

MEETING**ASSETS, REGENERATION AND GROWTH COMMITTEE****DATE AND TIME****MONDAY 4TH SEPTEMBER, 2017****AT 7.00 PM****VENUE****HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BG**

Dear Councillors,

Please find enclosed additional papers relating to the following items for the above mentioned meeting which were not available at the time of collation of the agenda.

Item No	Title of Report	Pages
1.	DARLANDS NATURE RESERVE	3 - 12

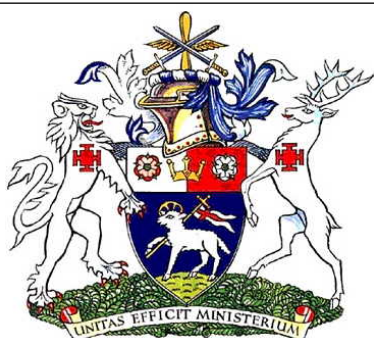
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AGENDA ITEM 7

Assets, Regeneration and Growth Committee

4 September 2017



Title	Darlands Nature Reserve
Report of	Director of Resources
Wards	Totteridge
Status	Public
Urgent	No
Key	No
Enclosures	Appendix A: Darlands Nature Reserve site plan.
Officer Contact Details	Melanie Chiknagi Area Lead for Chipping Barnet Melanie.Chiknagi@barnet.gov.uk 0208 359 6058

Summary

This report presents a note of intention, subject to all other statutory consents being obtained, to grant a long lease for the Darlands Nature Reserve, as identified and shaded pink on the plan in Appendix A, to an appropriate not-for-profit group. In return the group will be expected to invest in the land and maintain it for public access. On July 13th, Environment Committee met and confirmed its support to the principle of dealing with low value, low quality parks by encouraging investment from third party not-for-profit organisations where possible.

A ring of land around Darlands Nature Reserve will be retained and maintained by London Borough of Barnet, to prevent the risk of encroachment or development once the site is transferred to a not-for-profit group – shown shaded in green on the attached plan.

It is proposed to link the lease to a separate agreement that sets out the obligations of the not-for-profit group, outlining the nature of the maintenance to be undertaken and the requirement to enable access to the site by the general public.

Recommendations

- 1. That the Committee notes the intention to dispose of: the land shaded pink on the plan attached at Appendix A on a long lease to an appropriate not-for-profit group**
- 2. That the Committee delegates authority to the Director of Resources, in consultation with the Chairman of the Assets, Regeneration and Growth Committee, to investigate, draft and finalise detailed proposals for any disposal, such proposals to contain suitable parameters to serve the best interests of the Council.**
- 3. That the Committee delegates authority to the Director of Resources to take all necessary steps to implement the proposals for any disposal in accordance with the Management of Asset, Property and Land Rules including responding to the statutory public consultation, and subject to having obtained all required statutory consents; .**

1. WHY THIS REPORT IS NEEDED

- 1.1 The Darlands Nature Reserve in Totteridge ward is assessed as low quality/low value within the Parks and Open Spaces Strategy (POSS). As such it is appropriate to consider the site for alternative management arrangements.
- 1.2 The site includes a lake which is not currently maintained and trees and pathways that require improvement.
- 1.3 Members have received representations from local residents that residents would like to see the lake brought into use for educational visits, but this will require improvements to the maintenance regime, for which the Council has no budget provision.
- 1.4 It is proposed to lease the land for a period of over 30 years to an appropriately constituted body to take over the operation and management of the site on the basis of the delivery of improvements to the site, in particular to:
 - maintain the site as open to and for the benefit of the general public;
 - deliver investment to the site;
 - maintain trees;
 - dredge and maintain the lake; and
 - improve access and pathways to the site.

- 1.5 The Greenspaces Board has considered and supports the initiative and Environment Committee has agreed to the principle of dealing with low value, low quality parks by encouraging investment from third party not-for-profit organisations where possible. In respect of the Darlands Nature Reserve, there is interest from a nascent charitable trust that is prepared to establish itself for the prime purpose of raising funds for the maintenance of the Darlands Nature Reserve such that the general public can continue to have access and it can be preserved in its current configuration.
- 1.6 This will be a less-than-best-value transaction and accordingly requires Assets Regeneration and Growth Committee to consider and approve the principle that the public amenity created will outweigh the financial value foregone, subject to:
- 1.6.1 an independent valuation that demonstrates the opportunity value of the site is within the Council's authority to approve;
- 1.6.2 an assessment that demonstrates the value of the maintenance to be undertaken;
- 1.6.3 an assessment of the overall benefit to the People of the London Borough of Barnet; and
- 1.6.4 a transparent process whereby not-for-profit organisations can express an interest in taking responsibility for the upkeep of the Darlands nature Reserve.

2. REASONS FOR RECOMMENDATIONS

- 2.1 There is an opportunity to dispose of the land shaded pink to an appropriate not-for-profit group that will deliver the services summarised at paragraph 1.4 above.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The following options were considered and discounted:
- 3.1.1 Selling the land for development or cemetery use. Such a development or change of use would potentially deny the public access to the space; associated planning constraints also ruled out this option.
- 3.1.2 Do nothing. Consideration was given to leaving the land in its current state but this would fail to deal with the outstanding maintenance requirements on the site.

4. POST DECISION IMPLEMENTATION

- 4.1 It is proposed that the Director of Resources, in consultation with the Chairman of the Assets Regeneration and Growth Committee, be granted delegated authority to oversee:

- 4.1.1 a transparent process whereby a not-for-profit organisation can be sought to take responsibility for the upkeep of the Darlands Nature Reserve;
- 4.1.2 that the necessary checks are made to ensure the chosen not-for-profit organisation will be able to undertake the required maintenance and upkeep works over a reasonable time period;
- 4.1.3 that a lease is put in place which properly obligates the lessee to care for the site and protects the interests of LB Barnet throughout the term;
- 4.1.4 that a suitable service level agreement (SLA) is entered into simultaneously with the lease meaning that a serious breach of the SLA would lead to automatic termination of the SLA and of the lease without the need to take prolonged legal action (i.e. avoiding the need to seek forfeiture through a formal legal process); and
- 4.1.5 an independent valuation of the site together with an assessment of the likely cost of maintenance and upkeep that the Council will not need to invest in the site as a result of the course of action proposed in this report.
- 4.2 Appropriate checks will be undertaken to ensure the chosen not-for-profit organisation has the resources with which to invest in the required maintenance of the site.
- 4.3 In addition to the proposed link between the lease and the service level agreement, the lease will also reserve for LB Barnet the right to undertake works should they be required but are not undertaken by the lessee, or are not undertaken to a standard that meets the satisfaction of LB Barnet and recover the cost from the lessee.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Council's Corporate Plan 2015-20 states that the Council, working with local, regional and national partners, will strive to ensure that Barnet is a place:
 - of opportunity, where people can further their quality of life;
 - where people are helped to help themselves, recognising that prevention is better than cure;
 - where responsibility is shared, fairly; and
 - where services are delivered efficiently to get value for money for the taxpayer
- 5.1.2 The proposed grant of a lease to a not-for-profit-organisation would be

consistent with these aims.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 An evaluative exercise will be carried out to ascertain if best consideration will be obtained by granting a lease of the land shaded pink at a nominal rent, in return for services provided via the tenant's covenants within the lease. There will be a tenant covenant in the lease allowing the Council to serve notice on the tenant requiring works to be done. If the tenant does not comply, or undertakes works to a standard below that required, the Council will reserve the right to carry out the works and re-charge the costs of doing so to the tenant.
- 5.2.2 Parks and Open Spaces will likely have an interest in corresponding with the appropriate group to ensure that the maintenance of the trees and lake is carried out to a safe and satisfactory manner.
- 5.2.3 The details of the lease, which are still to be determined, will need to ensure that the maintenance obligations are absolute and that the Council will have no overhanging responsibility.
- 5.2.4 The not-for-profit organisation is to be appropriately insured

5.3 Social Value

- 5.3.1 Under this proposal, the Darlands Nature Reserve will remain accessible to the public and will therefore continue to hold a strong social value for the community and the wider borough.
- 5.3.2 This proposal will promote a healthy lifestyle by virtue of encouraging the use of outdoor space.
- 5.3.3 There is a desire for the lake to be used for educational purposes, which this proposal will support.
- 5.3.4 Through this proposal, LB Barnet will be able to provide land for a local charitable trust or not-for-profit-organisation, which in turn will provide an important amenity to people in the borough.

5.4 Legal and Constitutional References

- 5.4.1 Local authorities are given powers under Section 123(1) of the Local Government Act 1972, as amended, to dispose of land. However, except with the consent of the Secretary of State, a council cannot dispose of land, other than for the grant of a term not exceeding seven years, for a consideration less than the best that can reasonably be obtained.
- 5.4.2 Under the Council's Constitution, Responsibility for Functions (Annex A) the

terms of reference of the Assets, Regeneration and Growth Committee includes Asset Management – all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council

- 5.4.3 Section 2.1 of The Management of Assets, Property and Land Rules contained in the Council's constitution states that The Management of Assets, Property and Land Rules provide the governance structure within which the Council may acquire, lease, act as landlord, licence, develop, appropriate, change use of, or dispose of Assets within its Asset Portfolio.
- 5.4.4 It is proposed that the grant of the lease to the appropriate not-for-profit group will be at a nominal rent for a long lease, over 30 years, effective from the proposed date of completion of the lease, subject to appropriate terms being negotiated to protect the long term interest of the Council. Environment Committee have requested the lease explicitly states that responsibility for tree safety inspection and subsequent works identified will rest with the lessees. LB Barnet will reserve the right to inspect the site regularly to ensure that the upkeep is satisfactory. If there are required works that have not been undertaken by the tenant, LB Barnet will reserve the right to undertake the works and recharge the cost.
- 5.4.5 The Council Constitution and Appendix 1 of the Management of Asset, Property and Land Rules, require disposals at less than best value to be approved by the Assets, Regeneration and Growth Committee.
- 5.4.6 Section 123 of the Local Government Act 1972 requires that on disposal of its land (which includes leases, with exceptions which don't apply here) the Council should be paid the best price reasonably obtainable, unless the consent of the Secretary of State for Communities and Local Government is obtained. The 'Local Government Act 1972 General Disposal Consent (England) 2003 Disposal of Land for Less Than Best Consideration That Can Be Reasonably Obtained' permits disposal of land at undervalue where the disposal will be for the economic, social or environmental wellbeing of the residents of the Borough where the difference between the unrestricted value of the interest to be disposed and the consideration accepted is £2 million or less. If the proposed disposal falls within this definition it will not be necessary to seek an express consent for disposal from the Secretary of State for Communities and Local Government. An evaluative exercise will be carried out to ascertain if the disposal meets the best consideration requirements.

5.5 Risk Management

- 5.5.1 The principle risks associated with this proposed transaction is that the not-for-profit organisation that undertakes to maintain the site will not deliver on the commitments of their lease or their service level agreement and will not maintain the trees and lake to the standard expected by the Council.

- 5.5.2 In order to mitigate this risk, LB Barnet will need to visit the site regularly to ensure the trees and lake are being maintained to the standard expected and enforce the lease as appropriate. The lease will also need to include provisions that allow for LB Barnet to carry out emergency, necessary, works and recharge to the lessee, if proven that the remedial works are as a consequence of the lessee not carrying out the appropriate works.
- 5.5.3 When visiting the site, LB Barnet will also need to inspect the ring of land that is retained by LBN Barnet to ensure that neither encroachment nor erosion have taken place.
- 5.5.4 In order to avoid the lessee from obtaining security of tenure, we intend that the lease will be contracted out of Sections 24-28 of the Landlord and Tenant Act 1954 to protect the Council against this risk.
- 5.5.5 There should be robust forfeiture provisions in the leases to allow LB Barnet to maintain control and terminate the lease if the terms of the lease are not being delivered as expected; it is proposed to further achieve this by linking a service level agreement to the lease.

5.6 Equalities and Diversity

- 5.6.1 The 2010 Equality Act outlines the provisions of the Public Sector Equalities Duty which requires Public Bodies **to have due regard** to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
 - advance equality of opportunity between people from different groups; and
 - foster good relations between people from different groups.
- 5.6.2 It is not expected that the granting of the proposed lease to a not-for-profit organisation will give rise to any issues under the Council's Equality Policy and will not compromise the Council in meeting its statutory equalities duties.

5.7 Consultation and Engagement

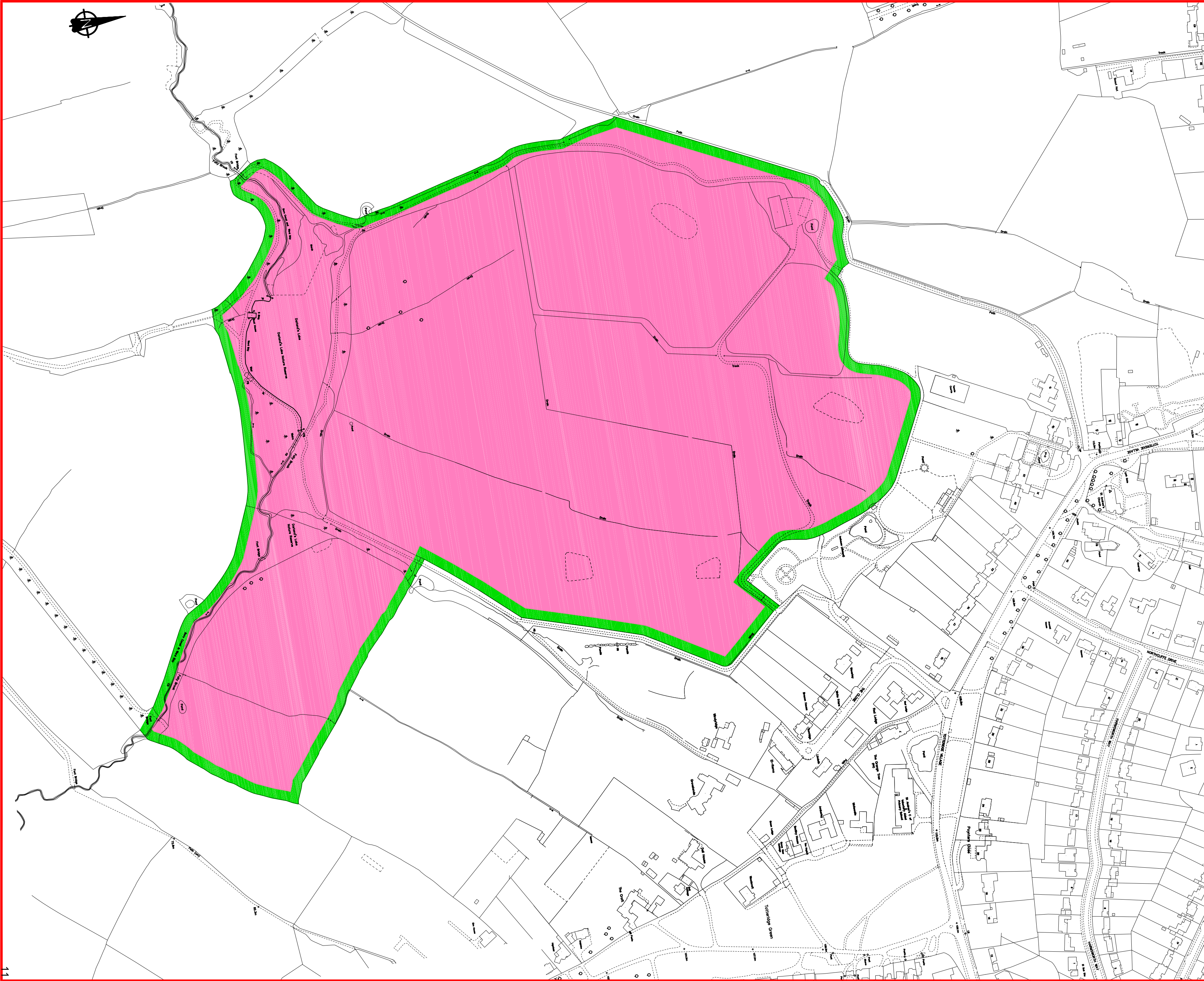
- 5.7.1 There has not yet been any public consultation for the disposal of Darlands Nature Reserve on a long lease to an appropriate group. When that takes place.

5.8 Insight

- 5.8.1 Insight data has not been used in the analysis of this transaction yet.

6. BACKGROUND PAPERS

6.1 There are currently no background papers relevant to this Committee Report.



NOTES:

APPENDIX A.

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Revision and Date	Description	Initial

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SCHEME:

THE DARLANDS, TOTTERIDGE LANE,
TOTTERIDGE, N20

TITLE:

PROPOSED LETTING

Scales:	1:2500 at A2 Size	Date: 22/08/17
Initiated: R.B.	Drawn: K.E.B.	Checked
DRAWING NO:		

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