



**Executive**  
19 September 2011

**Report from the Director of  
Regeneration and Major Projects**

Wards Affected:  
Queen's Park

**South Kilburn Regeneration Progress Update**

**1.0 Summary**

- 1.1 This report summarises the progress made on the regeneration of South Kilburn, and sets out four main processes for approval by the Executive for continuing the momentum established by the Council over the past two years for the regeneration of the area. It seeks approval to:
- (a) Progress with all relevant statutory processes for decanting residents from phase 2 sites into phase 1b sites ahead of the procurement and appointment of a developer partner by late 2011/ early 2012;
  - (b) Progress with ensuring vacant possession of phase 2 sites to ensure continuation of the programme, including all relevant CPO and other property interests;
  - (c) Progress with measures to address the one bedroom housing shortage in phase 1a by stopping permanent lettings across the estate on one bedroom properties that have been identified for future demolition;
  - (d) Progress with measures to cease permanent lettings in blocks earmarked for demolition within five years of their scheduled demolition date, to ensure that continued progress is made on the regeneration programme.

**2.0 Recommendations**

- 2.1 That the Executive note the progress made on the South Kilburn Regeneration project as set out in the report.
- 2.2 That the Executive authorise the Director of Regeneration and Major Projects to seek the Secretary of State's consent to the disposal and redevelopment of phase 2 sites on the estate for the purposes of Ground 10A of Schedule 2 of the Housing Act 1985, to enable the Council to apply for a court order to obtain vacant possession of residential dwellings let under secure tenancies, Section 32 of the Housing Act 1985

to dispose of housing land, Section 19 of the Housing Act for appropriation of all housing land within Phase 1b and Phase 2 of the South Kilburn Regeneration project for planning purposes and under the necessary Act (if applicable) to dispose of non housing land (all blocks and phases earmarked for redevelopment are listed in Appendix 2).

- 2.3 That the Executive authorise the Director of Regeneration and Major Projects to appropriate all land comprised within Phase 1b and Phase 2 of the South Kilburn Regeneration project to planning purposes when it is no longer required for the purposes for which it is held prior to appropriation subject in respect of land held for housing purposes to the consent of the Secretary of State under Section 19 of the Housing Act 1985.
- 2.4 That the Executive authorise the making of compulsory purchase orders (CPOs) to acquire (a) all interests and rights in the properties listed in Appendix 1 and comprising the land shown edged red on the plans in Appendix 1 (the CPO Land) and (b) any new rights in the CPO Land which may be required under section 13 of the Local Government (Miscellaneous Provisions) Act 1976, notably Bronte House, Fielding House, Wordsworth House, Masefield House, Durham Court and Gloucester House.
- 2.5 That the Executive authorise the Director of Regeneration and Major Projects to cease long term lettings and authorise the service of demolition notices and the suspension of tenants' Rights 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 and continue to prioritise all new development site lettings in South Kilburn to tenants within sites on the next phase of development (all blocks and phases earmarked for redevelopment are listed in Appendix 2 of this report).
- 2.6 That the Executive authorise the Director of Regeneration and Major Projects to cease all long term lettings in blocks earmarked for redevelopment within five years of their scheduled demolition date (all blocks and phases earmarked for redevelopment are listed in Appendix 2 of this report).
- 2.7 That the Executive authorise the submissions of the CPOs, once made, to the Secretary of State for confirmation whilst at the same time seeking to acquire the land by private negotiated treaty on such terms as may be agreed by the Director of Finance & Corporate Services.
- 2.8 That the Executive authorise the serving of demolition notices and the suspension of tenants' Rights to Buy in relation to secure tenancies at Masefield House, Wordsworth House, Durham Court and Gloucester House which are all on the South Kilburn estate, and authorise the Director of Regeneration and Major Projects to issue all and any notices required to be issued in connection with such demolition.
- 2.9 That the Executive authorise the:
  - 2.9.1 The submissions of the CPOs, 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 Director of Regeneration and Major Projects;
  - 2.9.2 Director of Regeneration and Major Projects to enter into agreements and make undertakings on behalf of the Council with the holders of interests

in the CPO Land or parties otherwise affected by the Scheme setting out the terms for the withdrawal of their objections to the confirmation of the CPOs and including the offering back of any part of the CPO Land not required by the Council after the completion of the development or the acquisition of rights over the CPO Land in place of freehold acquisition, where such agreements are appropriate;

- 2.9.3 Making of one or more general vesting declarations or service of Notices to Treat and Notices of Entry (as appropriate) pursuant to the Compulsory Purchase (Vesting Declarations) Act 1981 and the Compulsory Purchase Act 1965 respectively should the CPOs be confirmed by the Secretary of State;
- 2.9.4 Serving of all requisite notices on the holders of the CPO Land relating to the making and confirmation of the CPOs;
- 2.9.5 Director of Regeneration and Major Projects to remove from the CPOs in respect of any plot (or interest therein) no longer required to be acquired compulsorily for the scheme to proceed and to amend the interests scheduled in the CPOs (if so advised) and to alter the nature of the proposed acquisition from an acquisition of existing property interests to an acquisition of new rights (if so advised);
- 2.9.6 Director of Regeneration and Major 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;
- 2.9.7 Director of Regeneration and Major Projects, if so advised, to seek to acquire for the Council by agreement any interest in land wholly or partly within the limits of the CPO Land for which a blight notice has been validly served.

### **3.0 Detail**

#### *Regeneration progress to date*

#### *Phase 2a sites – designs for Bronte House, Fielding House and the Queen’s Park Station Area*

- 3.1 In July 2011, Officers reported to the Executive on progress on the Regeneration Programme. The Executive noted officers’ intention to progress with the designs for phase 2a sites including Bronte House, Fielding House and the Queen’s Park Station Area (zone 18). Lifschutz Davidson Sandilands Architects and Alison Brooks Architects have been appointed to design Bronte and Fielding House, and Maccreeanor Lavington Architects have been appointed to design the Queen’s Park Station Area (zone 18). It is expected that a planning application for Bronte and Fielding House will be submitted in late 2011, and an application for the Queen’s Park Station Area will be submitted in spring 2012.

#### *Phase 1b sites - decants, vacant possession and disposal of sites*

- 3.2 In July 2011, Executive approved the delegated authority for Officers to select a developer partner for phase 1b sites including Wells Court, Cambridge Court, Ely

Court, Bond House, Wood House and Hicks Bolton House (note that the March 2011 report to Executive provided further detail on procurement and selection criteria). The tender documents for the selection of the Developer Partner are due to go out in August, and the council will appoint a developer partner for the phase 1b sites in late 2011/ early 2012.

- 3.3 The phase 1b developments will provide 86 market housing units and 122 affordable housing units. The new affordable homes will be for residents currently living in phase 2 sites at Cullen House, Wordsworth House, Masefield House, Durham Court and Gloucester House. Once a developer partner is appointed, Officers will be in a position to commence with the necessary procedures for moving residents from phase 2 blocks to the new homes in advance of construction of the phase 1b sites, programmed after June 2011. It is important that this process is started at the appointment of the Developer Partner and ahead of construction, to ensure that statutory processes are fulfilled and momentum in the programme is maintained.

*Phase 1a – construction progress and housing allocations*

- 3.4 Good progress continues to be made on the construction of the phase 1a blocks at the Texaco Garage site, Macdonald House, Marshall House, Albert Road site (zone 11A) and the Carlton Vale Roundabout site (zone 3C). It is expected that the blocks will be completed and occupied from autumn 2011 – early 2013, and Officers are in the process of allocating South Kilburn residents into the new homes. All homes in Macdonald House have been allocated, and good progress is being made on allocations for the Texaco Garage site and 11A the Albert Road site (zone 11a). It is expected that allocations for the Carlton Vale Roundabout site will begin in early - mid 2012.

*Withdrawal of long term lettings on one bedroom properties across the estate*

- 3.5 Whilst good progress has been made on allocations for phase 1a homes, there has been an overall deficit in one bedroom properties 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. In order to ease the burden on the allocation process and to continue programme momentum, the Executive are asked to discontinue long term lettings for one bedroom units earmarked for demolition in the estate to alleviate this shortage of one bedroom homes. All of the blocks for which long term lettings are ceased will be used for short life tenancies, ensuring that no extra decant need is created in South Kilburn whilst still meeting the borough's social housing need.

#### **4.0 Legal Implications**

- 4.1 The Council has the power (under section 123 of the Local Government Act 1972) to dispose of any of its land. However, unless it grants a lease of 7 years or less, it must obtain the best consideration reasonably obtainable, unless it obtains the consent of the Secretary of State to the transfer. Hence any transfer of the freehold or grant of a lease of any land within the South Kilburn area would require Secretary of State's approval, unless it was for best consideration. There is a General Consent available, but this only applies to sales at an undervalue of less than £2 million, and is therefore unlikely to be applicable.

*Procurement of developer partners for Phase 1b sites including Wells Court, Cambridge Court, Ely Court, Bond House and Hicks Bolton House*

- 4.2 Officers reported the legal implications of the procurement of developer partners at the July Executive. In summary, it is proposed that Developer Partners are appointed through the South Kilburn Developer Framework which was established by Brent Council in accordance with the Public Contracts Regulations 2006 (the EU Regulations) and on advice from Trowers & Hamblins, the Council's legal advisors on this project. The Framework was agreed by the Executive on 14 March 2011 and following expiry of the mandatory minimum standstill period, developers were appointed to it. The use of the South Kilburn Developer Framework to identify developer partners is considered to satisfy the requirements of recent rulings in the European Court of Justice.

*Compulsory Purchase Orders*

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

*"A compulsory purchase order should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention."*

- 4.5 For the reasons set out in this report and the report to the Executive Committee meetings on 23rd June 2010, 15<sup>th</sup> November 2010 and 18<sup>th</sup> July 2011, it is considered that there is such a compelling case for properties within Phase 2 of the proposed regeneration programme and that the public interest requires that the order be made in order to carry through the necessary redevelopment of the CPO Land.
- 4.6 Further, in making the order there should be no impediments to its eventual implementation. Para's 22 and 23 of Part 1 of the Memorandum to ODPM Circular 06/04 advise (in part):

*"In demonstrating that there is a reasonable prospect of the scheme going ahead, the acquiring authority will also need to be able to show that it is unlikely to be blocked by any impediments to implementation. In addition to potential financial impediments, physical and legal factors need to be taken into account. These include the programming of any infrastructure accommodation works or remedial work which may be required, and any need for planning permission or other consent or license."*

*Where planning permission will be required for the scheme, and has not been granted, there should be no obvious reason why it might be withheld.”*

- 4.7 Executive will note that there will be sufficient funds available to meet the compensation costs for the acquisition of the land as South Kilburn Neighbourhood Trust has approval from Government Office for London (now the Department for Communities and Local Government), as well as 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 phase 2 sites, as listed in Appendix 1.
- 4.8 It is necessary to consider the human rights implications of making CPOs. This information is covered in the 23rd June 2010 and the 15<sup>th</sup> November 2010 Reports to Committee.

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

- 4.9 Section 122 of the Local Government Act 1972 provides that a principal Council may appropriate for any purpose for which the Council are authorised to acquire by agreement land which belongs to the Council and is no longer required for the purpose for which it is held immediately before the appropriation.
- 4.10 Appropriation is subject to third party rights over the land and in respect of the South Kilburn Estate as it is housing land the prior consent of the Secretary of State under Section 19 of the Housing Act 1985, if the appropriation includes land on which dwellings have been built or land over which owners or occupiers of dwellings have rights.
- 4.11 Section 237 of the Town and Country Planning Act 1990 provides where land has been appropriated for planning purposes any easements such as rights of way which may exist for the benefit of third parties are overridden on erection, construction or carrying out of maintenance of any building and change of use in accordance with planning permission, subject to payment of any compensation. The practical effect is that any rights which may exist do not delay or obstruct the development. This provides effective assurance to the developer that he will have a good title to the land.
- 4.12 The land must no longer be required for the purpose for which it is held immediately before appropriation. This test will be satisfied by deferring the date of the appropriation to a time when it is clear that the scheme will proceed. Once the appropriation is effected, the appropriated land will be held for planning purposes.

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

- 4.13 Initial Demolition Notices need to be served on secure tenants in accordance with the provisions of Section 138A and Schedule 5A of the Housing Act 1985 as amended by the Housing Act 2004 to prevent the Council from having to complete Right to Buy sales. Schedule 5A sets out what must be included in the Initial Demolition Notice, including the intention to demolish, the reasons for demolition and identifying the period within which the landlord intends to demolish. The period set out in the notice to carry out the demolition works must be more than reasonable to carry out the

proposed demolition of the relevant properties or in any case not expire more than five years after the date of service of the notice.

- 4.14 There are no statutory provisions regarding a local authority ceasing permanent lettings. This is a decision which the Council's Executive has the power to make. This may have implications in relation to the Housing Revenue Account (HRA) and the subsidy provided to the Council in respect of the HRA.

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

- 4.15 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 the Council to use Ground 10A of Schedule 2 to the Housing Act 1985. The paragraph states that the landlord must first:

- (a) serve a notice in writing on all secure tenants whose dwellings are affected by the scheme, stating: the main features of the scheme (or the scheme as it will be after a proposed variation to it); that the Secretary of State's approval is to be sought; and the effect of such approval in relation to proceedings for possession of the dwellings;
- (b) inform the tenants that they have a specified period (which must be at least 28 days) in which to make representations to the landlord; and
- (c) consider any representations received during that period.

- 4.16 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:

- (a) the effect of the scheme on the extent and character of housing accommodation in the neighbourhood;
- (b) over what period of time it is proposed that the disposal and redevelopment will take place in accordance with the scheme;
- (c) to what extent the scheme includes provision for housing provided under the scheme to be sold or let to existing tenants or persons nominated by the landlord.

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

*Disposal of Sites – Secretary of State's consent*

- 4.18 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.

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

## 5.0 Financial Implications

*Financial implications for the South Kilburn Programme, financial year 2011/12*

- 5.1 The table below summarises the current forecast position for the progression of the South Kilburn Regeneration Project in 2011/12.

<b>South Kilburn Regeneration Programme</b>	<b>£</b>
<u>Forecast Expenditure</u>	
Masterplanning	200,000
General Development Costs	1,000,000
Albert Road Day Care centre	4,300,000
Bronte/ Fielding development site	800,000
Site 18 ( Queens Park Station)	800,000
Site 11B ( Albert Road)	100,000
Leaseholder Buyouts	9,000,000
Site 3c ( Roundabout Site)	1,000,000
<b>Total Forecast Expenditure</b>	<b>17,200,000</b>
<u>Forecast Resources</u>	
Surplus Resources carried forward from 2010/11	11,700,000
Forecast Capital Receipts for 2011/12	10,928,000
<b>Total Forecast Resources</b>	<b>22,628,000</b>
<b>Forecast Surplus Resources to Carry Forward to 2012/13</b>	<b>5,428,000</b>

- 5.4 As indicated in the table above, the resource envelope for taking forward the South Kilburn Regeneration Programme in 2011/12 and beyond is determined by the level of the capital receipts to be secured from the disposals (by way of the 999 year lease) of land.



- 5.5 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 & Communities Agency.
- 5.6 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.
- 5.7 The cost of development of Queens Park Station Area (Site 18) will be met from the overall resource envelope for the regeneration of South Kilburn, specifically including land receipts from Albert Road (Zone 11A) and Carlton Vale Roundabout (Zone 3C) as outlined in the table above. This delivery strategy has been agreed and endorsed by the Homes & Communities Agency, and is a condition of their grant funding for both the Albert Road and the Carlton Vale roundabout sites.

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

- 5.8 In the event that HRA dwellings are held void pending demolition, or are demolished, then the HRA will no longer receive the rent income for those dwellings. This loss of rent income will need to be addressed as part of the annual HRA budget setting process so that HRA budgeted expenditure is reduced to reflect that reduction in income. Furthermore, officers will be seeking to ensure that dwellings to be demolished at South Kilburn are taken account of in the HRA settlement under the new HRA self financing regime. This will be done in line with CLG guidance for the settlement.

### **6.0 Diversity Implications**

- 6.1 South Kilburn is a designated council priority regeneration and growth area and 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 has a Race & Equality strategy, and through its widening participation theme seeks to find ways of involving and engaging with all local residents and particularly those who traditionally are 'hard to reach'. There has been and will continue to be widespread consultation and community engagement as proposals for the physical regeneration of the area are developed and delivered.
- 6.2 At a project level, each South Kilburn Neighbourhood Trust sponsored and supported project is subject to a full and independent appraisal undertaken by a panel of local residents and relevant officers. Part of the appraisal process is to test each activity against the Partnership's Race & Equality strategy to ensure full compliance. In line with the Council's Equality standards, all expenditure is monitored against equalities indicators on a regular basis.

### **7.0 Staffing/Accommodation Implications**

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

**Contact Officer**

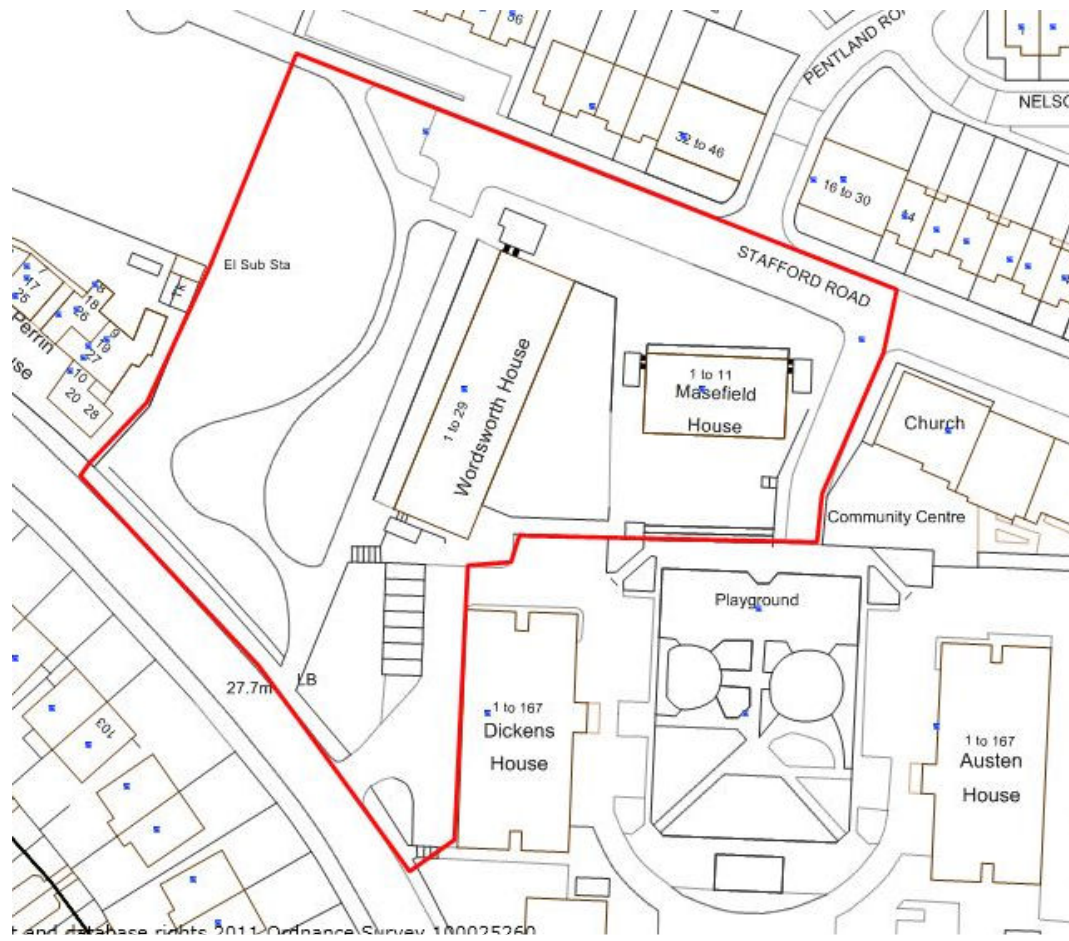
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## Appendix 1 - The CPO Land

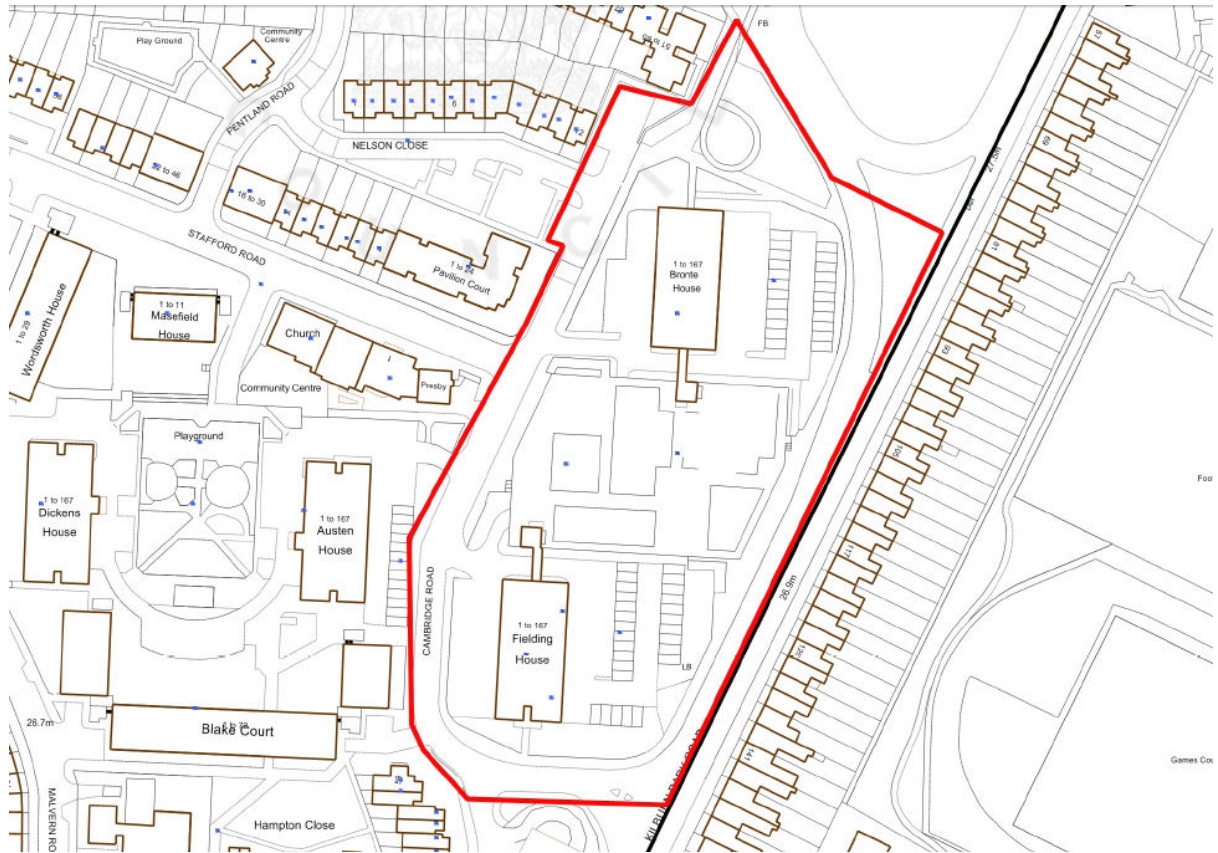
Masefield House and Wordsworth House and surrounding CPO land, Stafford Road, NW6



Durham Court and Gloucester House and surrounding CPO land, Kilburn Park Road/ Cambridge Road



*Bronte and Fielding House and surrounding CPO land, Cambridge Road/ Kilburn Park Road*



**Appendix 2 – all blocks earmarked for redevelopment across the South Kilburn Programme**

**Phase 1a**

Site 11A Marshall House  
3C Roundabout site  
Texaco Garage site/ Merle Court. Carlton Vale  
Gordon House/ McDonald House

**Phase 1b**

Wells Court  
Cambridge Court  
Ely Court  
Bond House  
Hicks Bolton House  
Wood House

**Phase 2a**

Bronte House  
Fielding House  
The Queen's Park Station Area site (including the Falcon PH, Premier House, Keniston Press, London Transport Offices, Cullen House and the Queen's Park Car Park).

**Phase 2b**

Site 11B Albert Road Daycare Centre/ British Legion  
Masefield House  
Wordsworth House  
Durham Court  
Gloucester House

**Phase 3a**

Carlton House (numbers 113-136 and 97-112)  
Peel Precinct  
Hereford House  
Exeter Court  
Kilburn Park Junior School  
Carlton Vale Infant School

**Phase 4a**

Austen House  
The Marian Community Centre  
Neville House  
Winterleys  
Craik Court

**Phase 4b**

John Ratcliffe House  
Dickens House  
Blake Court  
Crone Court  
Zangwill House

**Other sites earmarked for regeneration**

4-26 Stuart Road

Argo House (private development)  
Post Office and 5-9 Chippenham Gardens (private development)