

Report of: **Executive Member for Tenants, Residents and Communities**

Meeting of:	Date	Agenda item	Ward(s)
Voluntary and Community Sector Committee	19 September 2013	B2	Hillrise

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SUBJECT: ISLINGTON COMMUNITY SPORTS ACADEMY ASSET TRANSFER

1. Synopsis

- 1.1 This report sets out the case and basis to transfer the land Islington Community Sports Academy (formerly Islington Boxing Club) currently occupies, from the Council to the organisation on a long term lease. This will give the club security of tenure, providing an asset base that will position it to access substantial capital funding for a complete redevelopment of the building.
- 1.2 The club is a valuable asset to the local area and wider borough. It is located in Hillrise ward, part of the Hornsey Children and Young People's Partnership area. This is an area of high deprivation, with the highest per cent of primary school pupils eligible for Free School Meals in Islington as well as the highest per cent of residents claiming benefits (both those earning and claiming, and those not seeking work).
- 1.3 The recommendations in this report are in line with a number of council objectives, including the corporate priority of promoting healthy, active and independent lives. Proposals fall within the Council's Asset Transfer Policy, agreed by the Council in January 2010, described then as 'granting Third Sector Organisations leasehold or freehold arrangements on Council-owned land or property at less than best consideration'.

2. Recommendations

- 2.1 To agree, subject to 2.2 below, to the transfer of the land edged red on the plan in Appendix B (the 'Land') to this report to Islington Community Sports Academy by:
 - 2.1.1 Entering into a 25 year lease at a peppercorn rent with a positive covenant for community use only.
 - 2.1.2 Entering into an agreement for a 99 year lease at a peppercorn rent conditional on Islington Community Sports Academy obtaining planning permission for and providing to the Corporate

Director of Finance and Resources evidence of sufficient funding to carry out at least the Bronze Option 1 development of the land as set out in paragraph 4.10 of this report.

- 2.2 To authorise the Corporate Director of Environment and Regeneration Services to carry out the necessary consultation for the grant of the proposed leases of the Land and to decide whether or not to confirm the grant of the lease and agreement for lease after having proper regard to any consultation responses.
- 2.3 To authorise the Corporate Director of Finance and Resources to confirm the grant of the 99 year lease on satisfaction of the conditions referred to in 2.1.2 above having considered the planning permission obtained to carry out an approved scheme and the evidence of funding provided in accordance with the Council's agreed Asset Transfer Policy and Principles.

3. Background

- 3.1 The boxing club moved to its current address at 20 Hazellville Road in 1981, when it secured planning permission from the Council to purchase the site offices from the Bovis Construction Company. The club registered as 'Islington Boy's Club' with the Charities Commission. It has recently changed its objectives and reregistered as Islington Community Sports Academy, reflecting its unisex activities and its wider use as a base for seven football teams (Islington Admiral United Football Club) and general fitness sessions.
- 3.2 Islington Council owns the land the premises occupy. However, there is currently no formal lease arrangement in place. Following an initial 8 year period of being self-financed, the Council has assisted the club with a small annual grant of £4,000. However, almost all the club's income comes from its own fundraising efforts and membership fees.
- 3.3 Owing to the club's constant use and the non-permanent structure of the building, the asset is in a poor condition and repair costs and maintenance (approximately £4,000 a year) have been escalating in recent years. There is little capital available for investment in the premises and structurally it is likely to become unfit for use in the near future.
- 3.4 The club has therefore requested a formal lease in order to support their ability to raise funds for a full redevelopment and provide greater long term security.
- 3.5 The club is a valuable asset to the borough in many ways. It is one of the UK's most successful boxing clubs with over a thousand regular users and has produced 6 National ABAE champions (both male and female); 27 Multi Nation Box Cup gold medallists; seen boxers represent England and Jamaica at international level; and had boxers compete in the Commonwealth Games, World Amateur Championships, Pan American Games and Olympic qualifiers.
- 3.6 The club has been recognised by Children's Services as a successful youth sports provider. It has also been held up as a model of excellence by both the Amateur Boxing Association of England (ABAE) and Sport England. They are one of only seven boxing clubs in England to hold 'Club Mark' status, which is a government standard of accreditation for sports clubs serving young people.
- 3.7 The club has a significant beneficial impact on the health and wellbeing of its members, most of who come from the local area which is one of the most deprived parts of Islington. Median gross household income is the third lowest in Islington and crime and antisocial behaviour are high..
- 3.8 To enable the club to continue its work and expand its services it needs a building that is fit for purpose, with facilities to deliver activities to the wider community. At present it is looking to expand its sports classes and outreach activities, having been approached by the police, Arsenal Football Club and a number of local schools. The board are also keen to incorporate elderly and pre/post-natal fitness programmes in to its schedule, start a GP referral system and strengthen links with the community by opening up its premises to local groups.

- 3.9 The club has been consulting with the local community on development plans through the Ward Partnership. The three ward Councillors – Marian Spall, Lorraine Constantinou and Greg Foxsmith – have visited the club to discuss the development proposals, as well as Barbara Sidnell (Executive Member for Tenants, Residents and Communities), Paul Convery (Executive Member for Community Safety) and Jeremy Corbyn MP. All have expressed support for a redevelopment.
- 3.10 Partners from the third sector have also been involved in developing the plans and have helped to ensure that the club's proposals complement other community provision in the area, for example the Lottery funded Big Local initiative on the Elthorne estates and the activities of Caxton House, the local community hub. The project manager of the Community Building Project at Voluntary Action Islington has provided business planning and fundraising advice.

4. Future Options and Development Proposals

4.1 Future Options

ICSA have submitted a business plan to the Council highlighting three options for its future, which are discussed briefly in 4.2, 4.3 and 4.4.

4.2 *Option 1: Do nothing*

This is the only option where an asset transfer would not be required. Presently the building is unlikely to last more than 10 years and has high running costs due to its poor condition. Scope for membership expansion is limited as all classes are currently at capacity and there is a long waiting list.

This option would leave the club with an uncertain future. Although the opportunity of future redevelopment would remain open, there is a risk that if the building becomes unfit for use the club would lose its membership base and have to relocate, potentially outside the borough.

In the short term the club will remain unattractive and isolated from the adjoining park.

4.3 *Option 2: Refurbishment of the current building*

This option is estimated to cost £200,000 initially and £4,000 per year for continued maintenance. It would improve the look and functionality of the building and cost significantly less than a full redevelopment.

However, despite considerable cost this option would not allow the club scope for expansion and it would remain at capacity. It is arguably less cost effective than a full development due to continuous maintenance costs and a relatively limited life expectancy which would mean the club would seek full redevelopment in the medium term anyway.

4.4 *Option 3: Full redevelopment of the building and the site*

This is the option the club are pursuing. It is likely to cost approximately £3m, would ensure a minimum 50 year lifespan and increase the size of the building, which would result in a larger membership base and additional sports and community services.

If fundraising is successful (and planning permission granted) this would provide a high quality, purpose-built environment that is efficient and economical to run. The building type and method of construction is likely to ensure minimal disruption or loss of earnings, with the construction period lasting no longer than 3 months.

It will enable the club to deliver health, education and sports activities to fill identified gaps in local provision and present an opportunity for more interaction between the site and Elthorne Park. This interaction will include new pedestrian access to the park and a community café and/or kiosk onsite.

4.5

ICSA has argued that a full redevelopment of the site and premises (Option 3) is the only way to secure the long term future of the club and its services to the local community. It is with regard to this option that this report recommends agreeing in principle to a conditional 99 year lease to the club.

4.6

Redevelopment Options & Architectural Designs

LBI Partnerships, Greenspace, Property Services and Legal Services have undertaken extensive consultations with the club to reach an agreement on a satisfactory redevelopment. The club have submitted four development options (with accompanying architectural designs) in line with different levels of funding that might be achieved. Three of these options are compatible with the Council's requirements – the fourth has been dropped as it didn't allow sufficient interaction with the park. The three viable options are outlined in 4.8, 4.9 and 4.10.

4.7

The club has submitted a pre-planning application to Planning Services. The 'Gold' option is the preferred development for all parties and would depend on the club securing funding in the region of £3million. However, Greenspace, Property Services and LBI Partnerships have also reached an agreement on a minimum satisfactory development (Bronze Option 1)(see below paragraph 4.10), should the club fail to achieve the £3m funding target.

Please note all the options below include changing room space; storage space; a reception area and office; a club shop; at least one weights room; and improved linkage with Elthorne Park.

4.8

Gold Option

Consisting of four floors (including ground floor), with football changing rooms; lettable space; a community café and kiosk; a junior gym and senior gym; and a competition area on the top floor with a terrace. This option will cost approximately £3million.

4.9

Silver Option

Consisting of three floors (including ground floor), with football changing rooms; lettable space; a community café and kiosk; and a junior gym and senior gym. This option will cost approximately £2million.

4.10

Bronze Option 1

Consisting only of a ground floor and first floor, with a junior gym and senior gym. This would provide similar facilities to the current premises.

Bronze Option 1 would cost approximately £1million and is the agreed minimum development with the Council.

4.11

The success of the business plan for a full redevelopment depends on three key factors which are 1) the boxing club securing planning permission; 2) the club obtaining adequate funding; 3) the Council's agreement to an asset transfer through the granting of a long term lease. The granting of a long term lease is needed for the club to access adequate funding for any of the above development options.

5.

Basis of Transfer

5.1

Discussions regarding the Heads of Terms between the Council's lawyers and Islington Community Sports Academy's lawyers have begun and it is anticipated that these will be concluded to the satisfaction of both parties.

5.2

In order to achieve the objectives set out above, it is proposed that the premises be transferred to Islington Community Sports Academy on the basis of:

- a lease for 25 years, at peppercorn rent and with a positive covenant for community use only
- the option of a longer 99 year lease (asset transfer) should the club secure planning permission and be able to evidence funding for the full cost of the development
- on the agreement and granting of the full 99 year lease, the club will have to complete the development within 12 months
- The Council being able to break the lease in the event that the premises are not being sufficiently used or are used for a purpose other than the permitted use

5.3

The lease will depend on the club ensuring redevelopment plans satisfy the Council's wish to see improved interaction between the development and Elthorne Park, with pedestrian routes outlined and a kiosk at the north-eastern side of the building.

5.4

The club will be responsible for keeping the redeveloped premises in a good state of repair. This will include internal and external decorating every fifth year and funding ongoing repairs costs. The club will not be able to make any substantial alterations or additions to the premises without the prior written consent of the Council.

5.5

Use of part of the ground floor as a café/kiosk will be permitted. The club may licence this area on terms which confer no security of tenure, subject to the Council's consent. The club itself should operate on a 'not-for-profit' basis, with funds arising from the premises being spent on operational costs, repairs, maintenance and improvements to the premises and delivery of the service it offers only, and any surpluses being set aside in an interest bearing account for planned operational growth, staffing and future works.

5.6

The Council's Asset Transfer Assessment Tool has been completed to evidence the basis of the transfer and is available on request. The Asset Transfer Group will at the appropriate time consider the evidence of planning permission and funding provided by the club and then make a recommendation in accordance with the Council's Asset Transfer Policy to the Corporate Director of Finance and Resources as to whether or not he should confirm the grant of the proposed 99 year lease.

6. Implications

6.1 Financial implications:

The current market value of the premises is estimated at £500,000, which the Council will not be able to realise in the short term if it agrees to these recommendations. However, by transferring the asset the Council will get the benefits for the community, which would be more than repaid over a 25 or 99 year lease.

The building is also in an advanced state of disrepair and the site is unsuitable for housing development, so alternative options for the premises are extremely limited.

Furthermore, since the building is already owned by the club the transfer of the land will not present additional risks in itself other than the possibility that the club fails to raise the capital needed to fund the renovation, becomes unfit for use and therefore ceases to provide a service to the community. In its current state this is a likely outcome anyway.

Therefore there are no significant areas of concern, since the lease is conditional upon evidence of funding and the granting of planning permission.

6.2 Legal Implications:

6.2.1 Section 123 of the Local Government Act 1972 enables the Council to dispose of land\buildings in any manner it wishes, but except in the case of a short tenancy (lease not exceeding 7 years) the consent of the Secretary of State is required if it is intended to dispose of land\buildings at less than the best consideration that can be reasonably obtained.

S.128 of the 1972 Act allows the Secretary of State to make a general consent in respect of certain land transactions by local authorities.

Such consent has been made in the form of 'The Local Government Act 1972 General Disposal Consent (England) 2003'. The General Disposal Consents allows the Council to dispose of properties at less than best consideration where:

a. 'the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;

- i. the promotion or improvement of economic well-being;
- ii. the promotion or improvement of social well-being;
- iii. the promotion or improvement of environmental well-being;

and

b. the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).'

The general consent would apply to the proposed transactions with Islington Community Sports Academy.

As the current use of the land comes within the definition of an Open Space under the Town and Country Planning Act 1990 S. 123 (2A) of the Local Government Act 1972 will apply to the granting of the leases and the Council must advertise its intention to grant the leases in a local newspaper for two consecutive weeks and consider any responses before it grants the proposed lease and agreement for lease.

6.2.2 Fiduciary Duty

Although the Council may have the necessary power to grant the leases at less than the best rent available any decision to do so must be taken reasonably, in the light of the market value of the land/buildings and the amount of the proposed undervalue and with due regard to the Council's fiduciary duty to its Council tax payers. Accordingly in deciding whether or not to grant the leases at less than best consideration the Council must consider properly the benefits to the community of doing so, as set out in this report, and weigh up and balance those benefits against the forgoing of a capital receipt or market rent for the land.

6.2.3 State Aid

The club doesn't have an influence on State Aid as it is a small, local enterprise with only the local community as its target audience.

There are two main reasons why the transfer should not contravene these rules:

1. State Aid rules only apply to "undertakings", which are defined as entities carrying out "economic activities". The club's primary activities are the operation of a club, educational uses, community work and providing facilities as an amateur boxing club. Such activities will not be seen as "economic activities" for the purposes of the State Aid rules. The European Commission has considered that such activities are not economic in nature. As regards the boxing club, the

Commission has stated that it does not consider amateur sports clubs to be "undertakings" and therefore subsidies to such clubs do not constitute State Aid.

2. Even if the boxing club were found to be an "undertaking", one of the conditions for the existence of State Aid is that it has an actual or potential effect on trade between EU Member States. The threshold for satisfying this condition is very low and it is not usually possible to rely on an argument that there is no effect on trade. However, it is possible that this is one of the rare situations where LBI could possibly rely on there being no effect on trade, as the activities of the club appear to be exclusively local in nature. The Commission has held that, where an amenity is intended for and used by local residents, and it is not aimed at a larger market, in such situations it can be argued that there is no effect on trade and therefore not on State Aid.

On that basis any public funding of the club will not constitute State Aid, provided that the funding is limited to the activities listed above and that the nature of the club remains local.

6.3 Environmental Implications:

6.3.1 The premises sit at the edge of Elthorne Park, in the Hillrise Ward. This is greenspace and is protected from housing development.

6.3.2 As noted in 5.2, the redevelopment must include increased interaction between the park and the premises, specifically in regard to pedestrian access. The club will fund soft-landscaping on the park-side of the premises to promote this and the Council supports their proposal for a small kiosk to be run out of the club on the north-eastern side.

The extent of the landscaping and this increased interaction will depend on the amount of money the club is able to raise. However, the club is aware that this is an important requirement of the asset transfer offer.

6.3.3 The current building is principally made from wood and is in a poor state of repair. It was designed for an alternative purpose – as a contractor's site for developing local housing. The proposed development will consist of recycled steel intermodal containers (shipping containers), which are low cost and can be constructed and repaired quickly with minimal impact on the surrounding environment.

Although the use of containers in community rebuild schemes is a relatively recent development, they are strong and have a minimum lifespan of 50 years. The club have stated the designers will cut large glass windows in to the park and road sides of the building to ensure the park can be viewed through the premises from Hazellville Road, while maximising natural light inside.

6.4 Equality Impact Assessment:

6.4.1 The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.

Initial screening suggests that there is no need for a full Equality Impact Assessment. However there are a number of equalities considerations arising from the proposed asset transfer which should be highlighted.

6.4.2 Boxing, football and fitness are the three primary uses of the club and these sports will be expanded with a new development. The club has over 1,000 active members and currently has a waiting list due to over-demand. Membership is mainly from the local community and spans a wide range of ages, ethnicities, faiths, and includes both men and women.

The organisation's objectives are to:

- Provide sporting opportunities from grass roots to excellence
- Provide quality sporting facilities
- Ensure the club is well run
- Invest in the club's facilities and the membership
- Regularly seek feedback and views and respond to suggestions
- Celebrate success

The club's vision is to equip local young people and adults with 'the motivation, self-confidence and networks they need to change their lives, through the vehicles of competitive sport and health and fitness activity'. This vision and the services provided are compatible with a number of the council's key objectives, including improving fairness, promoting health and wellbeing and making the borough safer.

The organisation has adopted the Amateur Boxing Association England's (ABAE) Equity Policy which promotes fairness in sport and equality of access, recognising equalities and taking steps to progress them. The club also follows ABAE's disciplinary procedures in relation to this policy.

There are no recognisable negative effects on equalities from the development proposals, while there are a number of positive consequences:

- The club's primary users are the 16-24 age group and it has a positive track record of working with this demographic, many of whom have previously been involved in crime and anti-social behaviour. The expansion and improvement of services is likely to have a positive effect on this group.
- The asset already complies with the Disability Discrimination Act. It is wheel-chair accessible and fitness sessions are run specifically for clients with disabilities. The proposed development will further enhance the facilities available to disabled users.
- The development and its relation to Elthorne Park would create a new focal point for local people and visitors to the area. It would provide increased services to the local community, which would help meet some gaps in provision i.e. proposed outreach work and GP referral services to groups, some of which are less likely to access health services.
- A significant number of individuals who attend the club are from the traveller community
- Development plans include a community café and/or kiosk and soft landscaping to integrate the road with the park, which the wider community could benefit from.
- The club plans to minimise disruption to its current users and the community during the construction process through a short build-time (3-6 months) and a design that would allow parts of the current gym to be used whilst the new one is being built. However, the fundraising plan does propose slightly increasing class and membership fees to raise club revenue, which would impact current users.

7. Conclusion and reasons for recommendations

The strategy outlined as the Basis of Transfer will support the redevelopment of a significant sports centre for the local community and retain a valuable resource in the borough. It will contribute to the stability of the club and its ability to fundraise more effectively, facilitating capital investment in the building which would not otherwise take place.

Facilities in an area of high deprivation will improve leading to positive impacts on health and wellbeing, crime and anti-social behaviour and community cohesion.

Appendices

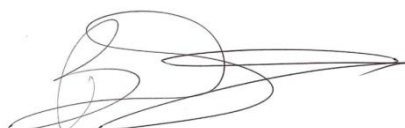
Appendix A. Red line perimeter plan

Background papers available on request:

LBI Asset Transfer Assessment Tool

Final report clearance:

Signed by:



Executive Member for Tenants,
Residents and Communities

9 September 2013

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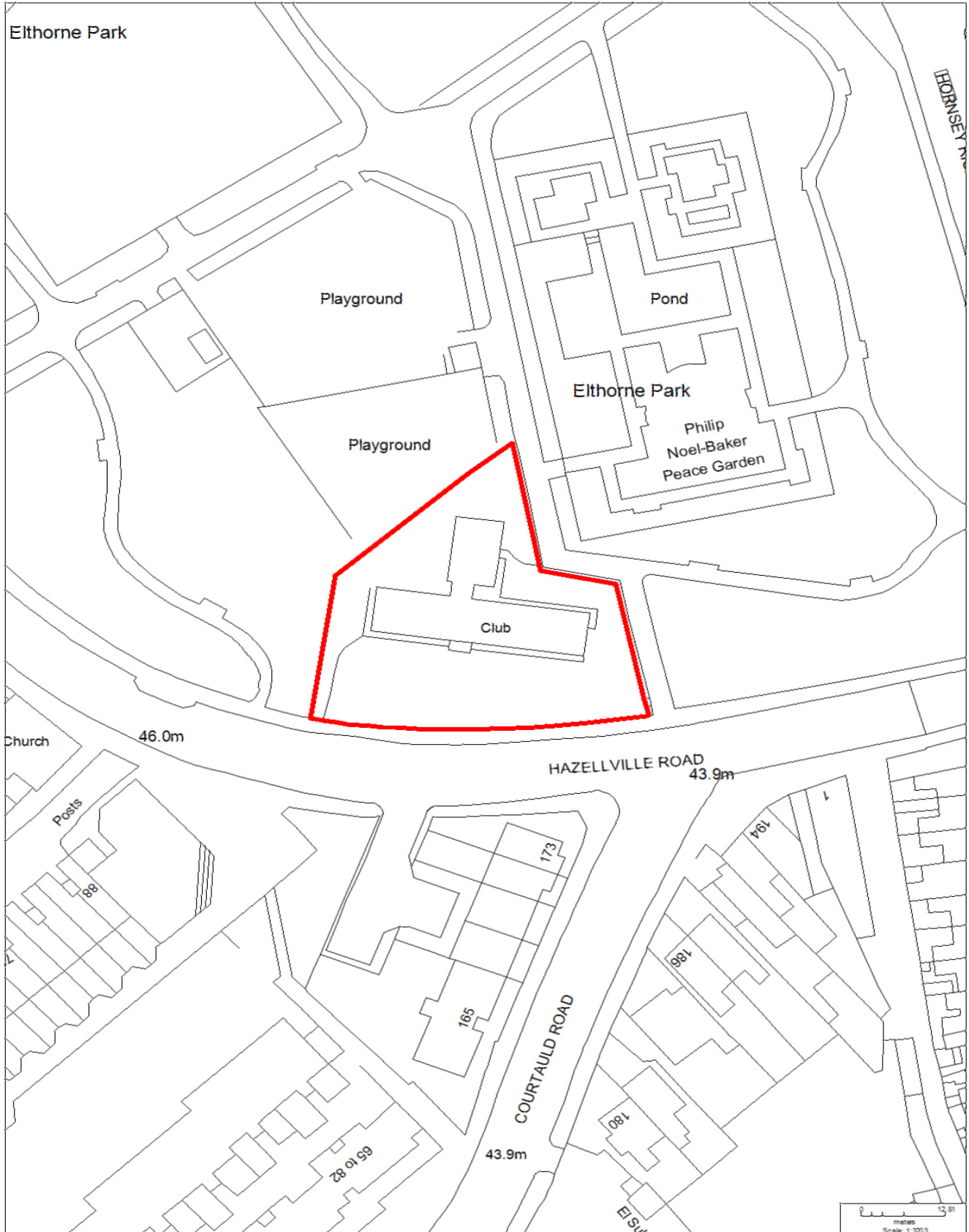
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3 September 2013

Appendix A: Red Line Perimeter Plan



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