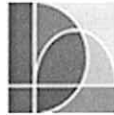


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There are four general tests that must be satisfied to justify payment of the reasonable cost of reinstatement:

- **The land must be used for a purpose which would continue if it was not to be acquired.** This is clearly the case for the Elim Church
- **There must be no general demand or market for land for the purpose.** The most common use to which equivalent reinstatement applies is Churches. The Elim Church, whilst originally an industrial unit, has been comprehensively refitted inside and is now a fully functioning place of worship. Whilst churches do occasionally trade for the same use, there is no clear or established market.
- **There must be a “bona fide” intention to reinstate – this is generally a question of fact.** The Elim Church is very clear that it intends to relocate within its catchment, as will not co-operate with negotiations unless it is able to do so on a turnkey basis.
- **If the cost of reinstatement would be disproportionate to the value of the whole enterprise then compensation for equivalent reinstatement may not be allowed.** The Lands Tribunal has discretion as to whether to allow a claim on this basis.

After a review of potential relocation options, it became apparent that the only realistic opportunity within the catchment area of the existing Church, and within the control of the Council, is the site of Merton Hall, a local community building. This has therefore been proposed as a suitable location for the re-provision of the facility, and design discussions have commenced on the basis of providing as close an equivalent of the existing facility as possible.

The extent of the compensation will therefore comprise the opportunity cost of the Merton hall site, based on its current value, together with the costs of reinstatement.

The advice in respect of the planning potential of this site is that in the no scheme world, there is no reasonable prospect of the site being brought out of community use and into commercial or residential use. Its existing use value is therefore based on its community use.

As for churches, there is no established market for community facilities, and their value is generally determined for accountancy purposes by way of an assessment of their depreciated replacement cost. This represents the estimated current day cost of replacement of the facility, depreciated by its age and condition. This would usually be the basis of the book value included in the Council's accounts. Based on the planning advice provided, the current book value of [REDACTED] therefore represents a reasonable and representative site value for Merton Hall.

The costs of reinstatement will depend on agreement to a final design and timing of letting the contract. These matters are yet to be finalised, but the current indication is that a budget of in the order of [REDACTED] would be appropriate. Given the likely cost of acquiring the Domex premises, this cost does not appear to be disproportionate to the value of the whole enterprise.

As an alternative, the Elim Church could opt for the alternative use (i.e. potential development value) of their site as a basis for compensation. This is however irrelevant here as they have clearly opted, as is their discretion under a CPO arrangement, for equivalent reinstatement.

[REDACTED] MRICS
Development Consultant
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20.6.16

London Borough of Merton

Briefing note in respect of the proposed Acquisition of the South Wimbledon Elim Church, High Path, to enable the provision of a secondary school

Background

Negotiations have been progressed for the purchase of land at High Path, Merton, for the acquisition of nos 59-61, which include an industrial unit owned and occupied by Domex, a company that services white goods, and a former industrial unit now converted into a Church, occupied and used by the Elim Church of South Wimbledon.

If these properties cannot be acquired by negotiation, then the intention is that they will be the subject of a compulsory purchase order. It is only with the threat of a CPO that the parties can be brought to the negotiating table as neither otherwise has any intention to sell, and both acquired the premises for their operational purposes.

Planning advice to date (as provided by Paul McGarry of LBM) has highlighted that both premises would be likely to secure consent for alternative use, including residential development, should an application be made and taken through an appeal process.

Domex

The advisers for Domex have therefore valued their premises on the basis that it could secure consent for a mixed use development incorporating replacement employment uses at ground floor and residential uses above. They are therefore seeking development value as the basis for compensation for the acquisition, rather than existing use value plus disturbance. The best local evidence for the value is the marketing and proposed sale of the Wisepress printing works, almost immediately opposite to the subject site, which is understood to be under offer for £6.2 million.

Negotiations with Domex are ongoing.

Elim Church

With regard to the Elim Church, the Church representatives have made it absolutely clear that they do not wish to dispose of their premises, and will not be prepared to do so unless and alternative church can be provided within their target catchment area for their South Wimbledon congregation.

If the purchase was being progressed under a CPO, they would be entitled to opt for compensation on the basis of equivalent reinstatement:

Rule 5 of section 5 of the Land Compensation Act 1961 states:

'Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the [Upper Tribunal (Lands Chamber)] is satisfied that reinstatement in some other place is bono fide intended, be assessed on the basis of a reasonable cost of equivalent reinstatement.'

Effectively, wherever premises are used for a purpose for which there is no market and hence where no market value can be ascertained, Rule 5 may apply. Commonly quoted examples include churches and members' clubs (such as Conservative, Labour and Liberal Clubs). Rule 5 has also been held to apply to a private railway, a cattle market and a building used as a house for Polish and Central European refugees.

London Borough of Merton

Potential acquisition of land at High path for the provision of a secondary school

Financial implications and options

Private and confidential - contains commercially sensitive information

The purpose of this paper is to consider the financial implications of a potential purchase of land at High path Merton to enable the development of a secondary school to meet identified education needs.

The site

The site consists of existing commercial and church premises identified as 59 – 61 High Path, Merton. The existing buildings on the site are of the nature of large two storey warehouse style premises with associated car parking.

59 High Path is currently in use as an Elim church and food bank.

61 High Path comprises a business premises with workshop space on the ground floor and newly fitted offices above, owned and occupied by Domex Ltd, who service household appliances. We understand that the building also accommodates one to two sub tenants, details of which are awaited.

The site is located between High Path and Merantun Way, immediately to the South of the Circle housing High path Estate. The area is predominantly commercial in nature, but with increasing pressure for residential development. The sites are circa 0.3 miles from South Wimbledon underground station and circa 0.5 miles from Merton park tramline. The site is therefore very well located for public transport.

The site extends in total to some 0.3ha (circa 0.74 acres).



Principles of acquisition:

As the Council is seeking to acquire these properties to enable the development of the land for a school, it is assumed that if no agreement can be reached by negotiation, that the Council will consider use of its powers of compulsory purchase to ensure site assembly.

The approach to negotiations therefore reflects the principles that would apply if the land was to be acquired compulsorily.

The key principle of acquisition by compulsory purchase is that the party being acquired is put in no lesser a financial position than it would have been in had the acquisition not taken place.

The property to be acquired is valued on an open market basis either for its existing use, or for an alternative development value where it has acquired a certificate of alternative development from the local planning authority. In this case it is considered likely that a certificate of alternative use would be forthcoming for residential development.

Where a property is valued for its existing use, for commercial premises, in addition to the value of the property, the vendor is entitled to payment for a range of costs, including:

- Costs associated with finding and acquiring an alternative property, such as legal fees, agents fees, costs of adaptation, stamp duty
- Cost associated with moving the business, such as new stationery, communication of change of address, relocation costs, removals etc.
- Any loss of profit arising from the change of circumstances, such as loss of rental income from sub tenants.

There will also be costs associated with securing vacant possession from sub tenants including compensation based on 2 x rateable value.

Full details of such costs for the two occupiers involved will be specific to their relocation requirements, and cannot be fully assessed until such time as an alternative premises has been identified. It is however prudent to make an allowance for such costs.

Where a property is valued for alternative use, i.e. for development value, then it is assumed that the business is not relocating, and therefore no associated costs are payable, other than fees and costs in relation to the disposal.

Existing uses

59 High Path is a former commercial building currently in use as a church and community facility. Its existing use value is either as a Church, for which there is a limited open market, or as its former use as a commercial building.

The site was acquired by the Elim Church on 21.8.2007 for a sum of £975,000

61 High Path is in commercial use as the headquarters and operational facility of Domex appliance servicing company. The organisation acquired the building on 19.11.2013 for a sum of £1,400,000.

The District Valuer undertook a valuation of this site together with adjacent land to the east on 8th April 2015, and determined an overall estimated existing use value of in the order of [REDACTED] of which some [REDACTED] would be apportioned to this site.

The total purchase price amounted to in the order of £2.375 million. Subsequent to the purchase, considerable investment has been made in the Domex building to provide high quality offices at the upper levels, some of which is let to a third party for a period of 5 years from 12.2.15. We also understand that a further area of the building is in the process of being let.

No formal existing use value can be established until we are provide with full details of the sub tenancies, however based on the information available we consider it unlikely that the properties could be acquired by negotiation on an existing use value basis for less than circa [REDACTED]

Alternative use

The most likely alterative use that would be approved for these sites is residential. The valuation undertaken by the District Valuer in April 2015 also identified residential use as a suitable alternative for the sites.

Appraisals have been undertaken based on the assumed density of development adopted by the District Valuer, which assumes that the proposed High path regeneration project promoted by Circle Housing is not in existence.

This assumes a four storey high density flatted development, which for this site amounts to circa 4089M2 gross (3476 m2 net) of residential development. This indicates a potential residual value of in the order of [REDACTED]. The pro-rata split between the two ownerships is as follows:

Elim Church: [REDACTED]

Domex: [REDACTED]

A copy of the summary appraisal is provide at Appendix 1.

In addition, a further financial appraisal has been carried out based on the visioning development capacity for this site prepared by PRP architects for circle housing. This assumes that a higher 5 storey development may be appropriate for this location in conjunction with the proposals for the regeneration of the high path estate. This indicates a total site value of in the order of [REDACTED]. The pro-rata split between the two ownerships is as follows:

Elim Church: [REDACTED]

Domex: [REDACTED]

A copy of the summary appraisal is provided at Appendix 2.

In each case it is assumed that the development would provide a policy compliant level of 40% of affordable housing, and would meet Merton and Mayoral CIL liabilities.

The actual value will to some extent be determined by the advice of the planning authority on what would reasonably be permitted as residential development on the site.

Approach to negotiations

It will be for the owners of the property to be acquired to decide whether they would prefer an existing use value approach and support with the costs of relocation of their organisations, or to dispose on the basis of alternative use value.

Both parties will require professional advice, and it is customary, under a CPO situation, for the cost of this advice to be met by the acquiring body.

The approach to negotiations, in this case, would be on an open basis, setting out the position for each party and suggesting they seek such advice before proceeding to more detailed discussions on price. This reflects that the acquiring body is a local authority and must be seen to act reasonably.

Discussions have already been opened with Domex, who are in our opinion most likely to wish to proceed on the basis of an alternative use value, as this clearly provides them with the best financial outcome. Discussions are however at a very initial stage, and no formal decisions or negotiations have yet commenced.

Contact has yet to be made with the Elim Church, however, Circle housing have advised that in past discussions with them they have been willing to consider disposal subject to securing a suitable relocation, or re-provision of a new church facility. The figures again indicate that the best route for them in financial terms would be to secure alternative use value, and find another site at their own expense.

The aim of the approach to negotiations is to seek to secure agreement by negotiation as soon as possible, to enable the school project to proceed within the required timescale (delivery by 2020) and to avoid the cost and time impact of having to use formal CPO procedures if at all possible. This will minimise risk to the Council and secure the most cost effective way forward.

Potential cost liability to the Council

In terms of potential cost liability to the Council, this can only be a provisional estimate at this stage, but assuming a worst case scenario, the position could be as set out in the table overleaf.

This indicates that on the basis of both parties seeking a value based on the alternative use of their sites for residential redevelopment, then the total cost liability, including an allowance for the council's fees, could be in the order of [REDACTED]. This represents a worst case scenario, and it is hoped that savings would be made against this figure.

This does not include the costs associated with mounting a formal CPO process and executing a CPO inquiry. Based on experience elsewhere, this could amount to an additional [REDACTED] of costs if contested.

Risks

There are a number of potential risks to the Council in progressing the acquisitions and in entering into a CPO:

Financial risks

- Unforeseeable costs that might arise – e.g. additional costs resulting from delay in reaching agreement in a rising market, or unexpected disturbance costs
- Reaching agreement in a strong market, followed by any fall in prices that could impact on overall value for money
- The additional cost of having to make a formal CPO and inquiry

Operational risks

- If a full CPO is required, the timescale for securing this will depend on having planning in place for the school, and could take 9 -15 months after the order is made, which may mean the timescale for delivery of the school is beyond the point at which the need for the spaces arises. This could give rise to additional costs of temporary accommodation.

Reputational risks

- Impact on reputation of failure to provide school places on time
- Impact on reputation if church operation is adversely affected, and community is disrupted
- Impact if for any reason this results in loss of jobs and business – such as lack of suitable alternative business locations within the borough.

Interest	Existing use value	Alternative use value 4 storeys	Alternative use value 5 storeys	Disposal fees, 1.5% agents, 0.5% legals, plus other professional advice, say 3% allowance	Disturbance costs (EUV basis only) Provisional allowance*	Costs associated with sub-tenants – estimated provisional sum only	Contingency for unforeseen expenses	Total EUV basis Provisional allowance, worst case	Total alternative use basis Provisional allowance, worst case
Elim Church	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	None known	[REDACTED]	[REDACTED]	[REDACTED]
Domex	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
							Totals		

*Cannot be assessed to any degree of accuracy until further detailed information relating to losses and relocation costs is known. This assumes that agreement is reached by negotiation, and does not allow for the costs of a CPO enquiry. This could amount to an additional [REDACTED] contested.

In addition, an allowance should be made for the Council's agents and legal fees – suggest in the order of £150,000.

Appendix 1

Domex and Elim Chirch sites DV assumed development

Summary Appraisal for Phase 1

Currency in £

REVENUE

Sales Valuation

2 bed flats

Affordable 2 bed flats

Totals

NET REALISATION

OUTLAY

ACQUISITION COSTS

Residualised Price

Stamp Duty

Agent Fee

Legal Fee

Town Planning

Survey

CONSTRUCTION COSTS

Construction

2 bed flats

Affordable 2 bed flats

Totals

Contingency

Demolition

Road/Site Works

Statutory/LA

PROFESSIONAL FEES

Architect

Other Professionals

MARKETING & LETTING

Marketing

DISPOSAL FEES

Sales Agent Fee

Sales Legal Fee

FINANCE

Debit Rate 7.000%, Credit Rate 0.000% (Nominal)

Land

Construction

Total Finance Cost

TOTAL COSTS

PROFIT

Performance Measures

Profit on Cost%

Profit on GDV%

Profit on NDV%

IRR

Profit Erosion (finance rate 7.000%)

Appendix 2

Domex and Elim Church sites

Summary Appraisal for Phase 1

Currency in £

REVENUE

Sales Valuation

1 bed flats
2 bed flats
3 bed flats
Affordable 1 bed flats
Affordable 2 bed flats
Affordable 3 bed flats
Totals

NET REALISATION

OUTLAY

ACQUISITION COSTS

Residualised Price

Stamp Duty
Agent Fee
Legal Fee
Town Planning
Survey

CONSTRUCTION COSTS

Construction

1 bed flats
2 bed flats
3 bed flats
Affordable 1 bed flats
Affordable 2 bed flats
Affordable 3 bed flats
Totals

Contingency
Demolition
Road/Site Works
Statutory/LA

PROFESSIONAL FEES

Architect
Other Professionals

MARKETING & LETTING

Marketing

DISPOSAL FEES

Sales Agent Fee
Sales Legal Fee

FINANCE

Debit Rate 7.000%, Credit Rate 0.000% (Nominal)
Land

Construction
Total Finance Cost

TOTAL COSTS

PROFIT

Performance Measures

Profit on Cost%

Profit on GDV%

Profit on NDV%

IRR

Profit Erosion (finance rate 7.000%)

David Lock Associates

26.8.15

NB: This paper does not constitute a formal valuation and should not be relied upon as such. It is provided only in the context of estate agency advice.