



**Executive**  
11 November 2013

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

For Action

Wards Affected:  
Kilburn

**South Kilburn Regeneration Progress Update**

**APPENDICES 2, 3, 5 & 11 ARE NOT FOR PUBLICATION**

**1. SUMMARY**

- 1.1 This report summarises the progress made on the regeneration of South Kilburn and sets out approvals required by the Executive to further progress projects within Phases 2 and 3 of the regeneration programme.

**2. RECOMMENDATIONS**

- 2.1 That the Executive note the progress made on the South Kilburn Regeneration Project as set out in this report.

**Phase 1b Recommendations**

- 2.2 That the Executive note the Strategic Director of Regeneration & Growth's proposed amendments to the Development and Sales Agreement with Catalyst Housing Ltd in relation to former Cambridge Court, Wells Court and Ely Court and Bond Hicks Bolton and Wood House (together defined as **Phase1b**), as set out in section 3 below.
- 2.3 That the Executive authorise recycling the Phase 1b overage payment back into the South Kilburn Regeneration Programme to enable the early acquisition of leasehold interests.

**Site 18 Recommendations**

- 2.4 Members are asked to note that if the Hybrid Parliamentary High Speed 2 (HS2) Bill ('**HS2 Bill**') once laid includes provision for a ventilation shaft on Site 18, that the question as to whether to oppose the HS2 Bill will be put to Full Council.

## **Post Office Plus Site Recommendations**

- 2.5 That the Executive delegate authority to the Strategic Director of Regeneration and Growth in conjunction with the Borough Solicitor and the Chief Finance Officer to enter into a Collaboration Agreement with Woodville Properties the landowner of 5-9 Chippenham Gardens and the Post Office site to bring forward a comprehensive redevelopment of 5-9 Chippenham Gardens and the Post Office site with the Council's adjoining land at 4-26 Stuart Road (together defined as the '**Post Office Plus Site**') as shown edged red on Plan A at Appendix 1.
- 2.6 That the Executive authorise the removal of 4-26 Stuart Road as shown edged red on Plan B at Appendix 1, from the South Kilburn Regeneration Programme **if** the Strategic Director of Regeneration and Growth in conjunction with Borough Solicitor and Chief Finance Officer is unable to agree and enter into a Collaboration Agreement with Woodville Properties in respect of Post Office Plus Site.

### **[Recommendations 2.7 to 2.9 are subject to entering into a Collaboration Agreement with Woodville Properties in respect of the Post Office Plus Site];**

- 2.7 That the Executive award a contract for a full architectural design team to PRP Architects to lead the design team through to a full planning application (RIBA Stage 3) for the redevelopment of the Post Office Plus Site.
- 2.8 That the Executive authorise the Director of Regeneration and Growth to develop a draft allocation policy for allocating homes to secure tenants living within 4 -26 Stuart Road.
- 2.9 That the Executive authorise the Director of Regeneration and Growth to commence statutory consultation with secure tenants residing in 4-26 Stuart Road on three proposals (i) statutory consultation in connection with seeking approval of the Secretary of State for use of Ground 10A of Schedule 2 to the Housing Act 1985 ("Ground 10A") (ii) consultation on the Council's proposal to make a CPO on properties in 4 - 26 Stuart Road that are currently occupied by secure tenants (iii) consultation in connection with the draft allocation policy for allocating homes to secure tenants living within 4 -26 Stuart Road. Officers will report back to the Executive on the outcome of the statutory consultation and may, depending on the outcome of the consultation seek Executive approval to (i) authorise the Director of Regeneration and Growth to seek the Secretary of State's consent to the disposal and development of 4 - 26 Stuart Road for the purpose of Ground 10A, (ii) authorise the final Allocation Policy for 4 - 26 Stuart Road, and (iii) proceed with securing vacant possession of properties within 4 - 26 Stuart Road occupied by secure tenants through negotiation and private treaty and then, if necessary, via possession proceedings based on Ground 10A and CPO.

## **Peel Recommendations**

- 2.10 That the Executive note Officers intention, subject to the approval of the Borough Solicitor, to progress procurement of a full architectural design team to develop a hybrid planning application for 8 to 14 Neville Close (all numbers inclusive), 97 to 112 Carlton House, Peel Precinct (together defined as '**Peel**') as shown edged red on Plan C at Appendix 1 by calling off either the Homes and Communities Agency (HCA) Multidisciplinary Panel or the GLA Architecture and Urbanism Consultants Framework Agreement Panel and report back to the Executive following award of contract.
- 2.11 That the Executive authorise the Strategic Director of Regeneration and Growth to procure a specialist health care provider through an open market tender process to enter into an agreement to take a lease of and manage the South Kilburn Health Centre to be

developed within Peel and report back to the Executive to secure approval for award of the contract.

- 2.12 That the Executive approve the Strategic Director of Regeneration & Growth undertaking a mini competition under the Greater London Authority (GLA) London Development Panel subject to the approval of the Borough Solicitor, to identify a developer partner for the regeneration of Peel and report back to the Executive to secure approval for award of the contract.
- 2.13 That the Executive agree to set rent levels for the affordable units at Peel once complete, at a rent equivalent to HCA Target Rent Levels.
- 2.14 That the Executive agree to proceed with securing vacant possession of the properties and commercial units within Peel through negotiation and private treaty and then, if necessary, via possession proceedings based on Ground 10A in relation to the secure tenants and then CPO for all remaining interests.
- 2.15 That the Executive authorise the Operational Director of Property and Projects (where the Operational Director of Property and Projects in conjunction with the Chief Finance Officer considers applicable) to acquire third party interests and rights within Peel as necessary to progress the project by way of negotiation.
- 2.16 That the Executive authorise the Strategic Director of Regeneration and Growth to seek Secretary of State's consent to appropriate for planning purposes all interests in Peel.
- 2.17 That the Executive authorise the Strategic Director of Regeneration and Growth to develop a draft allocation policy for allocating homes to secure tenants living within Peel;
- 2.18 That the Executive agree and authorise the Strategic Director of Regeneration and Growth to commence statutory consultation with secure tenants residing in blocks earmarked for redevelopment within Peel on three proposals (i) statutory consultation in connection with seeking approval of the Secretary of State for use of Ground 10A of the Housing Act 1985 (ii) consultation on the Council's proposal to make a CPO on properties in Peel that are currently occupied by secure tenants (iii) consultation in connection with the draft allocation policy for allocating homes to secure tenants living within Peel. Officers will report back to the Executive on the outcome of the statutory consultation and may, depending on the outcome of the consultation seek Executive approval to (i) authorise the Director of Regeneration and Growth to seek the Secretary of State's consent to the disposal and development of Peel for the purpose of Ground 10A of the Housing Act 1985, (ii) authorise the final Allocation Policy for Peel, and (iii) proceed with securing vacant possession of properties within Peel occupied by secure tenants through negotiation and private treaty and then, if necessary, via possession proceedings based on Ground 10A and CPO

### **Compulsory Purchase Order (CPO) Recommendations**

- 2.19 That the Executive authorise the acquisition by agreement pursuant to section 227 of the Town and Country Planning Act 1990 and the making of a compulsory purchase order (CPO) pursuant to section 226 of the Town and Country Planning Act 1990 to acquire all non-Council interests (excluding secure tenancies) in the areas shown edged red on Plan C attached at Appendix 1 ('the **CPO Land**') being Peel respectively together with any new rights which may be required under section 13 of the Local Government (Miscellaneous) Provisions Act 1976 to facilitate the development of the CPO Land in furtherance of the regeneration of Peel (and such CPO being referred to in this report as "the **CPO**").

2.20 That the Executive authorise the:

- 2.20.1 Submission of the CPO, once made in respect of the CPO Land, to the Secretary of State for confirmation whilst at the same time seeking to acquire the CPO Land by private negotiated treaty on such terms as may be agreed by the Operational Director Property & Projects
- 2.20.2 Operational Director Property & Projects to enter into agreements with and give undertakings to, on behalf of the Council the holders of all interests in the CPO Land or parties otherwise affected setting out the terms for the withdrawal of their objections to the confirmation of the CPO and including the offering back of any part of the CPO Land not required by the Council after the completion of the development at Peel or the acquisition of rights over the CPO Land in place of freehold acquisition, where such agreements or undertakings are appropriate;
- 2.20.3 Making of one or more general vesting declarations or the 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 CPO be confirmed by the Secretary of State or otherwise;
- 2.20.4 Serving of all requisite notices on the holders of the CPO Land relating to the making, confirmation and implementation of the CPO;
- 2.20.5 Operational Director Property & Projects to remove from the CPO any plot (or any interest therein) no longer required to be acquired compulsorily for the Scheme to proceed and to amend the interest scheduled in the CPO (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);
- 2.20.6 Operational Director Property & Projects 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;
- 2.20.7 Operational Director Property & Projects, if so advised, to seek to acquire for the Council by agreement any interest in land wholly or partly within the boundary of the CPO Land for which a valid blight notice has been served.

### **General Recommendations**

- 2.21 That the Executive delegate authority to the Operational Director Property and Projects (where the Operational Director of Property and Projects in conjunction with the Chief Finance Officer consider applicable) to acquire third party leasehold interests, as necessary in Phase 3 and Phase 4 to progress the regeneration programme, at market value by way of negotiation including any compensation amounts properly payable up to a total value equivalent to the overage payment value set out at Appendix 2.
- 2.22 That the Executive authorise the Strategic Director of Regeneration and Growth to develop a Local Lettings Policy for allocating homes within South Kilburn and to undertake any consultation legally required in relation to the Local Lettings Policy.

### **3. PHASE 1 PROGRESS UPDATE**

- 3.1 To date 362 new homes have been completed as part of '**Phase 1a**' (defined as *Texaco Garage Site, McDonald House, Marshall House Albert Road Zone 11a and the Carlton*

*Vale Roundabout Site Zone 3C*) of the South Kilburn Regeneration Programme. 264 of these new homes are affordable and have been occupied by South Kilburn households.

- 3.2 On 13<sup>th</sup> February 2012 the Executive authorised the disposal of the land at Cambridge Court, Wells Court and Ely Court and Bond Hicks Bolton and Wood House (together defined as '**Phase 1b**') to Catalyst Housing Group. On 13<sup>th</sup> July 2012 the Phase 1b sites were handed over to Catalyst Housing Ltd (formerly Catalyst Housing Group) and a capital land receipt was obtained. Construction works are now underway on site. This development will deliver 208 new homes in summer/autumn 2014, 122 of these new homes will be affordable. The affordable homes will be made available to secure tenants currently residing in Gloucester House, Durham Court, Masefield House and Wordsworth House (together defined as '**Phase 2b**') , thereby facilitating vacant possession of these sites for redevelopment.
- 3.3 On 17<sup>th</sup> June 2013 Catalyst Housing Ltd wrote to the Council to re-negotiate the developer overage payment referred to in Schedule 3 of the Development and Sales Agreement. The proposed offer was considered by the Council's external agent Deloitte. Deloitte confirmed that the proposed offer did not represent best consideration to the Council. On 13<sup>th</sup> September 2013 Catalyst Housing Ltd wrote to the Council with a revised proposal in relation to the overage payment referred to in Schedule 3 of the Development and Sales Agreement. Catalyst Housing Ltd revised proposal was to buy themselves out of their overage liability in return for a fixed overage payment at a sum set out at Appendix 2. The revised proposal was again reviewed by the Council's external agent Deloitte, in conjunction with the Operational Director of Property & Projects. Deloitte confirmed the revised overage proposal offered the Council best consideration.
- 3.4 In accordance with the delegated authority powers awarded by the Executive on 13<sup>th</sup> February 2012 the Strategic Director of Regeneration & Growth [formerly the Director of Regeneration & Major Projects] in consultation with the Borough Solicitor re-negotiated the terms of the developer overage payment. Schedule 3 of the Development and Sales Agreement will be amended in accordance with Catalyst Housing Ltd revised proposal at which point an overage payment as set out at Appendix 2 will be received.
- 3.5 Executive approval is sought to reinvest the overage payment directly back into the South Kilburn Regeneration Programme and delegate authority to the Operational Director of Property and Projects to acquire third party leasehold interests in Phase 3 and Phase 4 as necessary to progress the regeneration programme up to a total value equivalent to the overage payment value set out at Appendix 2.
- 3.6 All third party leasehold interest will be acquired at open market value, in some cases the value of the leasehold interest will be above the Operational Director Property and Projects delegated authority financial threshold as set out in the Constitution, therefore Executive Approval is also sought to delegate authority to the Operational Director Property and Projects to acquire, at market value including any compensation amounts properly payable, third party leasehold interests in Phase 3 and 4, by way of negotiation up to a total value equivalent to the overage payment value set out at Appendix 2.
- 3.7 Currently acquiring leasehold interests is a major programme and financial risk. The reinvested capital land receipts enable the acquisition of leasehold interests within the next phase of the programme only. The business model limits options for strategic acquisitions of leasehold interests thus limiting the Council's offer to owner occupier leaseholders residing within blocks earmarked for development as part of the regeneration programme. Reinvesting the overage payment to enable the early acquisition of leasehold interests within Phases 3 and 4 will assist in de-risking the next phase of the programme.

All leasehold properties acquired will be let on short term tenancies until the block is brought forward for redevelopment.

- 3.8 To assist owner occupier leaseholders who have been resident for 12 months prior to the date of eligibility, officers will also offer practical, non financial help to assist leaseholders in finding and purchasing another property that may be near to the regeneration area or in another part of Brent. The level of help will be assessed on a case by case basis, in accordance with needs, and may include (but is neither guaranteed to include nor restricted to) the provision of:
- Information on how to purchase a property on the open market such as find solicitors, surveyors etc.
  - Information on any other leasehold properties Brent knows are for sale
  - Help to find another property in Brent.

#### 4. **PHASE 2 PROGRESS UPDATE**

- 4.1 On 22<sup>nd</sup> April 2013 the Executive authorised the Strategic Director of Regeneration & Growth [formerly the Director of Regeneration & Major Projects] to enter into development agreements in respect of land at Bronte House and Fielding House (together defined as **Phase 2a**) and British Legion and Albert Road Day Care Centre (together defined as **Site 11b**) with preferred developer partners. On 22<sup>nd</sup> April 2013 the Executive also self confirmed the Bronte House and Fielding House Compulsory Purchase Order ("**The Bronte & Fielding CPO**").

##### ***Bronte House and Fielding House Progress Update***

- 4.2 On 6<sup>th</sup> June 2013 the Council entered into a Development and Sale Agreement with Network Housing Association Ltd to comprehensively redevelop Bronte House and Fielding House to deliver 229 new homes. Network Housing Association Ltd will be responsible for and bear all costs associated with demolishing existing buildings on site, carrying out preparation and any enabling works required and subsequently build out and develop the scheme in accordance with the Stage D Design and Specification to the highest architectural quality and workmanship. It is anticipated that the 229 new homes will be delivered by November 2016 and, of those, 103 must be affordable. The affordable homes will be made available to secure tenants currently residing in Hereford House and Exeter Court, thereby facilitating vacant possession of those sites for redevelopment.
- 4.3 On 1<sup>st</sup> May 2013, the Council confirmed the Bronte & Fielding CPO. On 9<sup>th</sup> October 2013 ownership of all parts of the Bronte and Fielding CPO land vested in the ownership of the London Borough of Brent.
- 4.4 There is however still one interest, a T Mobile (UK) Ltd and Hutchinson 3G UK Limited telecommunication mast, within the Bronte and Fielding CPO land. On 2<sup>nd</sup> October 2013 the Council granted T Mobile (UK) Ltd and Hutchinson 3G UK Limited a right (by way of a short term lease contracted out of the security of tenure provisions of the Landlord and Tenant Act 1954) to remain in occupation between 3<sup>rd</sup> October 2013 and 29<sup>th</sup> November 2013. In accordance with the terms of the lease, T Mobile (UK) Ltd and Hutchinson 3G UK are required to give vacant possession on 29<sup>th</sup> November 2013. Once vacant possession has been achieved the Bronte House and Fielding House site will be handed over to Network Housing Ltd for development at which point a capital receipt will be obtained by the Council.

- 4.5 The capital receipt from the disposal of Bronte House and Fielding House will be recycled back into the delivery of future phases of the South Kilburn Regeneration Project to ensure the momentum of the regeneration programme is maintained. In particular, the land receipt will be used to acquire outstanding leasehold interests in Phase 2b, Phase 3 and to take Peel through the planning process.

#### ***Site 11b British Legion and Albert Road Day Care Centre Progress Update***

- 4.6 On 19<sup>th</sup> June 2013 the Council entered into a Development and Sale Agreement with Bouygues (UK) Limited to redevelop Site 11b to deliver a new mixed used development comprising 144 new homes (28 of which will be affordable) and 480m<sup>2</sup> of commercial floor space. Officers are currently in dialogue with Bouygues (UK) Limited regarding completion following the successful grant of planning consent as Bouygues are seeking to delay completion to a date unacceptable to the Council. Resolution to this issue is expected to be concluded before the end of this year whereupon a capital receipt will be obtained. Demolition will then commence on site. This development will deliver 144 new homes by November 2016.

#### ***Site 18 Queens Park Progress Update***

- 4.7 On 18<sup>th</sup> July 2011 it was reported to the Executive that there are proposals to locate a 130m<sup>2</sup> air shaft on the south-west corner of Site 18 to service the proposed High Speed 2 (HS2) tunnel that would be built under this site. Given the uncertainty the HS2 proposals presented, Officers have not progressed the acquisition of third party interests within Site 18 or procured a developer partner to build out the planning permission secured.
- 4.8 On 19<sup>th</sup> September 2011 the Executive authorised Officers to issue the following response to the Government's HS2 consultation: "The Council is proceeding with the development of the Queens Park station site and therefore asks that the vent be located on an alternative site that is of less value to the South Kilburn redevelopment programme. For example, the vent shaft could be located on land to the east of Queens Park station which is currently used as a builders' yard/depot".
- 4.9 On 30<sup>th</sup> January 2013 Officers responded to HS2 safeguarding consultation noting the Council did not agree with HS2's decision to construct a ventilation shaft on the south-west corner of Site 18. Within the safeguarding consultation response Officers put forward an alternative location for the ventilation shaft at a site referred to as Canterbury Works, behind and including Canterbury House, on Canterbury Road as identified red on Plan D at Appendix 1. It was noted this site could be a better location for a ventilation shaft because there is less opportunity for redevelopment at this location and if a ventilation shaft was constructed on the Canterbury Works site it would not have an impact on the South Kilburn Regeneration Programme.
- 4.10 On 5<sup>th</sup> July 2013 Officers responded to HS2 environmental consultation and confirmed the Council would commission a study to consider the socio-economic impact of developing a ventilation shaft on the south-west corner of Site 18 and the alternative Canterbury Works site.
- 4.11 On 9<sup>th</sup> July 2013 HS2 Ltd safeguarded part of Site 18 as identified edged red on Plan E at Appendix 1.
- 4.12 The Council commissioned Lambert Smith Hampton (LSH) consultants to quantify the social, economic, environmental and financial impact of HS2's proposals for the south-west corner of Site 18 to the Council. LSH also considered the social, economic,

environmental and financial impact of relocating the ventilation shaft to the alternative Canterbury Works site.

- 4.13 The draft interim Social and Economic Impact Study undertaken by LSH supports the Officer view to relocate the ventilation shaft away from the south-west corner of Site 18.
- 4.14 The HS2 Bill is likely to be laid before Parliament before the end of 2013. Discussions with HS2 have not yet produced any change in their planned location for the vent shaft and the Council's opposition to the current location is likely to have a greater prospect of success if the Council petitions the HS2 Bill.
- 4.15 Section 239 Local Government Act 1972 provides that opposing the HS2 Bill and incurring the costs of doing so must be decided by resolution of Full Council and requires the agreement of a majority of members at that meeting. Additional notice requirements for the meeting must be complied with and in passing a resolution members must be satisfied that it is expedient to oppose the HS2 Bill.
- 4.16 Members of the Executive are asked to note that if the HS2 Bill is placed before Parliament with provisions that impact on Site 18, that the matter will be put to Full Council for a decision on whether to oppose the HS2 Bill.

#### ***Gloucester House & Durham Court Progress Update***

- 4.17 On 20<sup>th</sup> May 2013 the Executive authorised award of contract for a full architectural design team to Feilden Clegg Bradley Studios LLP to lead the design team through to full planning application (RIBA Stage 3) for the redevelopment of Gloucester House and Durham Court.
- 4.18 The Gloucester House and Durham Court project aims to deliver a high quality residential led development of approximately 214 new homes and an energy centre for the South Kilburn neighbourhood heating system. A storm overflow sewer and foul sewer cut across the site in three locations severely constraining the developable land within the site. Detailed design proposals, which avoid building over the sewers, are being developed in consultation with local residents. Three public consultation events have been held, alongside three resident design workshops which consulted decanting residents on the design for their new homes.
- 4.19 At the time of writing it is envisaged a full planning application for the site will be submitted in January 2014. Once detailed design proposals for the site are confirmed a procurement process will commence to select a developer partner to develop the site. Officers will report back to the Executive to seek all necessary approvals to procure a developer partner once the planning application has been submitted.
- 4.20 On 20<sup>th</sup> May 2013 the Executive approved the adoption of the Allocation Policy which will apply to all Secure Tenants with homes in Durham Court and Gloucester House which includes the proposal to make a CPO on properties in Phase 2b currently occupied by secure tenants as well as seeking possession of properties in Phase 2b, subject to the Secretary of State's consent, under Ground 10A of Schedule 2 to the Housing Act 1985.
- 4.21 On 25<sup>th</sup> September 2013 the Secretary of State consented to use Ground 10A in relation to the Secure Tenants residing in Gloucester House and Durham Court. No conditions were attached to the consent save that the Council must proceed in accordance with the scheme detailed within our application summarised in paragraph 4.18. All Secure Tenants residing in Gloucester House and Durham Court will be rehoused in accordance with the Phase 2b Allocation Policy approved by the Executive on 20<sup>th</sup> May 2013. It is envisaged



the majority of the secure tenants will be rehoused in the new affordable homes currently being built in Phase1b by Catalyst Housing Ltd.

#### **Masefield House and Wordsworth House Progress Update**

- 4.22 Masefield House and Wordsworth House development site as identified on Plan F at Appendix 1 has previously been earmarked for a new combined primary school.
- 4.23 On 20<sup>th</sup> May 2013 the Executive approved the adoption of the Allocation Policy which will apply to all Secure Tenants with homes in Masefield House and Wordsworth House which includes the proposal to make a CPO on properties in Phase 2b currently occupied by secure tenants as well as seeking possession of properties in Phase 2b, subject to the Secretary of State's consent, under Ground 10A of Schedule 2 to the Housing Act 1985.
- 4.24 On 25<sup>th</sup> September 2013 the Secretary of State consented to use Ground 10A in relation to the Secure Tenants residing in Masefield House and Wordsworth House. No conditions were attached to the consent save that the Council must proceed in accordance with the scheme detailed within our application summarised in paragraph 4.22.
- 4.25 All Secure Tenants residing in Masefield House and Wordsworth House will be rehoused in accordance with the Phase 2b Allocation Policy approved by the Executive on 20<sup>th</sup> May 2013. It is envisaged the majority of the secure tenants will be rehoused in the new affordable homes currently being built in Phase1b by Catalyst Housing Ltd.
- 4.26 On 22<sup>nd</sup> April 2013 the Executive were advised that Alison Brooks Architects Limited had been appointed to undertake a review of the feasibility and deliverability of the proposals for the site alongside a review of the Masterplan proposals for the '**Masterplan Review Area**' (*defined as Austen and Dickens House, Wordsworth House and Masefield House, Blake Court, the Immaculate Heart of Mary RC Church and the attached Marian Community Centre, Kilburn Park, Carlton Vale Infant School and Kilburn Park Junior School and Site C*) as identified on Plan G at Appendix 1.
- 4.27 Alison Brooks Architects Limited completed a design review of the Masterplan Review Area. Officers are currently reviewing decant and phasing implications alongside the financial viability and deliverability of the alternative design proposals for the Masterplan Review Area. If the revised design proposals for the Masterplan Review Area are financially viable and deliverable, officers may seek approval from the Executive and Planning Committee to undertake all required statutory consultation to amend the South Kilburn Supplementary Planning Document.
- 4.28 If the Masterplan Review results in a change to the design proposals for Masefield House and Wordsworth House, officers will need to consider whether Ground 10A is still available and, if it was, apply to the Secretary of State for his approval to the change in order to be able to rely on Ground 10A for Masefield House and Wordsworth House.

#### **Post Office Plus Site Progress Update**

- 4.29 On 18<sup>th</sup> July 2011 the Executive authorised incorporating the redevelopment of 4-26 Stuart Road within the Phase 2 of the South Kilburn Redevelopment Programme. On 22<sup>nd</sup> April 2013 the Executive noted officers' intention to progress discussions with the landowner of 5-9 Chippenham Gardens and the Post Office site to ascertain if the Council could enter into a Collaboration Agreement to comprehensively redevelop 5-9 Chippenham Gardens and the Post Office site with the Council's adjoining land at 4 - 26 Stuart Road (together defined as the '**Post Office Plus Site**') as shown edged red on Plan A at Appendix 1.

- 4.30 On 2<sup>nd</sup> May 2013 Officers met with Woodville Properties the landowner of 5-9 Chippenham Gardens and the Post Office. Woodville Properties confirmed their 'in principle' agreement to enter into a Collaboration Agreement to bring forward the comprehensive redevelopment of the Post Office Plus Site.
- 4.31 Officers then commissioned Grid Architects Limited to undertake a RIBA Stage 1 Feasibility Study of the Post Office Plus Site to inform assumptions within the Collaboration Agreement.
- 4.32 The principle structure of the Collaboration Agreement is summarised at Appendix 3. As the terms of the Collaboration Agreement are still being negotiated with Woodville Properties, officers recommend that the Executive delegate authority to the Director of Regeneration and Growth in consultation with the Borough Solicitor to enter into a Collaboration Agreement with Woodville Properties to bring forward the comprehensive redevelopment of the Post Office Plus Site.
- 4.33 On 20<sup>th</sup> September 2013 the Post Office Plus Architectural Brief was issued to three selected high quality architectural practices. The brief stated that the tender evaluation will be determined and the contract awarded on the basis of the evaluation matrix set out at Appendix 4 of this report. Overall 40% of the marks were awarded for price and 60% for quality.
- 4.34 Tenders from three organisations (Appendix 5) were submitted on time and these were evaluated by Officers in accordance with the evaluation matrix set out at Appendix 4. Details of the price and quality evaluation results are set out at Appendix 6. Following the evaluation of the tender submissions, the bid from PRP Architects has been identified as the top scoring tender bid. Subject to agreeing and entering into a Collaboration Agreement with Woodville Properties, it is recommended the Executive authorise award of contract for a full architectural design team to PRP Architects to lead the design team through to a full planning application (RIBA Stage 3) for the redevelopment of the Post Office Plus Site.
- 4.35 Once the Collaboration Agreement with Woodville Properties has been completed, Officers will undertake a statutory consultation with secure tenants living within 4 - 26 Stuart Road on (i) a bespoke allocation policy for 4 - 26 Stuart Road, (ii) seeking approval of the Secretary of State for the use of Ground 10A of the Housing Act 1985 and (iii) on the Council's proposal to make a CPO on properties in 4 - 26 Stuart Road that are currently occupied by secure tenants.
- 4.36 The process of allocating tenants will be set out in a bespoke Allocation Policy that will be developed for Post Office Plus Site. It is anticipated that this will be similar to the bespoke existing South Kilburn Phase 2b Allocation Policy (copy attached at Appendix 7) and which, in places, is different to the Council's Allocation Policy.
- 4.37 When developing the bespoke South Kilburn Phase 2b Allocation Policy, the Council engaged with the South Kilburn Tenants Steering Group. Officers wish to adopt a similar approach in developing the bespoke Post Office Plus Site Allocation Policy because, if we are to maintain residents' support of the regeneration process, it is important that we listen to their views and take on board their legitimate concerns. Once a draft policy is developed, Officers will return to the Executive seeking approval to it.
- 4.38 Officers will also consult Secure Tenants, Leaseholders, neighbouring residents, Friends of Chippenham Gardens and user of the Post Office and Café on detailed design proposals for the Post Office Plus Site. A detailed planning application for the site will then be submitted. Upon securing planning permission Officers intend to progress the

procurement of a developer partner. Officers will report back to the Executive to seek all necessary approvals to procure a developer partner once the planning application has been submitted.

- 4.39 If Officers are unable to agree and enter into a Collaboration Agreement with Woodville Properties to bring forward the comprehensive redevelopment of the Post Office Plus Site, Executive approval is sought to remove 4 - 26 Stuart Road from the South Kilburn Regeneration Programme thus enabling 4 - 26 Stuart Road to be reincorporated into Brent Housing Partnership's Decent Homes programme.

## **5. PHASE 3 PROGRESS UPDATE**

### ***Peel Precinct, 97-112 Carlton House and 8-14 Neville Close ("Peel")***

- 5.1 On 22<sup>nd</sup> April 2013 the Executive noted officers intended to consider, in partnership with local residents and the Brent Clinical Commissioning Group, if the comprehensive redevelopment of Peel could deliver a mixed use scheme that would provide sufficient residential development and other uses as appropriate to deliver a new South Kilburn Health Centre at no net capital cost to the Council.
- 5.2 Peel currently comprises 56 residential units (of which 36 are occupied by secure tenants), 16 commercial units, the Sir Robert Peel public house (home to the West Kilburn branch of The Royal British Legion) and South Kilburn Studios, a meanwhile project offering creative traineeships to young people from the local area.
- 5.3 The Council is committed to delivering a new Health Centre within South Kilburn to address prevalent health inequalities. It is intended the South Kilburn Health Centre will provide for the co-location of three local GP practices: Blessing Medical Centre (307 Kilburn Lane), Kilburn Park Medical Centre (12 Cambridge Gardens) and Peel Precinct Surgery (3 Peel Precinct) into one building that is of adequate size and fit for purpose to meet the existing high health needs of the population and the anticipated health needs of the increased population over time. The South Kilburn Health Centre should also have space for complimentary health uses.
- 5.4 The Peel project objectives are to:
- deliver a new, fit for purpose Health Centre to meet the high health needs of existing residents and the anticipated health needs of future residents.
  - deliver sufficient residential development to meet the decant requirements of the 36 properties within the site occupied currently by secure tenants.
  - deliver sufficient residential development for market sale and other uses as appropriate to fund the delivery of the Health Centre and to cross subsidise the delivery of the affordable homes.
  - co-locate three local GP practices: Blessing Medical Centre, Kilburn Park Medical Centre and Peel Precinct Surgery into the new Health Centre.
  - deliver high quality, well designed housing and create an attractive high quality public realm including a new public square.

- secure a capital land receipt to reinvest back into the delivery of the regeneration programme.

- 5.5 Peel will essentially form a stand alone project within the masterplan to enable the early delivery of a South Kilburn Health Centre ahead of the planned programme. To facilitate the early delivery of the South Kilburn Health Centre the project must provide sufficient residential development to meet the decant requirements of 36 Secure Tenants currently living within the site. A key principle of Peel is that the affordable homes developed as part of the project, where the relevant needs are met, will be made available to the existing Secure Tenants residing within blocks earmarked for demolition within Peel. The Secure Tenants cannot be rehoused outside of the development as this would have implications on bringing forward other sites within Phase 3 and 4 of the regeneration programme. This will require the project to build replacement homes which will be bespoke to tenants needs and, will therefore require the Executive to adopt a different decant/allocation policy to that used on other sites to date and going forward.
- 5.6 The process of allocating tenants will be set out in a bespoke Allocation Policy that will be developed for Peel. Officers will undertake a statutory consultation with secure tenants living within Peel only on (i) a bespoke allocation policy for Peel, (ii) seeking approval of the Secretary of State for the use of Ground 10A of the Housing Act 1985 and (iii) on the Council's proposal to make a CPO on properties in Peel that are currently occupied by secure tenants. Once a draft policy is developed, Officers will return to the Executive seeking approval to it.
- 5.7 On 22<sup>nd</sup> April 2013 the Executive were advised Gort Scott Architects had been appointed to explore the viability and feasibility of progressing the comprehensive redevelopment of Peel to deliver a Health Centre. The Council also procured Deloitte to provide financial and commercial advice in respect of the project. Deloitte reviewed the detailed financial viability of the design options and undertook soft market testing with potential developer partners.
- 5.8 Consultation on the design proposals developed during the feasibility study was undertaken with all key stakeholders. A summary of the feedback received at the consultation events is attached at Appendix 8.
- 5.9 Informed by the feasibility study and subsequent soft market testing, officers are of the view that it **may** be possible to bring forward the comprehensive redevelopment of Peel to deliver a mixed use scheme that would achieve the Council's objectives as set out in paragraph 5.4 above, if a commercial delivery approach is adopted and the development potential of the site is maximised. The comprehensive redevelopment of the entire site is therefore proposed. This would involve demolishing the existing buildings, full site clearance, and redeveloping the entire site to deliver a mixed use scheme to include a Health Centre of around 2,300m<sup>2</sup>, roughly 200 units for private sale and 36 replacement affordable units.
- 5.10 To achieve the Council's objective of creating a high quality Health Centre and increase the level of activity in this part of South Kilburn it is envisaged the South Kilburn Health Centre will include other uses as appropriate at ground floor such as a pharmacy and café. As the project develops the Council will also explore if it is viable to incorporate an enterprise space either within the South Kilburn Health Centre or within another future development to mitigate the loss of the South Kilburn Studios.
- 5.11 The Executive should note that it is not envisaged Peel will re-provide a public house or replacement commercial units. These replacement uses are not proposed as the number of residential units for private sale needs to be maximised to achieve the Council's

objectives as set out in paragraph 5.4 above. Incorporating replacement commercial units would compromise the viability of the scheme. There is no commercial requirement or need for goods comparison floorspace within Peel due to the close proximity of the established existing centres at Queens Park and Kilburn High Road. There is also a risk that vacant or poor quality retail provision will detract from the overall residential amenity.

- 5.12 The proposed structure of the offer for Peel is set out at Appendix 9. Informed by the soft market testing undertaken, it is proposed the Council de-risks the site by bringing forward a hybrid planning application, securing vacant possession and procuring a specialist healthcare provider/ investment company to manage the South Kilburn Health Centre in advance of procuring a developer partner.
- 5.13 There are a number of inherent risks associated with the recommended delivery approach, including but not limited to those set out at Appendix 10.
- 5.14 The proposed delivery and procurement approach aims to mitigate some of the identified risks whilst simultaneously delivering the Council's objectives set out in paragraph 5.4 by de-risking the site and cascading control for the design of the private units, delivery process and the financial viability of the scheme down to a developer partner.
- 5.15 If the procurement process identifies that the proposed scheme fails to deliver the Council's requirements outlined in paragraph 5.4, Officers would bring forward a further report to the Executive considering alternative delivery options, to establish if a less ambitious option might be more appropriate to deliver a fit for purpose Health Centre in South Kilburn.

## **6. GENERAL MASTERPLAN UPDATE**

### ***Target Rent Requirements Progress Update***

- 6.1 On 18<sup>th</sup> July 2011 the Executive agreed to adopt a rent equivalent to the HCA Target Rent Levels for affordable developments in South Kilburn until Borough wide rent levels were reviewed. The 18<sup>th</sup> July 2011 Executive Report set out the background to the rent level change and concluded that setting HCA Target Rent Levels on Phase 2, Phase 3 and subsequent Phases is the only realistic way of affording the whole Project and avoiding the requirement for large amounts of grant that would not in themselves be certain of being awarded and, if awarded, would require rents to be increased to the new 'affordable rent' levels.
- 6.2 On 13<sup>th</sup> February 2012 the Executive were advised that the higher level of inflation in 2010/11 (5%+) had increased the capital values in the South Kilburn area and the effect of the rent caps meant that, the increase in rents was much steeper than the forecasted increase of £15 per week. It had a particular impact on the rent levels for two and three bedroom homes. It was noted that accepting the overall rent rise will potentially make decanting tenants more difficult. However, the overall rise nevertheless provides good value for money as tenants are moving into brand new modern homes. As the Phase 2b decant has not yet commenced, Officers are unclear if the change in rent levels will impact on the decant process.
- 6.3 In line with the Council's commitment to maintaining current HCA Target Rent levels in regeneration areas it is recommended that the Executive agree to set the rent levels for the affordable units at Peel once complete, at a rent equivalent to the HCA Target Rent Levels.

## ***One Bed Shortfall Progress Update***

- 6.4 On 19<sup>th</sup> September 2011 the Executive were advised there was an overall deficit in one bedroom properties within the South Kilburn Regeneration Programme because of a mismatch between overall borough needs (i.e. there is a borough-wide requirement for larger family housing) and local South Kilburn needs, where there are a higher proportion of one bedroom properties across the regeneration area.
- 6.5 In order to ease the burden on the allocation process and to continue programme momentum, on 19<sup>th</sup> September 2011 the Executive authorised the Strategic Director of Regeneration and Growth [formerly the Director of Regeneration and Major Projects] to cease long term lettings, and authorise the service of demolition notices and the suspension of tenants' Right to Buy applications, in relation to secure tenancies across the estate on all one bedroom properties that have been identified to be demolished as part of the South Kilburn Regeneration Programme.
- 6.6 Whilst good progress has been made on allocations for Phase 1b homes, there is a risk that the Government size criteria for social housing introduced as part of welfare reform (which has cut the amount of benefit that people are entitled to if they are considered to have a spare bedroom) will increase the demand for one bedroom properties. In order to ease the burden on the allocation process and to continue programme momentum, Executive approval is sought to develop a Local Lettings Policy for South Kilburn and undertake all associated consultation, for the purpose of progressing the regeneration of South Kilburn.
- 6.7 On 22<sup>nd</sup> April 2013 the Executive authorised Brent's borough wide Allocations Policy which will go live in October 2013. Section 10 of the Allocation Policy refers to section 166A(6)(b) of the Housing Act 1996 (which specifically allows for local lettings policies) and section 166A(3) of the Housing Act 1996. Local lettings policies can be agreed by the Executive within the allocations scheme provided that they can demonstrate overall compliance with section 166(3) of the Housing Act 1996. The South Kilburn Local Lettings Policy would fall within section 166A(3)(e) of the Housing Act 1996 which states as follows:
- (e) people who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or to others).
- 6.8 Executive approval will be sought for the Local Lettings Policy once drafted and all necessary consultation has been undertaken. It is envisaged that when Executive approval is award for the South Kilburn Local Lettings Policy, Annex 4 of the Allocation Policy will be amended to make a specific reference to the local lettings/ policies in South Kilburn for the purpose of progressing the South Kilburn regeneration.

## **7. LEGAL IMPLICATIONS**

### ***Leaseholder Acquisitions***

- 7.1 Members are referred to the recommendation set out in paragraph 2.21 above. The Council intends to seek to purchase by way of negotiation leasehold properties that are located within the South Kilburn Masterplan Area. The Operational Director of Property and Projects has authority under paragraph 4.3 of Part 4 of the Council's Constitution to acquire on behalf of the Council properties up to the value of £300k per unit (if acquired, disposed of or granted at a premium that does not exceed £300k in value). The Council does not intend to make a CPO in respect of the properties. However, in order to assist

the delivery of the South Kilburn Regeneration scheme, paragraph 2.21 seeks the authorisation of the Executive to grant delegated authority to the Operational Director of Property and Projects, in consultation with the Chief Finance Officer where applicable, to acquire properties so that it will not be necessary for officers to seek the approval of the Executive every time officers propose to acquire a property.

- 7.2 Officers will publish details of the associated Key Decision for the purposes of paragraphs 26 to 29 of the Access to Information Rules as set out in Part 6 of the Council's Constitution.

### ***Procurement of developer partner for Peel***

- 7.3 The Council's Contract Standing Orders state that no formal tendering procedures apply where contracts are called off under a framework agreement established pursuant to EU Procurement Regulations by another contracting authority, where call off under the framework agreement is recommended by the relevant Chief Officer, to include confirmation that there is sufficient budgetary provision for the proposed call-off. However, this is subject to the Borough Solicitor advising that participation in the framework agreement is legally permissible and approval to participate in the framework being obtained from the Borough Solicitor. Approval will be sought and given from the Borough Solicitor prior to procuring off the (GLA) London Development Panel.
- 7.4 As a result of recent rulings in the European Court of Justice, if the Council utilise a development agreement in respect of any of the land, it will need to undertake an EU procurement process to find a partner to carry out the development. The Court of Justice has ruled that development agreements cannot be viewed as merely part of a land transfer, because they impose detailed requirements as to the development to be constructed and are therefore a form of procurement of works.
- 7.5 The intention is to identify developer partners using mini-competitions under the GLA London Development Panel for Peel. The GLA London Development Panel is a panel established by the GLA in accordance with the Public Contracts Regulations 2006 (the EU Regulations) and signed up to by the Council.
- 7.6 The EU Regulations not only regulate the establishment of the framework agreement, they also prescribe rules and controls for their use. Following the establishment of the GLA London Development Panel Framework, development agreements may be called off under it without the need for them to be separately advertised and procured through a full EU process. There are however strict rules that apply to the call-off process to ensure fairness and transparency and these have been incorporated into the call-off procedure for the GLA London Development Panel.
- 7.7 The award of a development agreement for the appointment of developer partners is also subject to the Council's own Standing Orders and Financial Regulations in respect of High Value Contracts (the value of the Peel development agreement are likely to be such that it is classed as a High Value contract). As a result, once a developer has been identified following mini-competitions under the GLA London Development Framework, Executive approval to the development agreement will be required.

### ***Procurement of a specialist health care provider***

- 7.8 The Health Care Provider will not be subject to any obligations in relation to the development of the Health Centre as these will all be assumed by the developer procured for the redevelopment of Peel so the agreement with the Health Care Provider will just be a land agreement. The EU Regulations state that land transfers are not regulated

contracts and are not therefore subject to the public procurement requirements contained within the EU Regulations. Land transfers include both land sales and disposals by way of leasehold. There is therefore no legal requirement for the Council to procure the lease to be entered into with the specialist health care provider using an EU Regulations compliant process. The Council nonetheless intends to advertise the leasehold opportunity and to hold a selection process before granting the lease in order to ensure that transparency and equal treatment is maintained.

### **Procurement of Peel Full Architectural Design Team**

- 7.9 The Council's Contract Standing Orders state that no formal tendering procedures apply where contracts are called off under a framework agreement established pursuant to EU Procurement Regulations by another contracting authority, where call off under the framework agreement is recommended by the relevant Chief Officer, to include confirmation that there is sufficient budgetary provision for the proposed call-off. However, this is subject to the Borough Solicitor advising that participation in the framework agreement is legally permissible and approval to participate in the framework being obtained from the Borough Solicitor. Approval will be sought and given from the Borough Solicitor prior to procuring off either the HCA Multidisciplinary Panel or the GLA Architecture and Urbanism Consultants Framework Agreement Panel.

### **Compulsory Purchase Order[s]**

- 7.10 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 (1)(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.

- 7.11 Compulsory purchase orders must only be made if the Council is satisfied that there is a compelling case in the public interest to do so. Para. 17 of Part 1 of the Memorandum to ODPM Circular 06/04 (*Compulsory Purchase and the Crichel Down Rules*) 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."*

- 7.12 For the reasons set out in this report (at paragraph 7.17 below) and the report to the Executive Committee meetings on 19<sup>th</sup> September 2011, 23<sup>rd</sup> June 2010, 15<sup>th</sup> November 2010 and 18<sup>th</sup> July 2011, 22<sup>nd</sup> April 2013 and 20<sup>th</sup> May 2013 it is considered that there is such a compelling case for the compulsory acquisition of properties within Phase 2 and Phase 3 of the proposed South Kilburn Regeneration Programme and that the public interest requires that compulsory purchase orders be made in order to carry through the necessary redevelopment of the CPO Land.



- 7.13 Further, there should be no impediments to the eventual implementation of a compulsory purchase order. Para's 22 and 23 of Part 1 of the Memorandum to ODPM Circular 06/04 advise (in part):

*"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 licence.*

*"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."*

- 7.14 Executive will note that there will be sufficient funds available to meet the compensation costs for the acquisition of the CPO Land through funds secured from previous and future land receipts. Officers consider that there is a reasonable prospect of the Scheme going ahead subject to continuation of the programme. 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 for the CPO for the CPO land.
- 7.15 It is necessary to consider the human rights implications of making CPOs. This information is covered in the 23<sup>rd</sup> June 2010 and the 15<sup>th</sup> November 2010 reports to Committee and below.

### **Human Rights Act 1998**

- 7.16 The Human Rights Act 1998 places direct obligations on public bodies such as the Council to demonstrate that the use of compulsory purchase powers is in the public interest, and the use of such powers is proportionate to the ends being pursued.
- 7.17 It is acknowledged that the compulsory acquisition of the Order Land will amount to an interference with the human rights of those with an interest in the Land. These include rights under Article 1 of the First Protocol of the European Convention on Human Rights ("ECHR") (which provides that every natural or legal person is entitled to peaceful enjoyment of his possessions) and Article 8 of the ECHR (which provides that everyone has the right to respect for his private and family life, his home and his correspondence).
- 7.18 In this instance, Officers are of the view that there is a compelling case in the public interest for compulsory acquisition of the various interests referred to in this report which outweigh such rights, and therefore the use of compulsory purchase powers in these areas is proportionate. Without the use of these powers, the much-needed regeneration and redevelopment of this area will not be achievable, as there is no possibility that all of the land necessary to deliver the redevelopment will be made available within a reasonable timescale.

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

- 7.19 The Council is required to obtain the approval of the redevelopment scheme from the Secretary of State 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:

- 7.19.1 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;
  - 7.19.2 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
  - 7.19.3 consider any representations received during that period.
- 7.20 Unlike a tenanted transfer, however, no formal ballot is required to be carried out. However, the Secretary of State, before giving his consent, will consider the following:
- 7.20.1 the effect of the scheme on the extent and character of housing accommodation in the neighbourhood;
  - 7.20.2 over what period of time it is proposed that the disposal and redevelopment will take place in accordance with the scheme;
  - 7.20.3 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.
- 7.21 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***

- 7.22 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 or financial assistance is provided by the Council 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.
- 7.23 The Prudential Capital Finance System, which was introduced in 1st April 2004, under regulation 12(1) imposed 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) defined as any land, house or other building which was held within the Housing Revenue Account immediately before its disposal. The Local Authority (Capital Finance and Accounting)(England) Regulations 2003 as amended by SI 2012/711 updated the provisions on pooling by replacing the former regulations 12 to 21.

7.24 The Amendments state that any receipt arising from the sale of housing assets that are not dwellings and any receipt arising from non-RTB sales of dwellings (unless they are deemed to be treated as RTB sales) are exempt from pooling. However, if they are used for purposes other than:

- (a) repayment of housing debt;
- (b) affordable housing (as defined in paragraph 3.2.1 of the Limits on Indebtedness Determination 2012 as amended); or
- (c) regeneration projects (as defined in paragraph 3.2.3 of the Limits on Indebtedness Determination 2012 as amended);

then the authorities HRA Capital Financing Requirement will reduce by the level of the receipt so used. In the determination the provision of affordable housing means the provision of dwellings to meet the housing needs, as identified by the local housing authority, of persons on low incomes, whether provided by the authority or a private registered provider of social housing.

In the case of sales in the South Kilburn area these would be classified as being for the purpose of regeneration and as such would be exempt.

## 8. FINANCIAL IMPLICATIONS

*Financial implications for the South Kilburn Programme, financial year 2013/14*

8.1 The table below summarises the current forecast position for the progression of the South Kilburn Regeneration Project in 2013/14.

<b>South Kilburn Regeneration Programme</b>	<b>£m</b>
<b>Forecast Expenditure</b>	
General Development Costs	2.928
Phase 1a	0.517
Phase 1b	0.663
Phase 2a	4.658
Phase 2b	5.738
Peel	0.270
Land Acquisitions	0.075
<b>Total Forecast Expenditure</b>	<b>14.849</b>
<b>Forecast Resources</b>	
Surplus Resources	
Forecast Capital Receipts for 2012/13	23.000
<b>Total Forecast Resources</b>	<b>23.000</b>
<b>Forecast Surplus Resources to Carry Forward to 2013/14</b>	<b>8.151</b>

8.2 As indicated in the table above, the resource envelope for taking forward the South Kilburn Regeneration Programme in 2013/14 and beyond is determined by the level of the capital receipts to be secured from the disposals of long leases of land.

8.3 Indicative project budgets for; Post Office Plus Site and Peel are summarised at Appendix 11.

### Use of Ground 10A & Phase 2b Allocation Policy

8.4 The financial implications of the policies for seeking possession from Secure Tenants in Phase 2b using Ground 10A of the Housing Act 1985, CPO under section 226(1)(a) of the Town and Country Planning Act 1990 and the Phase 2b Allocation Policy relates to the

making of home loss and disturbance payments to Secure Tenants who are entitled to such payments in accordance with Council policy and legislation (including the Land Compensation Act 1973). Secure Tenants, who move out of their homes, provided they have lived there for at least twelve months before their move and it is their only or principal home, will be eligible for a home loss payment which is currently a minimum of £4,700 but which may change in line with government legislation over the period of the regeneration. The Council will always pay the rate which applies at the time of the Secure Tenant's move. In addition to home loss payments, reasonable disturbance costs, including, but not limited to, removal expenses, redirection of mail and telephone disconnection and reconnection may be payable to Secure Tenants who are entitled to such payments. Anticipated home loss and disturbance payments to Secure Tenants with homes in Phase 2b can also be resourced from the Kilburn Regeneration Programme budget.

- 8.5 The financial model for South Kilburn is for the regeneration scheme to be self financing 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 and Communities Agency.
- 8.6 The South Kilburn Financial Model was recently reviewed by Navigant Consulting based on the intelligence gathered through the deliver of Phase 1a and Phase 1b. The model was revised based on the assumption that future phases of the regeneration programme would be delivered without grant subsidy.
- 8.7 Oversight of this project is provided by an officer board that regularly monitors progress and reviews updated costs plan information. In the event of any cost overruns on this project, the board will review all possible options in order to bring the cost plan back into budget. In the event that this is not possible, then any cost overrun will sought to be met from within existing Regeneration and Major Projects budgetary provision.

#### *Financial implications for the Housing Revenue Account*

- 8.8 Following the implementation of the new Housing Self Financing system in April 2012, the Council HRA Account will no longer receive Housing Subsidy payments from the Government in order to maintain a balanced HRA position, so the estimated rental income loss arising from holding properties as void or the subsequent demolition of properties will be a "real" cost to the HRA and impact on the affordability of the Business Plan. This loss is offset in the Business Plan in those cases where the properties were included in the Self Financing Settlement, as the impact on the rental flow is forecast and taken into account in calculating an affordable HRA position.
- 8.9 In the case of proposed demolitions required for the Stuart Road and Peel developments these were not included within the Self Financing Settlement and will impact upon the affordability of the HRA Business Plan. The cost to the HRA of the loss of these properties has been calculated using a DCLG Model as follows:
  - Stuart Road - £258,121
  - Peel - £384,961
- 8.10 In order that the HRA does not incur any loss from the proposed redevelopment of these areas it will be necessary to make equivalent amounts available from within the overall South Kilburn Delivery Strategy to recompense the HRA and maintain the forecast Business Plan position. Officers are currently investigating the options available to leave

the HRA in a robust position whilst maintaining the viability of the South Kilburn schemes and will report to a future meeting of the Executive seeking approval to a proposed means of mitigation.

## **9. Diversity Implications**

- 9.1 South Kilburn is identified as a priority for driving economic opportunity and regeneration within Brent – Our Future 2010-2014 (Brent Borough Plan). The Regeneration Strategy for Brent 2010-2030 identifies the transformational change of South Kilburn within strategic priority 1. The area was previously a New Deal for Communities area and as such, all interventions are specifically targeted at those people who suffer disadvantage in society. South Kilburn Neighbourhood Trust, through its widening participation 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.
- 9.2 The new homes in South Kilburn are available to all tenants within the neighbourhood regardless of age, disability, gender reassignment, pregnancy and maternity status, marriage and civil partnership status, race, religion or belief, sex, sexual orientation, ethnicity, nationality or national origin. A proportion of new homes are designed to be wheelchair adaptable while the allocations process considers the housing needs of tenants in respect of issues that maybe derived from individuals' age, disability, gender reassignment, pregnancy and maternity status, marriage and civil partnership status, race, religion or belief, sex, sexual orientation, ethnicity, nationality or national origin. The potential impact of the recommendations relating to how the Council takes forward the redevelopment of the Post Office Plus Site and Peel are considered in the Equalities Analysis at Appendix 12.

## **10. Staffing/Accommodation Implications**

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

## **Appendices**

Appendix 1	Plan A – Post Office Plus Site, London NW6 5LT and 5LH Plan B – 4-26 Stuart Road, London, NW6 5LT Plan C – Peel Redevelopment Site Plan D – Canterbury Works Site, Canterbury Road, London, NW6 5ST Plan E - HS2 Safeguarding Plan Plan F – Masefield House and Wordsworth House, Stafford Road, London, NW6 5YT and 5YU Plan G – Masterplan Review Area
Appendix 2	Phase 1b Overage Payment
Appendix 3	Principle structure of the Post Office Plus Collaboration Agreement
Appendix 4	Post Office Plus Architectural Service Evaluation Matrix
Appendix 5	Post Office Plus Architectural Service Tender submissions
Appendix 6	Post Office Plus Architectural Services Quality and Finance Tender Evaluation
Appendix 7	Allocation Policy for Secure Tenants with homes in Phase 2b, South Kilburn
Appendix 8	Peel Feasibility Study Consultation: Summary of Feedback
Appendix 9	Peel Heads of Terms
Appendix 10	Peel Key Project Risks
Appendix 11	Indicative project budgets for Post Office Plus Site and Peel
Appendix 12	Equalities Analysis for Post Office Plus Site and Peel

## **Contact Officer**

Abigail Stratford  
South Kilburn Programme Manager

Tel: 0208 937 1026

Email [abigail.stratford@brent.gov.uk](mailto:abigail.stratford@brent.gov.uk)

Richard Barrett  
Operational Director Property & Projects

Tel: 020 8937 1334

Email: [Richard.barrett@brent.gov.uk](mailto:Richard.barrett@brent.gov.uk)

ANDREW DONALD  
Strategic Director, Regeneration and Growth