schedule 1 of the Housing Act 1985.

- 6.6 Paragraph 3.6 of the report envisages that the retail units may be leased directly by the Council to generate income or sold on 125 year lease. The Council has the power to dispose of property under Section 123 of the Local Government Act 1972 for the best price reasonably obtainable (This type of disposal would be covered under the General Consents and would not need specific consent under Circular 06/03).
- 6.7 The Council legal department will undertake all the necessary due diligence prior to exchange of contracts. Accordingly, all the necessary searches and Title information will be examined prior to entering into the contract to ensure that the Council will acquire the property with good and marketable title.
- 6.8 Appropriate authority will need to be sought for the procurement and award of contracts for relevant consultancy services and for the development of the site.

7.0 Equality Implications

- 7.1 The Council must, in the exercise of its functions, have due regard to the need to:
- a) Eliminate discrimination, harassment and victimisation;
 - b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 7.2 Pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.
- 7.3 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.4 The purpose of the duty is to enquire into whether a proposed decision disproportionately affects people with a protected characteristic. In other words, the indirect discriminatory effects of a proposed decision. Due regard is the regard that is appropriate in all the circumstances.
- 7.5 Through ongoing equality impact assessment, the officers 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.

8.0 Consultation with Ward Members and Stakeholders

8.1 This paper will be circulated to all Ward Members.

9.0 Human Resources / Property Implications

9. There are no further property implications or human resources implications in relation to this report.

10.0 Public Services (Social Value) Act 2012

10.1 The Council is under duty pursuant to the Public Services (Social Value) Act 2012 (“the Social Value Act”) to consider how services being procured might improve the economic, social and environmental wellbeing of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. Officers will have regard to considerations contained in the Social Value Act in relation to any procurements and where appropriate, include reference to social value being 10% of the evaluation score.

Report sign off:

Phil Porter

Strategic Director for Community Wellbeing