



Executive
13 February 2012

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

Wards affected:
Kilburn

**South Kilburn Regeneration – Disposal of sites known as
Cambridge Court, Wells Court and Ely Court; and Bond
House, Hicks Bolton House and Wood House**

Appendix 6 is not for publication

1.0 Summary

1.1 This report summarises the procurement process undertaken by the Council to dispose of two sites within the South Kilburn Regeneration area, known as (i) Cambridge Court, Wells Court, (ii) Ely Court; and (iii) Bond House, Hicks Bolton House and Wood House which will be disposed of in the form of three leasehold interests (see plans at Appendix 1, 2 and 3), and seeks authority to dispose of these 3 sites.

2.0 Recommendations

- 2.1 That Executive notes the mini-competition process undertaken by panel members set out within paragraphs 3.9 to 3.17.
- 2.2 The Executive authorises the disposal of the land at Cambridge Court, Wells Court and Ely Court; and Bond House, Hicks Bolton House and Wood House (see plans at Appendix 1, 2 and 3), to Catalyst Housing Group subject to:
- 2.2.1 Catalyst Housing Group entering into a Development and Sale Agreement with the Council. The Development and Sale Agreement to provide for the acquisition of the land for the sum set out in Appendix 6 (restricted) and to contain such other terms as are approved by the

Director of Regeneration and Major Projects in consultation with the Borough Solicitor.

2.2.2 The Council obtaining the Secretary of State's consent to the disposal under Section 32 of the Housing Act 1985.

- 2.3 That the Executive agrees that the sum set out in Appendix 6 (restricted) from the proceeds of the sales be re-invested into the regeneration of South Kilburn, including for the purposes of bringing forward further development sites within the regeneration area in line with priorities set out in paragraphs 4.1 of this report.
- 2.4 That the Executive agrees the rent assumptions for both sites as set out in paragraphs 3.18 to 3.23.
- 2.5 That the Executive agrees to the proposed next steps within paragraphs 4.1 to 4.6.
- 2.6 That the Executive agrees to the Director of Regeneration and Major Projects (in consultation with the Director of Legal and Procurement) appropriating the land comprised in (i) Cambridge Court, Wells Court, (ii) Ely Court; and (iii) Bond House, Hicks Bolton House and Wood House (described in the plans in Appendix 1, 2 and 3) under Section 122 of the Local Government Act 1972 for planning purposes when it is no longer required for the purposes for which it is currently held.

3.0 Detail

- 3.1 In June 2010 the Executive authorised officers to progress two detailed planning applications covering the three sites within the South Kilburn regeneration area, known as Cambridge Court and Wells Court, Ely Court and Bond House, Hicks Bolton House and Wood House). The report also authorised officers to undertake a concurrent procurement process to form an EU compliant South Kilburn Developer Framework of potential Developer Partners.
- 3.2 In March 2011 the Executive agreed to establish the South Kilburn Regeneration Developer Framework. This Framework was used for a 'call-off' process, whereby the 6 members each submitted competitive tenders to deliver for and acquire from the Council the developments identified in paragraph 3.1 above.
- 3.3 Each site has been designed up to RIBA Stage D and planning permission was secured for Cambridge, Wells and Ely Courts in February 2011 for the delivery of 144 new homes, of which 58 (40%) will be affordable homes for South Kilburn tenants. Planning permission was secured for Bond, Hicks Bolton and Wood Houses in May 2011 for 64 new homes, all of which will be affordable for South Kilburn tenants. Together 208 new homes will be provided, of which 107 (58.6%) will be affordable for South Kilburn tenants, with the remainder available for market sale. Stopping Up orders are in the

process of being made and compromise agreements are being prepared with objectors to these.

- 3.4 As with Zone 11a (Albert Road) and Zone 3c (Carlton Vale Roundabout) a fundamental driver for the schemes is to provide sufficient new homes to offer to existing tenants of Bronte House and Fielding House. Once these tower blocks have been vacated, they will need to be demolished in order to deliver a further vacant development site to continue the regeneration of South Kilburn.
- 3.5 As well as seeking planning permissions and the making of Stopping Up orders, the Council has been proceeding with negotiations with leaseholders and freeholders to acquire interests required to secure vacant possession. While good progress has been made in this respect, outstanding interests are being sought by way of Compulsory Purchase Order. On the 27th January 2012, the Secretary of State recommended that the South Kilburn Regeneration Compulsory Purchase Order be confirmed without modification.
- 3.6 There may be issues predominately centred around areas of old title encumbrances and generic rights granted over the South Kilburn estate under the disposals of Council housing and which could be infringed by the reconfiguring of the estate and development of amenity and adjacent land. Some of the encumbrances are unspecified encumbrances because they are either not registered or have been mislaid by the Land Registry or are lost deeds.
- 3.7 To obtain indemnity insurance, an insurer will often want the relevant land to be hoarded for a significant period of time and require associated statutory declarations. Furthermore, the insurers may not even insure in the first place if the risk of a leaseholder claim is too high. An insurance policy would only deal with one site at a time and, should any insurer refuse to quote for a policy or require further conditions to be satisfied prior to insuring, any site relying on this could be delayed
- 3.8 To enable the regeneration to proceed it is considered to be in the public interest that the land be appropriated under Section 122 of the Local Government Act 1972 for planning purposes

Mini Competition Process

- 3.9 The successful delivery partner was selected following a mini-competition process between 6 members of the South Kilburn Regeneration Developer Framework. As agreed by the Executive in March 2011, the 6 members of the Framework are:
 - Network Housing Group of Olympic Office Centre, 8 Fulton Road, Wembley, Middlesex, HA9 0NU;
 - London and Quadrant of Osborn House, Osborne Road, London, SE3 9DR;

- Mulalley One Housing Group of Teresa Gavin House, Woodford Avenue, Woodford Green, Essex, IG8 8FA;
- Catalyst Housing Group of Ealing Gateway, 26 – 30 Uxbridge Road, London W5 2AU;
- Ardmore First Base Partnership, Byrne House, Jeffreys Road, Brimsdown, Enfield, Middlesex, EN3 7UB; and
- Genesis Housing Group of Capital House, 25 Chapel Street, London, NW1 5DT

3.10 A suite of tender documents was sent to members of the Framework consisting of technical material in relation to the developments and associated planning permissions, a draft Development and Sale Agreement (with annexures including a form of lease, overage, contractor warranty and option agreement) and a draft South Kilburn Tenancy Agreement. Tenderers submitted proposals to the Council on the basis of these documents. The possibility of variant bids was not entertained.

3.11 Tenders were evaluated by a selected panel, consisting of a South Kilburn tenant (advised by First Call independent tenants advisory service); the Assistant Director of Regeneration and Civic Centre; and members of the South Kilburn Programme team. Consultant assistance was provided for the purposes of real estate and development cost pricing. The evaluation was facilitated by a member of the Council's procurement team.

3.12 The evaluation process consisted of an assessment of the tenders on the basis of qualitative and quantitative criteria, with a split of 60% and 40% respectively.

Qualitative criteria

3.13 Panel members ascribed scores to the 6 tenders in relation to qualitative criteria. The headline criteria and the more detailed criteria under them together with scoring values are detailed in Appendix 4. Having completed individual scores, the panel then met to agree a preliminary consensus score. Questions for clarification were also sought for subsequent interviews with the tenderers. Scoring was reviewed following the interviews. The qualitative criteria represented a possible 60 of the total possible 100 marks available to each tender. The 60 marks were aggregated across 8 categories encompassing:

- Vision for South Kilburn
- Design quality
- Delivery of housing development
- Housing management
- Public realm and neighbourhood management
- Resident liaison
- Environmental sustainability /sustainable communities
- Sales and marketing

- 3.14 The categories were ascribed weightings relative to their considered importance to the South Kilburn Regeneration Programme. For example, Design Quality and Housing Management had a weighting to a factor of 9, while Sales and Marketing had a weighting to a factor of 5.

Quantitative criteria

- 3.16 The price or quantitative criteria were tested in relation to the tenderers' proposals to deliver the developments. As described in the report to Executive March 2011, the tenderers also had to adhere to levels of profit and overheads derived from the development that they had previously stated when competing to get on the Developer Framework. 40 marks were available for the quantitative criteria. The highest compliant bid was ascribed the full 40 marks. The scoring of the other bids was calculated as a proportion of the highest bid. For example, if the highest bid was £10,000,000 this would achieve 40 marks. Therefore a bid of £5,000,000 would achieve 20 marks.
- 3.17 The scores derived from the respective qualitative and quantitative criteria were then combined to arrive at an overall score. The scores achieved by the tenderers are ranked in order as follows:

| Identity | Price score (out of 40) | Quality score (out of 60) | Total score (%) | Ranking |
|------------|----------------------------|------------------------------|--------------------|---------|
| Tenderer A | 3.5 | 40.5 | 44 | 5 |
| Tenderer B | 40 | 53 | 93 | 1 |
| Tenderer C | 13.9 | 35.75 | 49.65 | 4 |
| Tenderer D | 10.4 | 47.25 | 57.65 | 3 |
| Tenderer E | 0 | 30 | 30 | 6 |
| Tenderer F | 24.3 | 47.25 | 71.55 | 2 |

Rent assumptions

- 3.18 The tender process was completed on the assumption that the successful tenderer and landlord will be able to charge 'New Homes Target Rent' to South Kilburn tenants. Target rent is determined by a formula based upon a national rent regime and the consideration of relative property values and relative local earnings.
- 3.19 This is a departure from the forthcoming developments in phase 1a which it has been agreed will be let at 'Existing Homes Target Rent'. The table below illustrates the difference in rents next year in South Kilburn Council stock and phase 1b target rent. For a one bed and a four bed unit there would be a rent increase of over £20 per week. For a two and three bed flat the increase in rent is over £34. This is a substantial increase, noting that the difference is on an unimproved Council flat against a new and significantly better quality new home. These rent rises are tempered for most tenants moving in to 1b homes as their service charges and heating will reduce. If for example tenants

move from a high rise block into the 1b development, when it is built, their service charge will reduce by about £6.40 and it is estimated that electricity charges will, on average, fall by at least £5 per week (current heating efficiency and insulation are worlds apart between existing and new homes). This would reduce the two and three bed rent rises to around £23-£26 per week.

3.20 In reporting the impact of rent changes to Executive in September 2011, members were advised that rent increases to target rents would be in the order of about £15 per week. The higher level of inflation in 2010/11(5%+), increases in capital values in the South Kilburn area and the effect of rent caps (particularly for 4 bed homes) mean that particularly for two and three bed homes, the increase in rents is much steeper than originally forecast.

| Blocks | 1 bed | 2bed | 3bed | 4bed |
|---|--------|--------|--------|--------|
| 2012/13 Council Rent | 89.33 | 97.60 | 107.75 | 127.30 |
| 2012/13 Target Rent (applying rent caps) | 109.70 | 135.06 | 142.57 | 150.07 |
| Difference between Council & target rent | 20.37 | 37.46 | 34.82 | 22.77 |
| Less service charge & heating reduction | 11.40 | 11.40 | 11.40 | 11.40 |
| Difference in Council/target rents taking into account service charge decreases | 8.97 | 26.05 | 23.42 | 11.37 |

3.21 Officers are currently looking at the South Kilburn financial model to see if, in future phases, the jump in rents & service charge could be pegged to, for example a ceiling of £20 per week upon moving and thereafter uplifted over for example 10 years to meet target rent levels. The difficulty in making any adjustment in rents for this 1b phase (even leaving aside the practical procurement difficulties in doing so) is that it would impact on the sum that the tenderers would pay for the site. It is estimated that to peg the increase in rents for the two and three bed homes to a maximum increase of £20 and then uplift these to target rent over 10 years would result in a reduction in the tender price of about £500,000-£700,000. As the Executive will be aware the Council needs to maximise financial resources in order to fund the next phase of development and if rent rise caps were repeated for all the next phases, the overall programme would need significant Council or other subsidy for the redevelopment programme to be completed.

3.22 The impact of accepting the full overall rent rises for 1b may mean that moving to a new 1b property is less attractive to existing South Kilburn

tenants. This will make decanting tenants potentially more difficult. On the other hand, the overall rises nevertheless provide good value for money as tenants are moving from an unimproved flat to a brand new modern home (with home-loss and disturbance payments also available). Existing housing association tenants pay target rent and approximately 60% of those moving to phase 1b flats will be in receipt of housing benefits.

- 3.23 The government's new rent regime is imposing rents far in excess of target rents (80% of open market value) and in any case, Council rents will converge to target rent levels over time. Nevertheless, officers are aware of the difficulties of rent rises (particularly on two and three bed homes) for those on low or limited incomes and at a time when most other costs are rising and incomes are often static or falling.

4.0 Next steps

- 4.1 The decision for the Council to bring forward these two development sites was made with the intention of continuing the momentum of the South Kilburn Regeneration Programme. The sites were specifically chosen to provide further decant capacity, in conjunction with sites under construction at Albert Road and the former Carlton Vale Roundabout; at the former Texaco Garage Carlton Vale (now known as Merle Court) and McDonald House Malvern Road, to allow Bronte House and Fielding House to be vacated, and subsequently demolished to clear further development sites.
- 4.2 The provision of decant accommodation from phase 1a has allowed the programme to progress the redevelopment of Bronte House and Fielding House and a planning application is currently being prepared as part of phase 2, for submission in February 2012. Additionally, a planning application for the redevelopment of Queen's Park Station Area is due to be submitted in March 2012.
- 4.3 Following the successful disposal to the market of phase 1a sites (Albert Road and Carlton Vale Roundabout), the Council has invested considerable resources over the 2010/11 financial year to appoint design teams, take each site through the planning process, buy-out leaseholders within each existing building of Cambridge Court, Wells Court, Ely Court, Bond House, Hicks Bolton House and Wood House.
- 4.4 The tender process described in this report has justified the approach of continuing to make the significant investment. By effectively de-risking development sites, they become a far more attractive proposition to the market place, and this has been reflected in the value of the tender returns.
- 4.5 In order to progress to the next stages of South Kilburn regeneration, it is important that the Council continues to recycle the land receipt secured back into its regeneration proposals, as has happened since the disposal of phase 1a sites. The land receipt will enable progression

with further leasehold buyouts, and taking remaining phase 2 sites through the planning process.

- 4.6 A full report will be submitted to members detailing the proposed next steps in due course. In order to develop this proposition, it is recommended that the Executive approve in principle the following indicative programme to maintain the regeneration momentum:

(i) *Remaining Phase 2 sites*

To take some or all of the remaining Phase 2 sites through design, planning and OJEU tender processes: Gloucester House and Durham House and Albert Road (site 11b).

(ii) *Acquisitions*

To consider further appropriate land acquisitions and leaseholder buy backs that will aid the regeneration of South Kilburn.

5.0 Financial Implications

- 5.1 The land price achieved through this tender process will allow the ongoing regeneration of South Kilburn to be wholly self-funded and financed. The Homes and Communities Agency retains an equity stake in the regeneration of South Kilburn and it is critical to continue to demonstrate that land receipts secured are subsequently re-invested in South Kilburn in order to bring forward further regeneration and additional new homes. Unless this is demonstrated it will be difficult for the HCA to demonstrate value for money against their grant funding.

- 5.2 The Council engaged independent consultants Navigant to run a viability model to ensure that each main phase of the South Kilburn development is affordable and that it can be completed without further Council subsidy (over and above the costs of regeneration staff and early years contributions of about £1m a year). The viability model showed that the overall South Kilburn programme will continue to be viable but no surplus is forthcoming. The assumptions made in the model at the time: continued grant from the HCA, house price rises, strong demand for market housing will also all be severely tested over the next few years, and indeed the model assumes that no HCA grant will be available. Other factors which may impact on the scheme include changes in Council Tax benefit entitlement and changes in Right-to-buy provisions for Council tenants. These are likely to improve available discounts which will increase take up of Right-to-buys and ultimately make leaseholder purchasing much more expensive. There is no doubt that the medium term economic outlook will worsen at time of unprecedented cuts in Council funding. The Council therefore has to balance the issue of individual tenant rent increases against the regenerative benefits achieved by keeping the South Kilburn programme on track and providing new homes, not just for a lucky minority, but for the majority of tenants in need of good quality homes.

6.0 Legal Implications

- 6.1 The procurement of the Development Partner is governed by the Public Contract Regulations 2006 and is also subject to the Council's own Standing Orders in respect of High Value contracts and Financial Regulations. In accordance with the Framework Agreement, a mini-competition process was carried out with the Framework members in order to appoint a Development Partner Phase 1b. Legal advice has been provided by solicitors Trowers & Hamblins during the procurement process to ensure that the Council meets its obligations, which has been incorporated within the body of the report.
- 6.2 As advised in the Executive Report March 2010 the Council will observe, as good practice, the Public Contract Regulations 2006 ("the Regulations") relating to the provision of a mandatory minimum 10 calendar day standstill period before the contract can be awarded to the successful Development Partner.
- 6.3 If Members agree on the recommended Development Partner as stated at paragraph 2.2 above, all bidders that participated in the mini-competition will be issued with written notification of the contract award decision. A minimum 10 calendar day standstill period will then be observed before the Development Agreement is concluded – this period will begin the day after all tenderers are sent notification of the award decision – and additional debrief information will be provided to unsuccessful tenderers in accordance with the Regulations. As soon as possible after the standstill period ends, the successful tenderer will be issued with a letter of acceptance.
- 6.4 Where the Council disposes of properties that are currently being used for housing purposes, it must obtain a Secretary of State's specific consent under Section 32 of the Housing Act 1985, unless a general consent issued under that notice applies. No general consent would apply in this case and therefore specific consent is required. Officers will apply to the Secretary of State for the appropriate consent, and final disposal of the sites is subject to the grant of such consent.
- 6.5 It is requisite to appropriate the land to planning purposes to override any covenants or rights which may affect the land.
- 6.6 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.
- 6.7 Appropriation removes the risk of an injunction but the Council retain the residual risk of a compensation claim dealt with under the Compensation Code

- 6.8 Under Section 122 of the Local Government Act 1972 the Council can appropriate land for any purpose which under the legislation it can acquire land. What this means is that although the Council already owns the site it can appropriate it for another purpose provided it is a purpose for which it is allowed under the legislation to acquire land and provided the land is no longer required for the purpose or which it is held immediately before the appropriation. The Council must be satisfied that the appropriation is in the public interest.
- 6.9 Section 237 of the Town and Country Planning Act 1990 provides where land has been appropriated for planning purposes any easements or covenants which may exist for the benefit of third parties are overridden on erection, construction or carrying out or 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 would have a good title to the land.
- 6.10 Under Section 226 of the Town and Country Planning Act 1990 the Council is authorised to acquire land if the Council thinks that the acquisition of the land to facilitate the development or redevelopment of the land and the development, re-development or improvement is likely to contribute to the promotion or improvement of the economic well-being of their area and/or the promotion or improvement of the social well-being of their area and/or the promotion or improvement of the environmental well-being of their area.
- 6.11 The Council must also obtain vacant possession of the 3 sites for the development agreements to become unconditional. As stated in paragraph 3.5 the Secretary of State has recommended that the South Kilburn Regeneration Compulsory Purchase Order be confirmed without modification.

7.0 Diversity Implications

- 7.1 South Kilburn is a designated Council priority for regeneration and growth 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.
- 7.2 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.

8.0 Staffing/Accommodation Implications

8.1 There are no direct staffing or accommodation issues associated with the content of this report.

Background Papers

APPENDIX 1: Plan: Cambridge Court and Wells Court

APPENDIX 2: Plan: Ely Court

APPENDIX 3: Plan: Bond House, Hicks Bolton House and Wood House

APPENDIX 4: List of Organisations invited to submit tenders at ITT stage

APPENDIX 5: Full evaluation matrix for ITT stage

APPENDIX 6: Schedule of anticipated land disposal prices

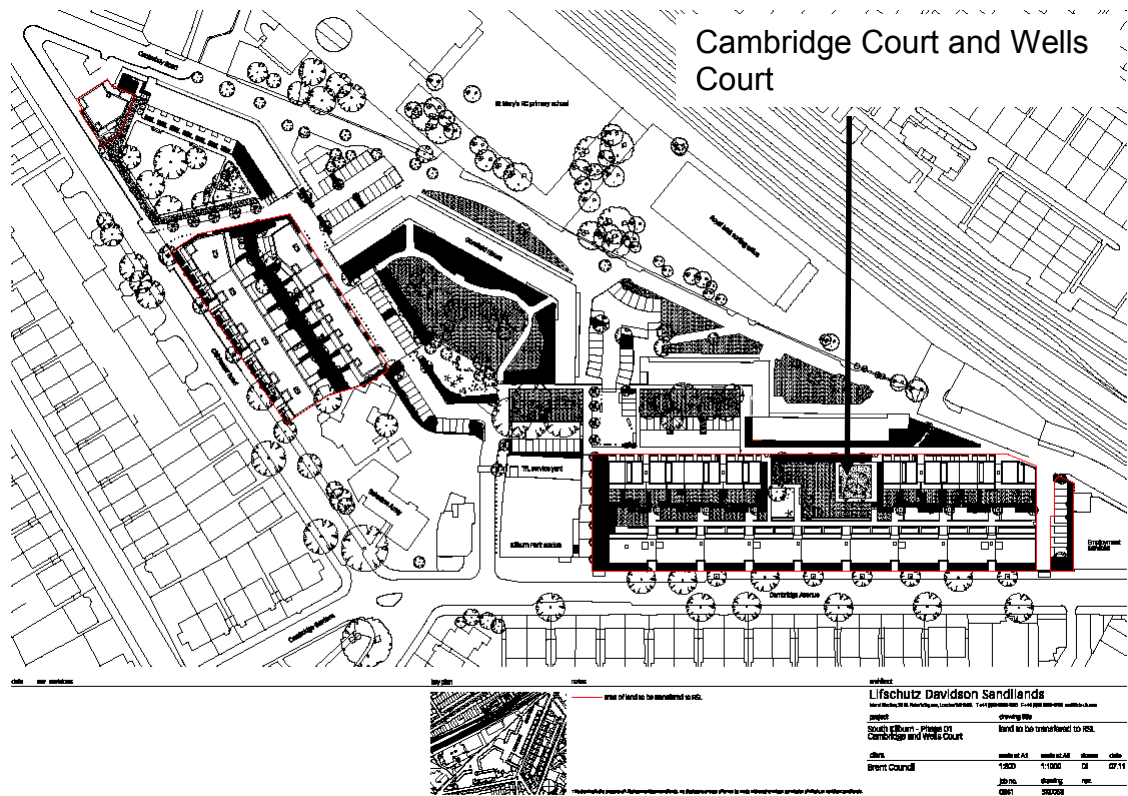
Contact Officers

Andy Donald, Director of Regeneration and Major Projects

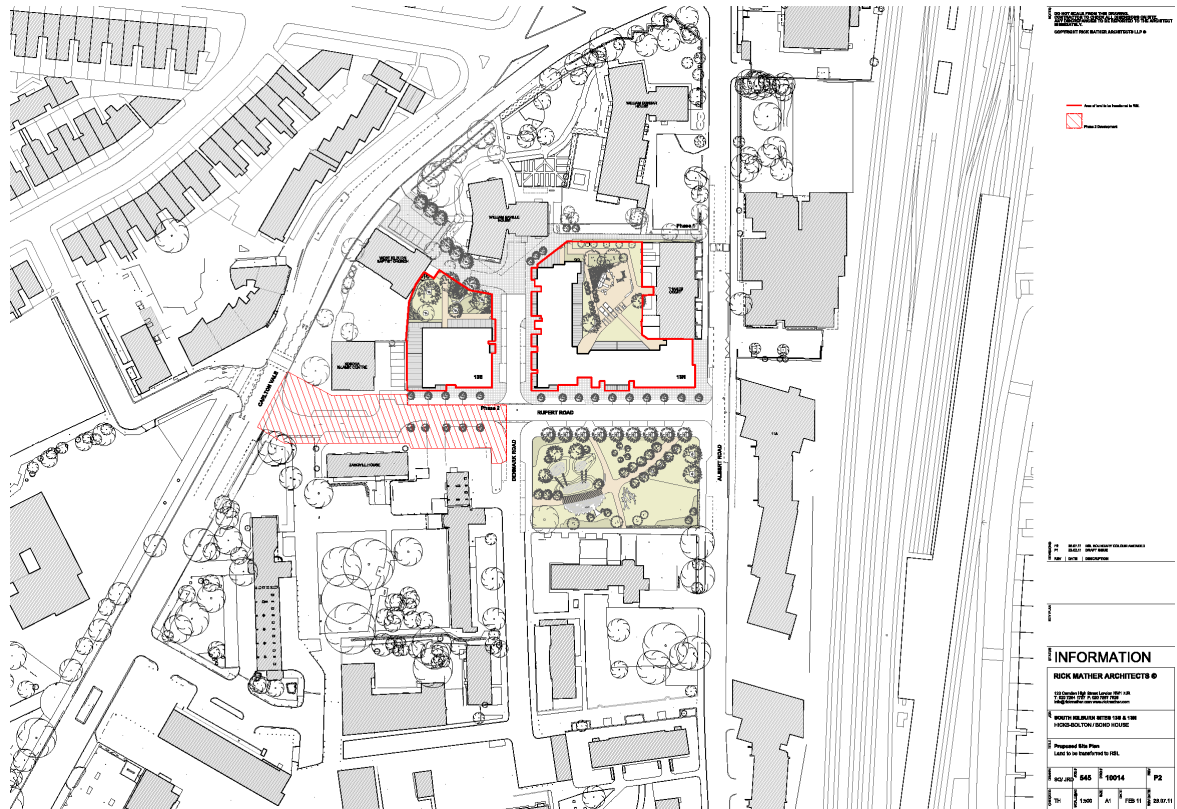
Abigail Stratford, South Kilburn Programme Manager

Alex Hearn, Regeneration Project Manager

APPENDIX 1: Cambridge Court and Wells Court



APPENDIX 3: Bond House, Hicks Bolton House and Wood House



APPENDIX 4: List of Organisations invited to submit tenders at ITT stage

| Label | Organisation |
|--------------|--------------------------------|
| A | Ardmore First Base Partnership |
| B | Catalyst Housing Group |
| C | Genesis Housing Group |
| D | London and Quadrant |
| E | Mulalley One Housing Group |
| F | Network Housing Group |

APPENDIX 5: Full evaluation matrix for ITT stage

| Evaluation Criteria | Weighting (%) |
|--|----------------------|
| Price/Cost | 40% |
| Quality consisting of the following: | 60% |
| Vision for South Kilburn | 5% |
| Design quality | 9% |
| Delivery of Housing Development | 9% |
| Housing management | 9% |
| Public realm and Neighbourhood management | 9% |
| Resident liaison | 9% |
| Environmental sustainability/sustainable communities | 5% |
| Sales and marketing | 5% |

