

Item No. 14.	Classification: Open	Date: 17 November 2015	Meeting Name: Cabinet
Report title:		Canada Water Regeneration	
Wards or groups affected:		Rotherhithe and Surrey Quays	
Cabinet Member:		Councillor Mark Williams, Regeneration and New Homes	

FOREWORD – COUNCILLOR MARK WILLIAMS, CABINET MEMBER FOR REGENERATION AND NEW HOMES

Canada Water represents an enormous opportunity for the local community and Southwark as a whole. This report sets out the approach we will take to achieve the requirements we set out last year. These include a mechanism to achieve 35% affordable homes irrespective of viability under the statutory planning system. We will also secure a new leisure centre to replace the sub standard facility at Seven Islands.

The council is also committed to retaining a long term interest in the town centre and the key to this will be retaining the freehold interest and maximising returns from the development for the benefit of Southwark's residents. It is important to recognise that this will be a truly mixed use scheme with significant jobs generated for local people not only during the construction phase but also in the long term. As part of the mix of uses we welcome the opportunity to bring a world class higher education offer and the opportunities this will bring in relation to business development, training and economic activity.

The scheme provides an opportunity to be at the vanguard of our plans for sustainable transport including cycling and pedestrian links to the rest of Southwark and beyond and a reduction in a reliance on cars. The highest quality architecture, urban realm and energy efficiency will be at the heart of the scheme creating a world class town centre to meet the needs of our residents. We will also explore how to set up a London Living Wage Zone at Canada Water; where everyone working in the masterplan area is paid at least the LLW. Details for how this might be achieved will be included in the final agreement.

The heads of terms sets out how the council will achieve all of these aims, and subject to further negotiation a further report that will authorise exchange of contracts will be brought to cabinet in 2016 for final approval. It should also be noted that consultation continues with our residents on the site for the new leisure centre that will replace Seven Islands, and that the final decision on its location will be included in the 2016 report as it forms part of the overall negotiation with British Land.

RECOMMENDATIONS

Cabinet is requested to:

1. Agree the heads of terms document attached at appendix 1 as the basis for an agreement with British Land (BL) for the redevelopment of the land identified within the document.

2. Instruct the director for regeneration to conclude negotiations and report back to cabinet in mid 2016 for authority to exchange contracts.
3. Instruct the director of regeneration to investigate, for incorporation into the deal with BL, alternative housing delivery models that will offer different groups of local people access to a wider range of truly affordable homes.
4. Note the comments at paragraphs 21 – 26 on the options for the form of agreement with BL and that the recommendation is to enter into an agreement structured as a series of property transactions administered via an overarching agreement.
5. Note the legally privileged advice, that is the entirety of the report on the closed agenda, that there are grounds for the council to enter into an off market agreement with BL.
6. Note that any recommended deal that ultimately emerges from negotiation with BL will be subject to detailed financial modelling and analysis.

BACKGROUND INFORMATION

7. This report follows on from a cabinet decision on 18 November 2014 that set out the parameters for an agreement with BL for the redevelopment of land at Canada Water to create a new town centre. Since then officers have been in negotiation with BL and attached at appendix 1 is the provisionally agreed heads of terms document for a development agreement. Attached at appendix 2 is a table showing how the heads of terms deliver the priorities identified in the November 2014 report.
8. In summary, the agreement covers three main sites; the former Print Works (PW), the Surrey Quays Shopping Centre (SQSC) and the Mast Leisure Centre (MLC) as shown on the plan within appendix 1. All of this land is owned freehold either by the council or BL; all of the council freehold land (other than some small miscellaneous sections of amenity land) is occupied by BL under a number of leases. The agreement will see the surrender of BL's current leases over PW and SQSC and the grant of two new long head leases. From these, individual plots will be the subject of sub-leases and will be developed in phases over several years in accordance with a masterplan for the entire area. There will also be a co-operation agreement between the council and BL to manage the development interface between MLC and the rest of the development area.
9. The council currently receives rent on SQSC equal to 5% of the income collected by BL. Under the heads of terms this will increase to 10%. The agreement protects the council during the construction phase by providing a rental guarantee for both SQSC and PW.
10. The agreement includes a commitment to deliver 35% affordable housing and the council will have an option to buy the social rented homes. The council also has the option to invest in the development to ensure the local community has the chance to benefit fully from the scheme. The masterplan includes a site for a new leisure centre to replace Seven Islands.
11. If cabinet agrees the recommendations the heads of terms will create a work programme for officers and BL that will, if appropriate, take us to a completed

agreement. The programme to move forward is as follows:

- Mid 2016; cabinet will be asked to endorse the final terms for the development agreement. This will be based on the heads of terms and include a full suite of documents setting out in detail the operation of the agreement. Negotiations for the final terms will be informed by detailed financial modelling and analysis, which will be summarised in the report.
- Summer/autumn 2016; the council and BL will exchange contracts on the development agreement, which will come into full operation once a number of preconditions are met. The preconditions include completion of a satisfactory financial viability assessment and the grant of planning consent for the masterplan.
- Late 2016 is the anticipated date for a planning decision on the masterplan.

KEY ISSUES FOR CONSIDERATION

12. To get to this point officers, supported by a team of external specialists, have been in detailed negotiation with BL on a range of points. The matters which for the purpose of this report are considered key, are discussed below.

Affordable housing

13. The development agreement will include a mechanism to deliver the council's target of 35% affordable housing.
14. Following the election in May 2015 of the new government there have been a number of changes to the regulations around the ownership and financing of council housing; and further change is considered likely. The net effect is that the council is operating in a significantly changed environment with uncertainty about the future regulatory framework.
15. Officers are still working through the implications of these changes and how best to respond to them in the development agreement. In the meantime, it is confirmed the agreement with BL will include a mechanism to deliver 35% affordable housing and the details of exactly how this will be done will be reported in 2016 as part of the final agreement.
16. As background to this, cabinet is aware of the debate about what constitutes truly affordable housing. Linked to this is the growing understanding of the housing challenges being faced by the 'squeezed middle': people whose income is too high, so as to disqualify them from social housing, but who nevertheless find private provision unaffordable.
17. It is considered that the constructive working relationship the council has with BL, and the flexible terms of the agreement we are negotiating with them, could form the basis for a vehicle to better assist these groups. It is therefore recommended that as part of our negotiations, the Director of Regeneration be instructed to explore alternative housing models that offer different groups of local people access to a wider range of truly affordable homes.

Site boundary

18. Towards the end of 2014 Aviva Insurance put up for sale the freehold of the MLC, which BL bought. This means we now have the opportunity to plan the comprehensive redevelopment of an even bigger site, approximately 19.25 ha.
19. This is a unique and exciting opportunity to comprehensively plan the creation of a new town centre. The scale of the opportunity was recognised at regional level when in March 2015 the London Plan designated Canada Water an opportunity area.
20. In order to deliver a top quality development it has been provisionally agreed to include areas of council owned public realm in an estate management arrangement. Subject to negotiation of final terms, it is envisaged this land will be laid out and managed as a part of the scheme, but will remain fully accessible to the public. There are two plans within appendix 1: the first shows the extent of the land that forms the agreement; and, the second shows additional land that will form part of an estate management arrangement.

Deal structure

21. Two general approaches to the structure of the deal have been considered: a corporate type arrangement e.g. creating a special purpose vehicle; and, a property transaction approach. These approaches are probably best thought of as end points on a continuum with a wide range of options between them.
22. The pure corporate approach would typically be a special purpose vehicle. This involves setting up a new company jointly owned and controlled by the council and BL, into which the partners would transfer their property interests. The company would have its own legal identity, governance arrangements and reporting requirements. The council has limited experience of operating this type of arrangement.
23. In practice a corporate structure commits the council to two levels of management. Management of the substantive purpose of the agreement; delivery of the development, and management of the special purpose vehicle itself. This additional level of management has a resource requirement.
24. As the name suggests, at the other end of the spectrum a property transaction approach is based on delivering development through long ground leases and land sales. The principles behind this approach are long established and well understood. The council has extensive experience of delivery development projects through property transactions.
25. In this case cabinet is asked to endorse the principle of structuring the development agreement with BL as a series of property transactions administered through an overarching agreement. This is very much towards the property transaction end of the deal structure spectrum but with additional controls for the council added through the overarching agreement.
26. This structure is recommended to cabinet on the grounds that: it gives the council an appropriate level of control over delivery of key priorities; minimises the management burden of administering the agreement; and, it is an approach well known and understood by the council.

Off market agreement

27. The agreement has come about following a direct approach to the council by BL and has not involved the council advertising to find a regeneration partner. This is not how the council normally operates and cabinet needs to be satisfied it is reasonable to proceed on this basis.
28. The council has a statutory duty to achieve best consideration for any land it disposes of: granting long leases under a development agreement falls under this duty. Best consideration is usually demonstrated by offering the asset for sale on the open market and accepting the highest offer.
29. In this case there are considered to be sound practical reasons why it is appropriate to proceed with BL. All of the land within the agreement is owned freehold by either the council or by BL and all of the council freehold land (other than some small miscellaneous sections of amenity land) is occupied by BL under a number of long leases. This means that from a practical point of view it would be very difficult, if not impossible, for the council to redevelop the area without the agreement of BL.
30. The report on the closed agenda sets out the privileged legal advice confirming the council's ability to enter into negotiation with BL.
31. In terms of best consideration, as part of its negotiating team the council has retained GVA, a highly respected international firm of property consultants. Part of their role will be to sign off any agreement to ensure it satisfies the council's best consideration obligations.

Policy implications

32. This report deals with a key step in delivering the council's aspirations for the regeneration of Canada Water. The main policy statement on this is the Canada Water Area Action Plan (AAP), and the revised AAP will be reported to council assembly for adoption in November 2015. The heads of terms are consistent with the council's ambitions for the area.
33. In November 2014 cabinet endorsed the parameters for an agreement with BL. The document at appendix 2 shows how the provisional agreement delivers cabinet's priorities for the regeneration.

Community impact statement

34. The public sector equality duty, at section 149 of the Equality Act, requires public bodies to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity, and foster good relations between different people when carrying out their activities.
35. The heads of terms is a technical matter that of itself gives rise to no particular equality implications.

Resource implications

36. The resource implications arising from this decision will be officer time to conclude negotiation of the development agreement and funding for external specialists to support the process. The officer commitment is considered to be

part of the normal workload for staff within the regeneration department and will be contained within existing budgets. External specialist support has been procured and reported through the standard gateway process and a budget is in place for the task. There is therefore no specific new resource requirement arising from this decision.

37. If ultimately the council enters into a development agreement with BL this is likely to have significant resource requirements around the purchase of affordably housing and the procurement of a new leisure centre. If appropriate these matters will be the subject of separate reporting and business planning.

Legal implications

38. Please refer to the comments of the director of law and democracy in paragraphs 40 to 43 below.

Consultation

39. There has been extensive internal consultation between officers in Regeneration, Legal Services and Finance. It is not considered appropriate or necessary to carryout public consultation on the heads of terms.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

40. Section 1 of the Localism Act 2011 grants councils a general power of competence whereby a local authority has power to do anything that individuals generally may do. However, that power does not enable a local authority to do anything which it is unable to do by virtue of a pre-commencement limitation. Section 123 of the Local Government Act 1972 is a pre-commencement statute which imposes limitations on the Council's power to dispose of land.
41. The report refers at paragraphs 28 to the Council's obligation, set out in Section 123 of the Local Government Act 1972, not to dispose of land for a consideration less than the best that can reasonably be obtained. The report explains how independent expert advice will be taken to ensure that the Council is obtaining best consideration for its land under the terms of the proposed transaction.
42. Advice has been sought which confirmed the council's ability to enter into negotiations with BL in respect of this development, details of which are given in the closed report. This advice will be kept under review as the negotiations develop, and further advice sought before contracts are exchanged and reported to cabinet when this matter is brought back in 2016.
43. The cabinet will note the public sector equality duty (PSED) considerations detailed in paragraphs 34 and 35 above, and to have regard to the PSED consideration when making decisions.

Strategic Director of Finance and Governance (FC 15/031)

44. The strategic director of finance and governance notes the proposals regarding the heads of terms with British Land regarding the regeneration of Canada Water and that the financial implications will be considered through future reports.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Revised Canada Water Area Action Plan 2013	Regeneration North, Southwark Council 160 Tooley Street, London SE1 2QH	James Oates 7525 5633
http://www.southwark.gov.uk/info/200314/canada_water/2854/revised_canada_water_aap_2013		
Canada Water Regeneration	Regeneration North, Southwark Council 160 Tooley Street, London SE1 2QH	James Oates 7525 5633
http://moderngov.southwark.gov.uk/documents/s49978/Report%20Regeneration%20at%20Canada%20Water.pdf		

APPENDICES

No.	Title
Appendix 1	Heads of terms document
Appendix 2	Priorities for heads of terms
Appendix 3	Maps

AUDIT TRAIL

Cabinet Member	Councillor Mark Williams, Regeneration and New Homes	
Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	James Oates, Principal Surveyor	
Version	Final	
Dated	6 November 2015	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
	Officer Title	Comments Sought
	Director of Law and Democracy	Yes
	Strategic Director of Finance and Governance	Yes
	Cabinet Member	Yes
	Date final report sent to Constitutional Team	6 November 2015