

## LONDON BOROUGH OF CROYDON

To: All Members of Council  
Croydon Council website  
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### **STATEMENT OF EXECUTIVE DECISIONS MADE BY Executive Director of Resources ON 27 NOVEMBER 2019**

This statement is produced in accordance with Regulation 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. Please note, that as the decisions below are not Key Decisions, they are not subject to call-in.

The following apply to the decision below:

**Reasons for these decisions:** Are contained within the Part A decision attached.

**Other options considered and rejected:** Are contained within the Part A decision attached.

**Details of conflicts of interest declared by any Cabinet Member:** None

**Note of dispensation granted by the Head of Paid Service in relation to a declared conflict of interest by that decision maker:** None

The Leader of the Council has delegated to the Executive Director of Resources the power to make the executive decisions noted out below:

**Decision No.: 0719RES**

**Details of Decision: ST MICHAELS COURT 6-44 STATION ROAD AND QUEENS HALL CAR PARK, POPLAR WALK, WEST CROYDON – APPROVAL OF THE ACQUISITION AND DISPOSAL OF LAND BY ST MICHAEL’S CHURCH AND QUEENS HALL CAR PARK IN WEST CROYDON AND IN DOING SO ENGAGING THE COUNCILS POWERS UNDER S203 HOUSING AND PLANNING ACT 2016 TO OVERRIDE THIRD PARTY RIGHTS**

**Details of decision:**

Having carefully read and considered the Part A report, and associated confidential Part B report, and the requirements of the Council’s public sector equality duty in relation to the issues detailed in the body of the reports, the Executive Director of Resources

**RESOLVED:**

The Executive Director of Resources having considered the attached report from the Director of FM & Support Services which has been drafted in consultation with the Directors of Law & Governance & Deputy Monitoring Officer, Director of Planning &

Strategic Transport and the Director of Finance, Investment & Risk approved the acquisition of the Land located at 6-44 Station Road and Queens Hall Car Park, Poplar Walk, Croydon, and subsequently disposing of such property to London Square (West Croydon) Limited.

**Signed:** Council Solicitor and Monitoring Officer

**Notice date:** 28 November 2019

**CROYDON COUNCIL**

**Jacqueline Harris-Baker Executive Director Resources  
& Monitoring Officer**

**RECORD OF EXECUTIVE DELEGATED DECISION**

TITLE	St Michaels Court 6-44 Station Road and Queens Hall Car Park, Poplar Walk, West Croydon – Approval of the acquisition and disposal of land by St Michael’s Church and Queens Hall Car Park in West Croydon and in doing so engaging the Councils powers under s203 Housing and Planning Act 2016 to override third party rights.
REFERENCE NO.	002 Executive decision number - 0719RES
SUMMARY (include all appropriate considerations to the decision)	<p>This report seeks confirmed delegated approval of the acquisition of land for planning purposes by agreement under section 227 of the Town and Country Planning Act 1990 (the “TCPA”) (“S227”) enabling the operation of powers under section 203 of the Housing and Planning Act 2016 (“HPA 2016”) (“S203”) to facilitate the carrying out of redevelopment of St Michael’s Church, 6-44 Station Road and Queens Hall Car Park, Poplar Walk, Croydon (the “Redevelopment Site”) as shown for indicative purposes edged blue on the plan at Appendix 1. The redevelopment comprises 232 residential units in two 25 and 21 storey buildings and 947 M2 of commercial floorspace (for use within Class A1,A2,A3,A4 or A5); new public square including area for retail use, works to church car park, cycle parking, disabled parking and sustainable energy measures” at St Michael’s Square, Croydon.</p> <p>The Developer is in negotiations with a third party to acquire (via a special purpose vehicle within the Developer’s group, London Square (West Croydon) Limited) the freehold interest in the area of the Redevelopment Site shown for indicative purposes edged red on the plan at Appendix 1 (“the Land”). No buildings are to be constructed on the remainder of the Redevelopment Site edged blue on the plan so it is not proposed that the Council acquires an interest in such areas.</p> <p>The Developer has asked the Council if it would be prepared to consider intervening by utilising the powers under S227 to</p>

enable reliance on the powers in S203. For this to occur it would be necessary for the Council to acquire an interest in the Land. The Developer has agreed to enter into an Indemnity Agreement in respect of the Council's costs.

This report follows the first report in September 2019 to the Cabinet which evaluated the request against the relevant criteria, concluded that the tests are likely to be met and recommended agreeing to the request in principle.

The Leader delegated authority (4119LR) on 3 October 2019 to the Cabinet Member for Finance & Resources in consultation with the Cabinet Member for Environment, Transport & Regeneration (job share) to consider that report.

On 30 October 2019, having consulted with Councillor King Cabinet Member for Environment, Transport & Regeneration (job share), Councillor Hall Cabinet Member for Finance & Resources took the in-principle decision as follows:

1. Approved the principle of acquiring the Land located at 6-44 Station Road and Queens Hall Car Park, Poplar Walk, Croydon, and subsequently disposing of such property to London Square Developments Limited (the "Developer") and that the final terms of such acquisition and disposal and the implementation of such decision is delegated to the Executive Director of Resources upon a consideration of a further report from the Director of FM & Support Services to be drafted in consultation with the Directors of; Law & Governance & Deputy Monitoring Officer, Planning & Strategic Transport and Finance, Investment & Risk.
2. This approval was subject to the Developer continuing negotiations with relevant owners (who will have their rights to light affected) and making reasonable attempts to agree compensation packages with affected rights owners detailed in Appendix 3 prior to the exercise of the delegated authority.
3. Approved entering in to an Indemnity Agreement forthwith with London Square Developments Limited in respect of the Council's consideration of and exercise of the powers to acquire an interest in property located at 6-44 Station Road and Queens Hall Car Park, Poplar Walk, Croydon, and subsequently disposing of such property to the Developer and the associated exercise of the Council's powers under section 203 of the Housing and Planning Act 2016.

It is now recommended that the delegation provided in respect of the final terms of the acquisition and disposal and the implementation of such decision is exercised.

	<p>An update upon the engagement and negotiations with the rights holders since the first decision was taken is provided in section 4 of the report below and at Appendix 5.</p> <p>The Developer is undertaking this development using a special purpose vehicle - London Square (West Croydon) Limited. As such, the Council would directly transact with London Square (West Croydon) Limited in respect of any acquisition of the Land. A company sitting above the Developer in the Developer's group corporate structure (London Square Limited) has entered into the Indemnity Agreement with the Council. These parties, rather than London Square Developments Limited (i.e. the Developer) are the precise parties that have contracted or are intended to contract with the Council in relation to this matter.</p>
<p><b>RECOMMENDATIONS</b></p>	<p>It is recommended that:</p> <p>the Executive Director of Resources having considered this report from the Director of FM &amp; Support Services which has been drafted in consultation with the Directors of; Law &amp; Governance &amp; Deputy Monitoring Officer, Planning &amp; Strategic Transport and Finance, Investment &amp; Risk approves the acquisition of the Land located at 6-44 Station Road and Queens Hall Car Park, Poplar Walk, Croydon, and subsequently disposing of such property to London Square (West Croydon) Limited.</p>
<p><b>BACKGROUND PAPERS/ CABINET OR COMMITTEE REPORT</b></p>	<p>The Council must be satisfied that there is a compelling case in the public interest that the powers conferred by S203 be engaged in order that the proposed building work or use proposed can be carried out and in particular, that:</p> <ul style="list-style-type: none"> <li>(i) There is planning consent for the proposed development;</li> <li>(ii) Acquisition or appropriation and consequent engagement of S203 will facilitate the carrying out of development, redevelopment or improvement on or in relation to land, and in particular the proposed development for which planning consent has been obtained, or similar development;</li> <li>(iii) The development, redevelopment or improvement will contribute to the promotion or improvement of the economic, social or environmental wellbeing of the authority's area and those benefits could not be achieved without giving rise to all or some of the infringements - therefore it is in the public</li> </ul>

	<p>interest that the land be acquired by the Council or appropriated by them for planning purposes, so as to facilitate the development proposed or similar development.</p> <ul style="list-style-type: none"> <li>(iv) There will be infringements of one or more relevant rights or interests as defined in section 205(1) of the HPA2016 or breach of a restriction as to user of land which cannot reasonably be avoided;</li> <li>(v) The easements to be interfered with cannot reasonably be released by agreement with affected owners within a reasonable time (and adequate evidence of satisfactory engagement, and where appropriate negotiation, has been provided to the Council);</li> <li>(vi) The ability to carry out the development, including for financial or viability reasons, is prejudiced due to the risk of injunction, and adequate attempts have been made to remove the injunction risks;</li> <li>(vii) A decision to acquire or appropriate in order to engage S203 would be broadly consistent with advice given in the MHCLG Guidance on Compulsory Purchase 2019 (the <b>MHCLG Guidance</b>) (and any replacement thereof) so far as relevant;</li> <li>(viii) The use of the powers is proportionate in that the public benefits to be achieved outweigh the infringement of human rights;</li> <li>(ix) The developer and the Council have consulted with rights holders regarding the engagement of S203 wherever feasible and appropriate in the circumstances of the case.</li> </ul> <p>Each of these considerations is dealt with using the same enumeration below.</p> <p><b><i>(i) Planning permission</i></b></p> <p>1. Planning permission was granted for the Development 31 March 2017 under reference 15/01419/P. The development comprises demolition of 6-44 Station Road and all but the facade of 6-12 Station Road; erection of two buildings comprising 25 storeys (plus partial</p>
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basement and mezzanine) and 21 storeys (plus mezzanine) to provide 232 residential units and 947 M2 of commercial floorspace (for use within Class A1,A2,A3,A4 or A5); new public square including area for retail use, works to church car park, cycle parking, disabled parking and sustainable energy measures” at St Michael’s Square, Croydon.

The full report to the Planning Committee which considered this application can be viewed by following this hyperlink: <https://publicaccess3.croydon.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=ZZZW0HJLXB466>

***(ii) Facilitation of the Development by use of S203***

2. The carrying out of the Development is dependent upon adhering to a programme. That programme cannot be met unless those entitled to rights of light agree to infringements or the infringements are authorised by S203. The Developer needs to maintain its programme to lawfully implement the Development before 31 March 2020 and subsequently complete the Development. From the Council’s perspective, it regards the proposed development as having a welcome regenerative effect upon West Croydon. If the proposed development were not to come forward due to an inability to implement the 2017 planning permission prior to its implementation deadline, then it is unlikely that any development of the nature, type and scale proposed in planning application 15/01419/P would be proposed or implemented on the Redevelopment Site. A proposed land transaction between the Developer and a third party to construct and occupy certain parts of the proposed Development is to be contingent on the rights of light injunction risk being mitigated by the Council resolving to approve the use of S203 powers. Similarly, further funding for the Development to allow it to proceed will not be released to the Developer until the injunction risk has been removed. The Developer is therefore not able to proceed with the Development unless the Council resolves to engage the provisions of S203. The Developer’s view, with which officers agree, is that the risk of injunctive relief being sought can only be addressed by acquisition of the Redevelopment Site so

as to engage the provisions of S203. Whilst the point at which the development programme reaches the limit of the “no-impact” right of light zone is late 2020, the Developer needs the confidence that the right of light injunction risk will be eliminated by engagement of the S203 provisions prior to making a final decision upon whether or not to commence development pursuant to the planning permission, the deadline for which is 31 March 2020.

***(iii) Development in the public interest due to promotion of the economic, social or environmental wellbeing of the Council***

The scheme will deliver public benefits which include:

- (a) the provision of 232 homes, including 35 affordable units with the desired tenure mix for affordable housing, (i.e. 62.9% affordable rent and 37.1% intermediate housing);
- (b) a new public square, good design (including the use of brick in the new buildings, retention of the locally listed façade and the design of the ground floor commercial spaces), a new pedestrian link between Poplar Walk and Station Road and opened up views of the Church of St Michael and All Angels from Station Road reinforcing the church as an important feature at the heart of West Croydon;
- (c) substantive compliance with the adopted West Croydon Masterplan as the Redevelopment Site consists of designated area WC6 (Station Road Development) and WC6 (Whitgift Passage Development), where both WC6 and WC7 are each identified for the provision of a tower to form part of the West Croydon Cluster of tall buildings and suitable uses are identified as residential with retail and restaurants at ground floor level. The provision of a public square and pedestrian route through from Station Road to Poplar Walk are also identified as requirements for the Redevelopment Site.
- (d) Bringing back into use a number of boarded up and run down shop units in historic buildings which are of local special architectural or historic

	<p>interest (the frontages are to be retained and improved); and</p> <p>(e) Broader regenerative benefits are likely to flow from the Development in the wider local area around West Croydon Station (which is in close proximity to the Redevelopment Site), where despite the activity elsewhere in the Croydon town centre, little is actually currently happening in this area.</p> <p>Further detail upon the substantial public and regeneration benefit is set out in the document at Appendix 2.</p> <p><b><i>(iv) Infringement of rights by the Revised Development cannot be reasonably avoided</i></b></p> <p>3. The impacts in planning terms, of the issues of daylight, sunlight and overshadowing were fully considered when the Council resolved to approve the Development in January 2016. The Planning Officer advised that the proposal was acceptable, An extract from the January 2016 Committee report evaluating the daylight/sunlight impacts is annexed at Appendix 4.</p> <p>Accordingly the scale and nature of the two towers is both appropriate and justified. It is not viable for the development to proceed in a manner which does not infringe the rights to light – the consequential amount of reduction in height and scale of the development from 25 storeys (Tower A) and 21 storeys (Tower B) under the consented scheme to 2 storeys (Tower A) and 3 storeys (Tower B) is too great. As a result the rights held by owners of adjoining properties are necessarily being impacted to realise the public regeneration benefits of this development.</p> <p><b><i>(v) Rights of light cannot reasonably be released by agreement</i></b></p> <p>4. In deciding whether it is necessary to acquire an interest in land under S227 so as to engage the provisions of S203 and thereby facilitate the carrying out of the Development, consideration should be given to whether agreements to permit infringement can be reached with</p>
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	<p>owners of affected properties with rights of light on reasonable terms and within reasonable timeframes.</p> <p>5. The Developer has negotiated with affected owners with an injunctable interest since early August 2019. A schedule setting out the state of negotiations with each affected owner is attached. The following conclusions can be drawn from the information provided by the Developer:</p> <ul style="list-style-type: none"> <li>(i) So far, the developer has contacted all of the rights holders and is in negotiation with all of them. Even where progress has been made and commercial terms have been agreed, this is still subject to being able to agree the form of deed of release and complete it. There are still a significant number of remaining rights of light claims, and until all deeds of release have been entered into there is still a risk of injunctive relief being sought by any owner who has not entered into a deed of release;</li> <li>(ii) There is no realistic prospect that agreement will be reached and binding deeds of release entered into with all affected owners in time to ensure that the Development is kept to its programme and is therefore able to be carried out;</li> </ul> <p>6. Any remaining risk of there being an affected owner with an injunctable position would prevent the Development from proceeding.</p> <p>7. Given the current state of negotiations, it appears highly unlikely that the remaining deeds of release will be completed with all affected owners prior to 31 March 2020 (when the developer must decide whether or not to implement the development). It may also be difficult to secure all of the deeds of release prior to the date that the “no-impact” right of light zone is expected to be breached in late 2020. The Council is satisfied that reasonable attempts have been made by the Developer settle the rights of light interests. Details about the engagement and negotiation that have taken place since the “in principle” decision are detailed at section 4 and Appendix 5 of this report. The Council also has the benefit of an Indemnity Agreement in respect of its costs entered into with London Square Limited</p>
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***(vi) Development prejudiced due to risk of injunction***

8. For the reasons set out above at sections (ii) and (iv), the Development stands to be prejudiced by the risk of injunction and cannot proceed until such a risk is removed.

***(vii) Decision to engage S203 would be consistent with MHCLG Guidance***

9. The Council has the power under section 226(1) of the TCPA to make an order to acquire the Land compulsorily. The advice given in the MHCLG Guidance should be taken into account in deciding whether to acquire land in order to engage the provisions of S203. The MHCLG Guidance states that a compulsory purchase order should only be made where there is a compelling case in the public interest. A similar approach should be taken when deciding whether to acquire land for planning purposes in order to engage S203. Given that it is in the public interest that the Development should proceed (as discussed in part ***The carrying*** out of the Development is dependent upon adhering to a programme. That programme cannot be met unless those entitled to rights of light agree to infringements or the infringements are authorised by S203. The Developer needs to maintain its programme to lawfully implement the Development before 31 March 2020 and subsequently complete the Development. From the Council's perspective, it regards the proposed development as having a welcome regenerative effect upon West Croydon. If the proposed development were not to come forward due to an inability to implement the 2017 planning permission prior to its implementation deadline, then it is unlikely that any development of the nature, type and scale proposed in planning application 15/01419/P would be proposed or implemented on the Redevelopment Site. A proposed land transaction between the Developer and a third party to construct and occupy certain parts of the proposed Development is to be contingent on the rights of light injunction risk being mitigated by the Council resolving to approve the use of S203 powers. Similarly, further funding for the Development to allow it to proceed will not be released to the Developer until the injunction risk has been removed. The Developer is therefore not able to proceed with the Development unless the Council resolves to engage the provisions of S203. The

	<p>Developer’s view, with which officers agree, is that the risk of injunctive relief being sought can only be addressed by acquisition of the Redevelopment Site so as to engage the provisions of S203. Whilst the point at which the development programme reaches the limit of the “no-impact” right of light zone is late 2020, the Developer needs the confidence that the right of light injunction risk will be eliminated by engagement of the S203 provisions prior to making a final decision upon whether or not to commence development pursuant to the planning permission, the deadline for which is 31 March 2020.</p> <p>10. <b>(iii)</b> above), and the fact that the Development (or some similar development) will not proceed whilst the prospect of an injunction to restrain interference with rights to light remains, there is a compelling case in the public interest that the Land should be acquired for planning purposes in order to engage the provisions of S203.</p> <p>11. A confirming authority of a compulsory purchase would expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the order by agreement. In this case, it is appropriate to show the efforts undertaken by the Developer and in particular the attempts to acquire the relevant interests by agreement. The efforts made are considered to constitute reasonable steps during the time available. Since the “in principle” decision was made on 30 October 2019, the Developer has continued to take reasonable steps to settle compensation with affected owners. Following any final decision pursuant to this Recommendation, the Indemnity Agreement entered into between London Square Limited and the Council requires continued engagement with rights holders to agree reasonable compensation.</p> <p>12. The MHCLG Guidance also says that when making and confirming an order, acquiring authorities should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. These issues are considered below in part (viii).</p> <p><b>(viii) Public benefits associated with engagement of S203 outweigh infringement of human rights</b></p> <p>12. Human Rights issues arise in respect of the proposed arrangements. An acquiring authority should be sure that the purposes for which the Redevelopment Site is</p>
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to be acquired and for which rights are to be overridden sufficiently justify interfering with the human rights of those with interests in the land affected. Furthermore, following the introduction of the Human Rights Act 1998 the Council is required to act in accordance with the European Convention on Human Rights (the **ECHR**) in deciding whether or not to implement the arrangements. Article 1 of the First Protocol of the ECHR provides that every natural or legal person is entitled to peaceful enjoyment of their possessions. Acquisition of property under S227, which engages S203 to allow interference with rights of light, involves interference with a person's rights under this Article. As these rights are enjoyed by corporate bodies as well as individuals all of those whose rights will be affected can claim an infringement.

13. However, the right to peaceful enjoyment of possessions in this Article is a qualified rather than absolute right, as the wording of Article 1 of Protocol 1 permits the deprivation of an individual's possessions where it is in the public interest and subject to the conditions provided for by law and by the general principles of international law. In cases such as this, where rights to light are enjoyed by residential properties Article 8 is engaged (the right to respect for private and family life and a person's home). Article 8(2) allows for interference which is "in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the protection of health and morals, or for the protection of the rights and freedoms of others".
14. There must therefore be a balancing exercise between the public interest and the individual's rights whereby any interference in the individual's rights must be necessary and proportionate. "Proportionate" in this context means that the interference must be no more than is necessary to achieve the identified legitimate aim. A "fair balance" must be struck between the rights of the individual and the rights of the public. It is for members to consider the issues raised in this report and to strike that "fair balance" in coming to its decision.
15. In the present case it is considered that the public interest in facilitating the redevelopment outweighs the rights of the individuals to peaceful enjoyment of their possessions and their right for private and family life and home and that the proposed use of S203 powers amounts to a proportionate interference in all the

circumstances. Central to the issue of proportionality is the availability of compensation to those whose Rights to Light will be interfered with.

16. The key public benefits arising from the Development are set out at section (iii) above. The planning implications of the Development have been fully considered and it has been deemed acceptable with planning permission being granted in March 2017.

#### **4. CONSULTATION**

The Developer held an exhibition event at St Michaels Church on 20 and 21 September 2019 and engaged with each of the rights holders with injunctable interests before the “in principle” decision. The Council have also taken steps to consult with affected owners with injunctable interests. The Council sent a letter to the affected owners dated 19 September 2019 to advise them of the potential use of S203 powers and to invite comments from them for the Council to consider. A copy of the letter is annexed at Appendix 6. The substance of material responses received was reported to Councillors Hall, Scott and King in advance of the “in principle” decision.

Since the “in principle” decision, Point2 surveyors (on behalf of the Developer) have continued to actively engage with the affected owners to gain access and complete surveys of each property in order to issue finalised technical packs regarding the loss of light, obtain details regarding the occupation of each property and make settlement offers. As a result of those efforts, Point2 have made settlement offers for all but one of the affected properties. The only property which Point2 have not been able to access or make an offer for is 114-126 North End (Marks and Spencer). Contact was made with this owner before the “in principle” decision but despite the repeated attempts of Point2 to make further contact with the owner and to gain access to this property such that an offer might have been made, the owner has failed to substantively engage. Point2 will continue to seek to engage with this owner in further discussions in order to try to reach a mutually acceptable position. For details of Point2’s engagement with this owner and the remaining owners, please see the tracker at Appendix 5

## **5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

The exercise of the s 203 powers as recommended in this report is intended to be cost neutral to the Council, save for some element of officer time being expended upon the development of this proposal. The Council is to be indemnified by the developer from the cost of meeting the compensation claims by the holders of the rights to light and all legal costs associated with the consideration and documentation of the acquisition and disposal of the relevant freehold interest.

The main risk for the Council is the possibility that the developer fails to meet its indemnity obligations – but this risk is reduced by the likelihood that it would only arise in circumstances where the development were not implemented and so the main financial liability would not be incurred (as that is dependent upon the buildings reaching a significant height and mass to infringe the rights to light). It is considered that this is a risk which can and should be taken given that the Council is facilitating the implementation of the redevelopment with the extensive public regeneration benefits.

As implemented there will be a positive financial impact from this development comprising 232 dwellings which will provide Council Tax receipts together with the business rates arising from the 947m2 of commercial space.

### **1 The effect of the decision**

**To authorise the acquisition of the land, use of the s 203 power and then to dispose of the land to London Square (West Croydon) Limited. Importantly the entitlement to compensation of the holders is not removed by the exercise of these powers and the onus is upon the developer to negotiate the release of those rights.**

### **2 Risks**

**The key risks are assessed in the Financial and Risk Assessment Considerations section of this report.**

	<p><b>3 Options</b></p> <p>The Council has a discretion in deciding to exercise the s203 powers in the manner recommended in this report. Clearly therefore, the Council could elect not to do so. However as explained the facilitation of this development and its public regeneration benefit outweighs the maintenance of the status quo.</p> <p><b>4 Future savings/efficiencies</b></p> <p>None. However the Council will have gained corporate knowledge and understanding of the use of its s 203 powers which it may, in future, be asked to do again.</p> <p>(Approved by: Lisa Taylor, Director of Finance, Investment &amp; Risk)</p> <p>No change since the “in principle” decision.</p> <p><b>5. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER</b></p>
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	<p>5.1 The Director of Law &amp; Governance comments that the Council is acquiring Land under s227 Town and Country Planning Act. Through the acquisition of the Land, powers under s203 Housing &amp; Planning Act 2016 will be engaged. The justifications for the engagement of s203 powers are set out in the body of this report. The Council shall dispose of the Land to the Developer in accordance with s123 Local Government Act 1972 and does not consider that Secretary of State approval is necessary.</p> <p>5.2 The Council has obtained an opinion of Queen’s Counsel relating to the use of statutory powers in this way. The opinion has concluded that the use of powers and methodology engaged in the exercise of those powers is lawful and correct. Browne Jacobson have also concurred with this view. Both have also advised on this report. The Council is indemnified by the Developer for any costs arising out of this matter that the Council may incur in exercise of its powers.</p> <p>5.3 Pursuant to Part 3, paragraph 3 of the Council’s constitution, this decision is an executive function. Under part 4D, paragraph 1.01(viii) of the Constitution, the Leader is able to delegate this executive function to a Cabinet Member. The Council does not consider this delegation to be covered by the General Scheme of Delegation 2018 and as such a specific Leader delegation was made to enable Cabinet Members to take the “In principle” decision. This final decision has been further delegated (via the “in principle” decision) to the Executive Director of Resources</p> <p>(Approved by: Sean Murphy, Director of Law and Governance &amp; Deputy Monitoring Officer)</p> <p>No change since the “in principle” decision.</p> <p><b>6. HUMAN RESOURCES IMPACT</b></p> <p>None of significance</p> <p>(Approved by: Sue Moorman, Director of Human Resources)</p> <p>No change since the “in principle” decision.</p> <p><b>7. EQUALITIES IMPACT</b></p>
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	<p>To the extent any person's right to light is to be impacted by the development that person is entitled to compensation.</p> <p>There is no known other adverse impact on any specific person with a protected characteristic. In so far as any such person is to be impacted:</p> <p>a) planning permission has been granted for the development; and  b) if that person has a right to light, there is an entitlement to compensation.</p> <p>(Approved by: Yvonne Okiyo, Equalities Manager)</p> <p>No change since the "in principle" decision.</p> <p><b>8. ENVIRONMENTAL IMPACT</b></p> <p>The environmental impacts of the development were considered prior to the grant of planning permission and so insofar as there will be environmental impacts, permission has been granted for them to occur and measures have been required to mitigate or compensate for such impacts to some degree.</p> <p><b>9. CRIME AND DISORDER REDUCTION IMPACT</b></p> <p>It is considered that the regeneration of this location is likely to have a beneficial impact upon the streetscene and that the development ought to be at least neutral as to crime and disorder reduction and will hopefully contribute to the reduction of crime and disorder in this part of West Croydon.</p> <p><b>10. DATA PROTECTION IMPLICATIONS</b></p> <p><b>10.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?</b></p> <p><b>NO</b></p>

I agree\* to the recommendation (as amended\*)

\* delete as appropriate

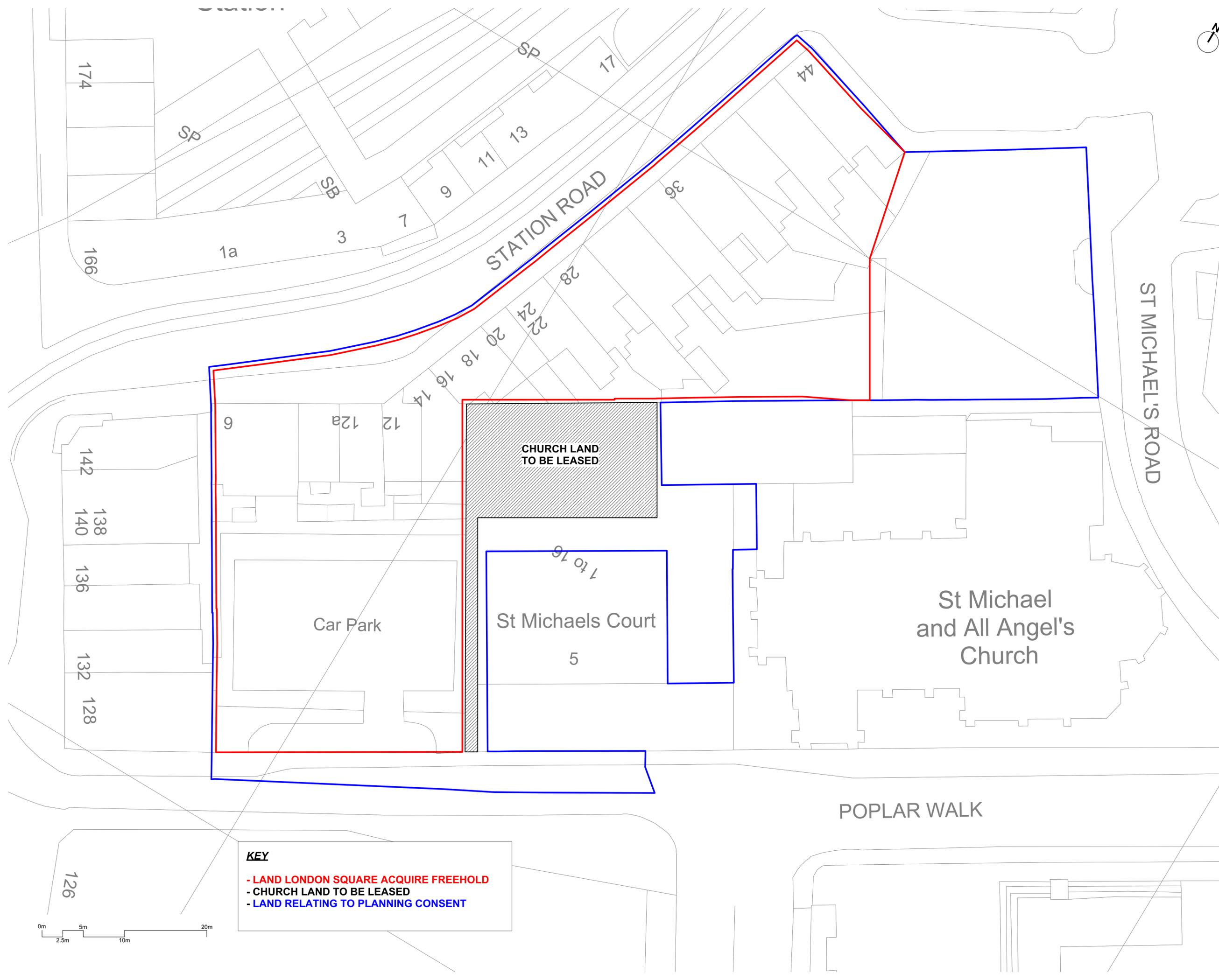
Jacqueline Harris-Baker

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Print Name

Title: Executive Director Resources

Date: 27/11/19



General notes

All setting out must be checked on site  
 All levels must be checked on site and refer to Ordinance Datum Newlyn unless alternative Datum given  
 All fixings and weathers must be checked on site  
 All dimensions must be checked on site  
 This drawing must not be scaled  
 This drawing must be read in conjunction with all other relevant drawings, specification clauses and current design risk register  
 This drawing must not be used for land transfer purposes  
 Calculated areas in accordance with Assael Architecture's Definition of Areas for Schedule of Areas  
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 Subject to survey, consultation and approval from all statutory Authorities

Revision Status:  
 P-Preliminary  
 C-Contract

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Drawing notes

Electronic file reference

Status	R	Revision	Date	DRN	CHK	CDM
1	Issued for Information	19/09/19	AD			

Purpose of information

The purpose of the information on this drawing is for:

Planning   
 Information   
 Comment   
 Client approval   
 Construction

All information on this drawing is not for construction unless it is marked for construction.



Client  
**Barratt London**

Project title  
**St Michael's Square  
 Croydon**

Drawing title  
**Cabinet Plan**

Scale @ A1 size  
**1:200**

Date  
**September '19**

Drawing N°  
**A2252 S010**

Status & Revision  
**R1**

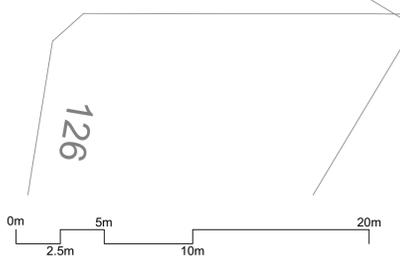


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**KEY**

- LAND LONDON SQUARE ACQUIRE FREEHOLD
- CHURCH LAND TO BE LEASED
- LAND RELATING TO PLANNING CONSENT



## APPENDIX [2] SCHEME BENEFITS

## 1 INTRODUCTION

- 1.1 Planning permission reference 15/01419/P approved in detail the following development:-

*Demolition of 6-44 Station Road and all but the facade of 6-12 Station Road; erection of two buildings comprising 25 storeys (plus partial basement and mezzanine) and 21 storeys (plus mezzanine) to provide 232 residential units and 947m<sup>2</sup> of commercial floorspace (for use within Class A1,A2,A3,A4 or AS) ; new public square including area for retail use, works to church car park , cycle parking, disabled parking and sustainable energy measures.*

- 1.2 The planning permission was granted on 31st March 2017.

- 1.3 The planning framework for the planning application and subsequent planning permission was established by the adopted West Croydon Masterplan (2011); the adopted Croydon Opportunity Area Planning Framework (2013) (OAPF); the adopted Croydon Local Plan Strategic Policies (2013) and the saved Unitary Development Plan (UDP) (adopted 2006) including Site Allocation H70.

- 1.4 These policy documents sought the intensification of this site for residential led mixed use purposes. These policies carry significant weight as they were subject to extensive consultation and public engagement, as was planning application 15/01419/P prior to approval by Croydon Council and the Mayor of London.

- 1.5 More recently Croydon Council has updated its Local Plan. A new Local Plan was adopted in 2018, setting new growth aspirations for the Council, and in particular Croydon town centre. The key policy objectives for St Michael's Square remain the same as previously adopted.

- 1.6 The purpose of planning application 15/01419/P is to deliver the policy objectives established by a series of key policy documents, which themselves establish the public benefits arising from the redevelopment of St Michael's Square, West Croydon.

## **2 PUBLIC BENEFITS**

2.1 The public benefits of the development are set out below.

### **Regeneration**

2.2 Buildings along Station Road (no.6-44) comprise 2,015m<sup>2</sup>. These buildings are largely time expired buildings in a poor state of repair and are in need of redevelopment. They comprise a range of uses with predominantly Class A1-A5 at ground floor with storage and residential above, albeit much of the floorspace is vacant. These buildings offer little by way of physical, social or economic prosperity to West Croydon.

2.3 The re-development will result in a significant improvement to this part of West Croydon. The physical regeneration will markedly enhance the townscape, and street scene through the introduction of new, high quality buildings.

2.4 These buildings will create a sense of renewal, vitality and viability to West Croydon. They will create a sense of overlooking, with passive and active surveillance where none exists at present. The introduction of new buildings, new residential properties and new commercial floorspace will bring with it physical, social or economic regeneration, as required by development plan policy.

### **St Michael's and All Angel's Church**

2.5 St Michael and All Angel's Church is a Grade I listed building completed in 1880. The building designed by J L Pearson (list entry no. 1079297) is a very good example of the architects work and is principally listed for its internal features. This is one of seven Grade I listed buildings in Croydon. John Loughborough Pearson also designed the church of St John the Evangelist in Upper Norwood which is a Grade II\* listed red brick gothic revival church (built between 1878 and 1887).

2.6 St Michael and All Angel's Church is currently hidden from the majority of surrounding views by the surrounding buildings and the tight proximity of built form. It is a key objective of national, regional and local planning policy to enhance the setting of heritage assets.

2.7 The St Michael's Square development has been specifically designed to open up and create a new setting for the church through a new useable and accessible public square adjacent to the church. This will enable its grandeur to be appreciated by a public wider audience, a significant public benefit. The new and improved setting to St Michael's Church, a Grade 1 Listed Building, will enhance the public appreciation of this heritage asset.

2.8 The creation of the public square and Whitgift Passage facilitates the opening up of the wider site to all members of the public, creating new permeable and accessible routes within West Croydon, where none exist at present.

2.9 The development creates new open space across the site with the new public realm comprising 43% of the site area, a significant public benefit.

- 2.10 The proposal also seeks the resurfacing of the existing St Michael and All Angel's Church car park which will benefit patrons of this important community asset.

### **6-12 Station Road Heritage Facade**

- 2.11 6-12 Station Road, West Croydon is notable as it is identified on Croydon Council's local list of buildings of architectural or historic interest.
- 2.12 At present it is part of the time expired parade of commercial premises and does not reflect its former important functional role within West Croydon.
- 2.13 The development will refurbish and reinstate the locally listed facade to its former glory, ensuring it forms part of the functional building form once again. The design of the development ensures that the facade is public facing to allow public appreciation of this heritage asset.

### **New Homes**

- 2.14 Croydon Council's Local Plan recognises that it has an existing significant deficit of land supply to meet the required number of new homes to meet its objectively assessed housing needs.
- 2.15 The Partial Review of the Croydon Local Plan Strategic Policies ("CLP1.1") recognises that a housing shortfall exists, and promotes 10,760 homes within Croydon Opportunity Area and 6,970 homes on allocated sites in the rest of the Borough. In addition to this, it also promotes the delivery of 10,060 homes on windfall sites within the borough. The windfall allocation is significant, comprising nearly a third of the Council's minimum housing requirement.
- 2.16 To compound the issue, Croydon's housing requirements will increase by 106% rising from 1,435dpa to 2,949dpa within the new London Plan (2019). This increase has not informed the policies within the recently adopted Croydon Local Plan 2018.
- 2.17 This will place a greater requirement to optimise development on key brownfield sites, and for this reason Croydon Council applies a presumption in favour of development of new homes.
- 2.18 The provision of new high quality residential homes which benefit from excellent views across Croydon and beyond, totalling 232 residential units, of which 15% are affordable, is a public benefit of this development.
- 2.19 The optimization of housing delivery in this location will help Croydon Council meet its emerging new London Plan housing targets.
- 2.20 The adopted London Plan requires new developments to offer a range of housing choices, in terms of sizes and types, taking account of the housing requirements of different groups and the challenging roles of different sectors, including the private rented sector (policy 3.8).

- 2.21 The development proposes that 10% of the homes are 3 bed homes; whilst 100% of the 2 bed units are suitable for 4-persons.
- 2.22 This housing mix will meet local requirements and offer a range of homes to local people.

### **Optimising Development in a Highly Accessible Location**

- 2.23 To the north of the site is West Croydon Transport Interchange which comprises West Croydon Overground station which operates the London Overground from West Croydon through to Canada Water and up to Highbury and Islington and beyond to the North.
- 2.24 There is also West Croydon bus station and the Tramlink which serves Wimbledon to the west and New Addington and Beckenham Junction in the east.
- 2.25 West Croydon is also served by national rail on the Southern Line from London Bridge, Victoria and Watford in the north through to Epsom in the south.
- 2.26 The site benefits from a Public Transport Accessibility Level (PTAL) rating of 6b. The highest level one can reach.
- 2.27 As this is a highly accessible location, it will ensure that all members of the community can have access to the new development, making it a truly accessible destination.

### **West Croydon Bus Interchange Land Safeguarding**

- 2.28 The development ensures that land is safeguarded within the West Croydon Bus Interchange for future expansion. This is known as the Northern Gateway which facilitates growth of the West Croydon Bus Station, for public benefit.

### **New Commercial Floorspace**

- 2.29 New ground floor commercial space with associated areas of external seating will create economically active floorspace on site which will help meet the employment needs of Croydon.
- 2.30 A combined provision of 947 m<sup>2</sup> GEA of commercial floorspace will be contained within the ground floor of the two tall buildings comprising Use Class A1-A5 would enhance the vitality and viability of the town centre, and replace the time expired commercial offer that currently exists with qualitatively superior floorspace which will benefit from high quality elevation detailing and the scope for outdoor space.
- 2.31 The commercial floorspace has been designed to allow flexibility of occupation for future tenants to attract a wide choice of potential operators to ensure that it meets the needs of local businesses, which will benefit the public.

### **Compliance with Development Plan Policy**

- 2.32 The development is in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires development proposals to accord

with the development plan. It is also in line with the adopted National Planning Policy Framework (2019) which establishes a presumption in favour of sustainable development for planning applications which accord with the development plan.

- 2.33 The site is within the London Borough of Croydon and is within the Croydon Metropolitan Centre boundary located in the Fairfield ward on the border of Broad Green ward.
- 2.34 The site is allocated within the following policy documents for mixed use residential led redevelopment:
- West Croydon Masterplan adopted 2011
  - Croydon Opportunity Area Planning Framework adopted 2013
  - Croydon Local Plan 2018
  - London Plan 2016
  - Draft London Plan 2019
- 2.35 The Croydon Local Plan 2018 replaces the adopted Croydon Local Plan adopted April 2013; and the saved policies of the Croydon Unitary Development Plan adopted July 2006.
- 2.36 The site is allocated as proposals Site 211 – Poplar Walk car park and, 16-44 Station Road. The proposed allocation is for “A more intensive use of the site with 232 residential units as part of an overall redevelopment of the site which includes reprovision of retail uses, car and cycle parking and a public square”. The justification for this allocation is that “The site's location away from East Croydon station means it is less suited to hotel or office use and because it is outside of the Primary Shopping Area it is not suitable for retail use although the existing retail floor space can be reprovided as part of the redevelopment of this site. Residential development will help to meet the need for new homes in the borough”.
- 2.37 The Croydon Opportunity Area is defined within the adopted London Plan, and the Croydon Local Plan Policy DM38: Croydon Opportunity Area. This seeks to enable development opportunities, including public realm improvements, to be undertaken in a cohesive and coordinated manner in accordance with the Croydon Opportunity Area Planning Framework (OAPF) complemented by masterplans with elements of design code for West Croydon.
- 2.38 The Croydon town centre OAPF was adopted by the Mayor of London in January 2013 in collaboration between the GLA, Croydon Council and TfL. The main objectives of the OAPF are to support the development of 7,300 homes and promote the redevelopment and renewal of the retail core.
- 2.39 The OAPF notes that tall buildings will continue to have an important role to play in the development of the Croydon Opportunity Area (COA) and such buildings may be considered appropriate where they can be justified on the basis of design, location and context. Paragraph 6.23 recognises the practicalities of regenerating a built up urban area, and that new development will inevitably result in some level of over

shadowing and overlooking of neighbouring properties and amenity spaces. As such the OAPF notes that the existing pattern of development in the central part of the Opportunity Area is not conducive to the application of normal planning guidelines for sunlight and daylight. There will therefore need to be a flexible approach to the protection of natural light for existing properties.

2.40 The OAPF (2013) refers to the West Croydon Masterplan (2011) and confirms that new proposals should deliver this plan.

2.41 The Adopted West Croydon Masterplan represents detailed planning guidance with regards to the redevelopment of the application site. The masterplan seeks the following strategic objectives:-

- A new front door to Croydon – with the opening of the Overground line, West Croydon is a key point of arrival and departure for a range of public transport connectivity;
- Better integration and links to the centre – a new and improved transport interchange supported by better connections to Northend and the Whitgift Centre will draw upon the main flow of pedestrians;
- Inclusive high quality public realm and more space for pedestrians providing a new setting for St Michael and All Angel's Church to create a richer understanding of local heritage assets;
- Love of the good things about West Croydon – respect the fine grain and uses at ground floor level which contribute to the local character such as St Michaels and All Angel's Church and the local listed façade on Station Road.

2.42 The West Croydon Masterplan allocates the following locations for development, which are part of the development site :-

- WC4 St Michael's Square (page 70)
- WC6 Station Road (page 75)
- WC7 Whitgift Passage (page 78)

2.43 Each allocation seeks to deliver the form, and function of the development now subject to the planning permission.

#### **WC4 St Michael's Square**

2.44 The key deliverables for the Square comprise the following:-

- A high quality public space
- Increased public realm capacity and connectivity
- Revealing the church through an improved setting for the Grade I listed St Michael and All Angels Church
- An important opening for the Whitgift passage, a new link through to Poplar Walk and the Whitgift Centre from West Croydon transport interchange
- This development meets each of these objectives.

### **WC6 Station Road Development**

2.45 The key objectives for the Station Road development are as follows:-

- A 3 to 4 storey plinth in keeping with the existing context
- A footprint of plinth that allows additional pedestrian routes interchange capacity and public space including the bus station island and St Michael's Square.
- One of four tall buildings forming the West Croydon cluster, marking the West Croydon transport interchange residential and retail/restaurant development
- Improved church car park with new tree planting and public access
- Replaced church car park boundary wall to maintain controlled vehicular access
- Safeguarding of land, at the Northern Gateway, for TfL Bus Station expansion
- Retail uses at ground floor providing active frontage and extending retail provision

2.46 The development largely addresses each of these objectives other than the 3/4 storey plinth for which a reduced scale plinth is proposed for enhanced design benefits.

### **WC7 Whitgift Passage Development**

2.47 The key objectives for this development are as follows:-

- Utilise site currently used as a car park for development
- Open up new views to St. Michael and All Angel's Church
- Create space for Whitgift passage
- One of four tall buildings forming the West Croydon cluster, marking the West Croydon Transport interchange residential and retail/restaurant development
- Retail uses at ground floor providing active frontage and extending retail provision
- Retention of the façade to 10 Station Road and the replacement of a three / four storey development behind it

2.48 The compliance of the planning permission with the West Croydon Masterplan and development plan is a public benefit, and the benefits of development, set out in these documents will be achieved in a plan led approach.

### **Public Expectation**

2.49 The development proposals were presented three times to Croydon's Planning Committee at pre-application stage, and were the subject of two separate public exhibitions (April 2014 and January 2015).

2.50 The proposals have been advertised to over 3,000 residents and businesses; have been subject to two advertisements placed in the local newspapers; and the Croydon BID placed the details of the public exhibition on its website and promoted it on its twitter feed.

2.51 In total 41 visited the public exhibition, with comments raised generally in support of the proposals, and in particular in respect of the following:

- The public space created
- The design of the new buildings, particularly the use of brick
- The retention of the locally listed façade
- The commercial spaces created at ground floor

2.52 At the time of the Croydon planning committee, there were only 7 recorded objections to the development. At the time of the determination of the application, there was an expectation that development would come forward to deliver the public benefits established by the development plan and this planning application.

2.53 Members of the public, the business community and local stakeholders are expectant of these benefits. Delivering these benefits, in a climate of local support would itself be a public benefit.

### **Constraints to Delivery**

2.54 This is a challenging site to deliver. There is public benefit in achieving the delivery of this site owing to these challenges which include the following practical on-site constraints to deliverability, viability and management which are bespoke to this site. These are set out below:-

- Land ownership – to redevelop the site in accordance with the masterplan, it is necessary to include land owned by St Michaels and All Angel's Church within the planning application boundary.
- Grade 1 Listed St Michael's church – the church, given its listing, is sensitive to adjacent development thereby requiring appropriate use of materials and development siting to enhance its setting. This has included significant reductions in scale to the plinth which contained much of the commercial floorspace, impacting viability.
- Locally Listed Façade – the Station Road locally listed façade will be retained which has resulted in issues with regards to construction programme and cost.
- West Croydon Masterplan – the masterplan prescribes a specific slenderness ratio for each tall building to enhance the urban design solution for the site. The ratio results in a smaller number of units per core than the industry standard with consequential impact upon the efficiency of the build.
- Finance costs – it is not possible to sell properties during the construction of a tall building. Only once a tall building is completed can properties be completed upon, and cash flow realised. The development of tall buildings generates abnormal holding and finance costs.
- Values – West Croydon, whilst regenerating itself, has traditionally been subject to lower residential values within the City Centre.

2.55 The above site-specific constraints have a direct impact on scheme deliverability and viability. The development has overcome these challenges for the benefit of the public.

**Westfield**

- 2.56 The development will facilitate greater integration between West Croydon and the Council's flagship regeneration project Westfield.
- 2.57 The current proposals for the Westfield project involve the demolition of the existing outdated shopping centre and its redevelopment to provide circa 170,000sqm of retail floorspace, circa 17,000sqm leisure floorspace, up to 1,000 homes, hotel and student floorspace and over 3,000 car parking spaces. New areas of public realm and infrastructure are also proposed.
- 2.58 St Michael's is a strategically important site which creates new permeable routes between the transport interchange of West Croydon, and the pedestrian shopping desire lines to the new Westfield development from Station Road directly into Poplar Walk.
- 2.59 There will be a relationship between the two development sites owing to the footfall envisaged between West Croydon Interchange, the new Whitgift Passage (running through the application site) and the Westfield development.

**End**

## Appendix 4: Extract from January 2016 Planning Committee report evaluating the daylight/sunlight impacts

### **SUMMARY OF KEY REASONS FOR RECOMMENDATION**

3.9

The development would comply with residential standards in terms of internal floor areas and all of the units would also meet the requirements in relation to amenity space, both the quantum and minimum dimensions. There would be very good levels of daylight and sunlight, some overshadowing of amenity space, and slightly windy conditions by the Tower A entrance, but the latter is not an issue of safety rather an issue of comfort. A children's play space would be located within the development. Overall the living conditions provided for future residents would be acceptable.

3.10

The site is in close proximity to residential accommodation, there would be significant impacts on neighbouring amenity, particularly in relation to lighting conditions for some occupiers of the buildings fronting onto North End. However, when weighed up against benefits delivered by the scheme and that the scheme is broadly in line with the adopted West Croydon Masterplan, the impact is not considered to warrant a refusal of permission. The amount of light provision that shines through some of the stained glass windows within the Church of St Michael and All Angels would be reduced, but a refusal on this ground would not be justified.

### **OBJECTIONS**

6.6

Loss of light and overlooking to residential accommodation.

### **IMPACTS ON ADJOINING OCCUPIERS**

7.58

Policies SP1.2, SP4.1 & SP4.2 of CLP1 set out the need for developments to respond to the local character and circumstances, which includes the need for ensuring there is no detrimental impact on neighbours. Croydon Plan 2006 (Saved Policies 2013) Policies UD2 and UD3, referring to the layout, siting and scale of new developments makes clear that developments should distinguish between public and private spaces and not have an impact on the future development of other land. Additionally, policy UD8 protects the amenity of adjoining residential properties from overlooking, overshadowing and loss of light and outlook.

Daylight and sunlight

7.69

The OAPF notes that "It is recognised that in heavily built up areas such as the Croydon Opportunity Area, new development will inevitably result in some level of overshadowing and overlooking of neighbouring properties and amenity spaces. It should be noted that the existing pattern of development in the central part of the

COA is not conducive to the application of normal planning guidelines for sunlight and daylight. As such, as part of new development proposals, there will need to be a flexible approach to the protection of natural light for existing properties.” Given the constraints of this site such an approach is required in this instance and outlined below.

#### 7.70

The impacts on the nearest residential properties to the site, which lie above the retail units fronting North End to the west of the site, within St. Michael’s Court to the east and within Delta Point to the north east have been assessed in accordance with the 2011 BRE Guidelines in the Environmental Statement.

#### 7.71

During demolition, construction and refurbishment the level of effect in relation to daylight, sunlight and overshadowing to surrounding properties would be temporary, so detailed analysis of the construction program has not been undertaken.

#### 7.72

For the completed and occupied development, in terms of daylight, there are a high number of application site facing windows that will not be adversely impacted. Of the total 938 windows assessed 850 (91 %) complied with BRE guidance. Of the 88 windows that were below the point at which a loss of light would be noticeable 49 (5 %) would suffer a minor reduction in daylight, 15 (1.6%) a moderate reduction and 25 (2.6%) a major reduction. Given the scale of development proposed a moderate or major loss of light to only 39 (4%) of neighbouring windows would be a low impact.

#### 7.73

The residential premises most impacted by the development are located on the upper floors of No.132-142 North End and St Michael’s Court which fronts onto Poplar Walk.

#### 7.74

The loss of daylight is identified as a minor adverse impact on 4 of 4 windows at No.151 North End. The north east facing windows in properties 132, 134, and 136 North End serve either a bedroom or kitchen to flats and suffer a major adverse impact. The principal rooms in these properties face away from the site and are not affected. The kitchens are relatively small and below the habitable room parameters. There are three windows serving kitchen/living rooms and a bedroom window facing the site at No.138-142 North End. The bedroom impact is minor, however, the kitchen/living rooms would suffer a major adverse impact.

#### 7.75

Given that the existing rear facing windows at No.132-134 North End would be adversely affected, then windows approved as part of permission 14/04540/P for extensions would also be negatively impacted. There would be seven rear facing windows across the two approved properties. These windows would serve a stairwell, kitchens at first floor and bedrooms at first and third floor.

#### 7.76

Within St. Michaels Court there are nine windows serving nine ground to 3rd floor rooms in the building that would suffer a major adverse impact. Eight of these windows are on the south west flank elevation and serve small kitchens that are below the habitable room standard and would therefore be afforded a limited degree of protection. There is a third floor bedroom window that would also be significantly impacted on the rear elevation facing north west. The reason that this window is affected to a greater extent than the other rooms in the rear elevation is that its sky visibility is restricted due a roof level overhang.

#### 7.77

Some rooms in Delta Point and St.Michael's Court receive sunlight as well as daylight. Accordingly a sunlight assessment has been undertaken. This has also included the impact on the Church of St Michael and All Angels. Within Delta Point 264(97%) of 270 rooms are fully compliant with BRE guidelines. The remaining windows would retain between 27%-43% Annual Probable Sunlight Hours (APSH) against a BRE minimum of 23%, given that these windows serve bedrooms, which have a lesser requirement for sunlight, the impact is acceptable. Within St.Michael's Court 5 of the 13 rooms with site facing windows are compliant with BRE guidelines. However, 8 windows would experience a major adverse impact but these serve small kitchens which are of a size below the habitable room requirement.

#### 7.78

Within the Church of St Michael and All Angels there are four main panels to a stained glass window feature, which would have an annual loss of sunlight ranging from 24.5-36.8%. This would have an impact on the experience of the window illumination, however, only one small room serving part of the chapel of St Michaels Church does not meet BRE guidance and therefore the overall quality of sunlight amenity on the church is acceptable. There would be additional overshadowing of the church surrounds for 1 hour each day, which is acceptable given the non-residential use.

#### 7.79

None of the impacts to non-residential adjacent premises are considered to be unacceptable. The significant loss of daylight that would result to the flats in North End and loss of sunlight to St Michaels Court is regrettable. But the overall impact on daylight and sunlight to neighbouring properties is small given the scale of development. Development that has been brought forward on the basis of an adopted Council Masterplan. The proposed development offers material benefits to Croydon by adding to the housing stock, improving the immediate townscape, providing new public realm and a pedestrian link to the future Westfield Shopping development. On balance this is considered to outweigh the impact on neighbouring properties. Notwithstanding this the owners of the impacted properties may still address the issue under private rights to light, but this is not a planning matter.

#### 7.80

The only cumulative development of relevance is the Westfield Shopping Centre, however, there would be no material difference in terms of effect on surrounding residential properties should this development be implemented given the orientation and separation of the Westfield site.

## **QUALITY OF LIVING ENVIRONMENT PROVIDED FOR FUTURE RESIDENTS**

### Density of Development

7.98

The sunlight, daylight and overshadowing assessment indicates that there would be very good levels of daylight and sunlight to the residential accommodation within the development and the degree of overshadowing experienced by the amenity space is considered acceptable.

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19 September 2019

**By Recorded Delivery**

Dear Sirs

**Proposed redevelopment of 6-44 Station Road and Queens Hall Car Park, Poplar Walk, Croydon (“St Michael’s Square”)**

As you may be aware, we have granted planning permission and listed building consent for the redevelopment of St Michael’s Square (under references 15/01419/P and 15/01422/LB). London Square Developments Limited (“LSQ”) intends to carry out the redevelopment of St Michael’s Square under those consents.

We are contacting you because your property may have the benefit of a right to light over St Michaels Square. A right of light is a private right over adjoining land. The size and scale of the development at St Michael’s Square may interfere with your right to light. I understand that LSQ’s surveyors, Point2, have contacted you seeking your agreement to release your rights so as to allow the redevelopment to proceed.

The redevelopment of St Michael’s Square has been identified in our planning policy as key to the regeneration of the West Croydon area, and it will bring significant social, economic and environmental benefits. This includes the provision of new homes (including affordable units) and a new public square.

The Council understands that LSQ remain willing to reach an agreement with you, however an agreement has yet to be concluded. In the absence of such an agreement, there remains a risk that you may bring an action in the courts to restrain any infringement of any right to light to which you may be entitled. The risk of such legal action represents an impediment to the implementation and carrying out of the redevelopment.

LSQ has therefore asked us to consider acquiring an interest in St Michael’s Square for the purpose of facilitating the development by engaging s203 of the Housing and Planning Act 2016 (“s203”). If s203 is engaged it will authorise the carrying out of building work on the St Michael’s Square site even if it involves interfering with a right to light. .

You should note that if the Council were to exercise its powers under s 203 of the Housing and Planning Act 2016 and LSQ proceed with the redevelopment, if you establish the existence of a right of light, and that such right is infringed by the carrying out of the building works, you will be entitled to seek financial compensation for the effect of the development. We recommend that you seek independent advice upon this matter.

We understand that LSQ are holding a public exhibition regarding the redevelopment at St Michaels Church on 20 and 21 September from 10.00am to 2.00pm on each day when you will be able to learn more about the development. It is hoped that, in addition to representatives of LSQ, the Council will also be in attendance during the exhibition on the 20 September.

We wish to take into account any comments you have in relation to this and whether you would be willing to negotiate for the release of your rights of light by entering into an appropriate agreement with LSQ. Please provide your views to me by email to [Stephen.Wingrave@croydon.gov.uk](mailto:Stephen.Wingrave@croydon.gov.uk).

Yours faithfully

Stephen Wingrave

Head of Asset Management and Estates