

Item No. 17.	Classification: Open	Date: 1 November 2016	Meeting Name: Cabinet
Report title:		Disposal of Dockley Road Business Estate Bermondsey (Site N Bermondsey Spa)	
Ward:		Grange	
Cabinet Member:		Councillor Fiona Colley, Finance, Modernisation and Performance	

FOREWORD – COUNCILLOR FIONA COLLEY, CABINET MEMBER FOR FINANCE, MODERNISATION AND PERFORMANCE

Who would have thought twenty years ago that the Bermondsey Spa area would be winning community and architectural awards not to mention being considered one of the most desirable places in London to live? This has been a striking change in place. It has been achieved by foresight and genuine partnership between all stakeholders. It has harnessed enterprise with public assets to bring an additional 1,400 new homes of which almost 500 are extra homes for social rent and new and improved community infrastructure.

The project is nearing completion and the last remaining part of the jigsaw is the Dockley Road Business Park. The report sets out how a land ownership blockage will be removed to enable a mixed commercial/residential scheme that has planning consent to proceed, to further enhance the locality. As well as providing 59 new homes (including 19 affordable ones), there will be modern business space. The existing businesses in Dockley Road will, if they choose, be able to relocate to nearby railway arches that the Council and developer is working together to provide electrical power to bring them back into use. When the redevelopment is completed the new business accommodation together with the railway arches will provide a considerable increase in employment space and job opportunities for local residents. In addition to all this, the proposal in the report will realise a much needed receipt to contribute to the funding of the capital programme.

RECOMMENDATION

That Cabinet agrees:

1. To transfer its freehold and leasehold interest in the land shown edged on the attached plan to the Wardens & Fellows of Nuffield College In the University of Oxford on the terms set out in paragraph 20 of this report.

BACKGROUND INFORMATION

2. The transformation of the Bermondsey Spa has been remarkable. In the 1990s it was a backwater with unused bomb sites and now it is part of a wider bustling community that has been named by *City AM* as having the best quality of life in London.
3. The catalyst for the transformation was the Jubilee Underground Line extension and the provision of Bermondsey Station. However, in identifying the

regeneration opportunity and putting an effective framework in place the Council has played a crucial role.

4. Having identified the opportunity for change a Masterplan was commissioned and adopted. The Masterplan designed a number of sites that were predominantly Council owned. In a phased way the sites were then assembled, planning consent secured and transferred (following Executive/Cabinet approval) to a variety partners that regenerated them.
5. Dockley Road Business Estate was designated in the Masterplan as Site N.
6. The transformation has been residential led as befits the locality's proximity to the City of London and excellent public transport links to the rest of central London. The table below sets out the present housing change from implementation of the Masterplan.

Homes demolished	Social rent homes demolished	New homes provided	New for sale	New shared ownership	New social rent	Net new	Net new social rent
147	133	1,553	794	268	491	1,406	358

7. Although primarily a residential transformation, the Project has also delivered other place making components including:
 - A children's centre including a nursery (Kintore Way) at Grange Road
 - New neighbourhood shops to Spa Road replacing former dilapidated ones
 - A larger convenience store and restaurant to Spa Road
 - A new large convenience store to Jamaica Road
 - A permanent nursery (Strawberry Babybuds) replacing a temporary structure at St James Road
 - Environmental improvements to St James Churchyard
 - New general practice surgeries to Grange Road and Jamaica Road
 - Environmental and security improvements to Casby House and Lupin Point
 - A new Salmon Youth Centre
 - A refurbished park at Spa Gardens
 - Highway realignments to create permeability between the north and south of the railway
8. The Project has also brought forward other schemes including:
 - Refurbishment of railway arches along Enid Street and Old Jamaica Road
 - Regeneration of the former Salvation Army hostel at Spa Road
 - Regeneration of the former custard factory at Spa Road and Rouel Road
 - Regeneration of the former Larnaca Works

The housing numbers produced by these schemes are not included within the table at paragraph 6.

9. The last remaining significant site in the Bermondsey Spa Masterplan to be regenerated is Site N the Dockley Road Business Park. This is shown edged on the Plan at Appendix A.
10. The Business Park was built in the late 1970's. At that time, this was a very different locality. Its construction was funded by an external party; the Wardens

& Fellows of Nuffield College In the University of Oxford ('Nuffield') with the Council providing an annual financial return to the funder. This was secured as follows:

- a) Council granted a 99 year lease from 29 September 1978 at a rent of £1 per annum, in return Nuffield paid the Council a premium that covered the cost of constructing the Park.
- b) Nuffield granted the Council an under-lease for 99 years (less 1 day) from 29 September 1978 at a rent of 75% of the full rental value (whether let or not) of the Business Park; this was effectively Nuffield's return on its capital investment

11. The Estate provides 11 single storey brick faced units on either side of a communal concrete surfaced yard accessed from Rouel Road. The Estate provides a total floorspace of 1,686m² for light industrial/storage/distribution.

12. The current usage of the Estate is set out in the table below:

<i>Unit#</i>	<i>Usage</i>
1	Janitorial Supplies
2	Janitorial Supplies
3	Newspaper distribution
4	Printing
5	Artisan food production
6	Artisan food production
7	Theatre prop/furniture production
8	Café supplies
9	Newspaper distribution
10	Artisan food production
11	Artisan food production

13. The Business Park links to railway arches opposite Lucey Way. Indeed, one of the tenants of the Park; Spa Terminus Ltd ('STL') holds the lease of those arches. Those arches are currently very under-occupied as a result of the lack of a three-phase electrical supply being available to occupiers. However, terms have recently been agreed between the Council and STL that will see an electrical transformer station being provided. This will enable the necessary electricity supply to be available to all the units. As a consequence, those units will come back in to economic life and provide employment opportunities.

14. Railway arches in Bermondsey have attracted a popular following for artisan food and provide an alternative to Borough Market. Arches at Rope Walk and Maltby Street are very successful in this and there is real potential for the arches opposite Lucey Way to replicate this.

KEY ISSUES FOR CONSIDERATION

15. The land ownership situation has delayed the bringing forward of the subject site. The fall in interest rates over the past ten years has caused annuity and similar investment returns to fall; this has been well publicised particularly in relation to pension returns. The structure of Nuffield's under-lease to the Council means that in property valuation terms it is akin to an annuity; the income is very secure (as the rent is payable by the Council), it is subject to five year rent

upward only reviews and in recent years rents in the locality have risen significantly, this combined with reduced annuity rates has discouraged the funder from wishing to participate in any regeneration.

16. In 2013, an unsolicited planning application was submitted by Matching Green Limited ('MGL') that is a connected company with STL. The application provides for the demolition of the existing industrial units. The erection of buildings up to 7 storeys comprising 15 industrial units with distribution and ancillary retail use at ground floor level and 59 residential units on upper levels.
17. The proposed development provides for 59 residences containing 190 habitable rooms. 19, containing 66 habitable rooms will be affordable. One of these residences will provide an affordable wheelchair accessible dwelling. The proposed development will therefore provide a net addition of mixed tenure housing to the area.
18. The planning application has been considered under delegated planning powers and has been approved subject to MGL entering into a s106 agreement. However, as MGL does not at this time have an interest in the land the completion of the s106 agreement has not been possible.
19. In order to bring the site forward for council led development, officers have endeavoured to negotiate terms with Nuffield but its financial requirements in this regard are too high taking into account the risk of holding the site whilst vacant possession is obtained and potential value changes in the housing market. In order to avoid the regeneration being further stalled discussions have taken place with Nuffield with a view to the council relinquishing its interest in the site and these have requested in principal terms being agreed. It is considered that this is the only realistic approach to bringing forward the regeneration.
20. The following principal terms are agreed:
 - a) The council surrenders its under-lease of the Business Park
 - b) The council transfers its freehold interest to Nuffield for the consideration set out in the closed version of this report.
 - c) In the event that, after five years substantive regeneration of the Business Park has not taken place then the council will have the option to acquire its interests back.
 - d) The parties to meet their own costs of the transaction.
21. Nuffield is in negotiation with MGL that has planning subject consent subject to completion of the s106 agreement to enable that development to proceed. It is proposed that Nuffield will take a lease of the ground floor commercial accommodation and in doing so preserve/enhance its income flow. Should the Council transfer its freehold interest Nuffield will transfer an interest in the site to MGL to enable the s106 to be completed and the planning consent described in paragraphs 16-18 to be completed.
22. As mentioned in paragraph 13 MGL is connected with STL and can therefore provide nearby premises arches for the existing Business Park tenants to locate to; all leases will expire shortly or have break clauses. This will afford the Business Park tenants the opportunity to stay in the locality and mitigate moving

disruption. It will bring vitality to those arches as well as maintaining employment. Of course, the relocation of those tenants will produce a healthy income flow for arches lessee.

23. The scheme that has obtained planning consent subject to the completion of the s106 agreement provides for 1,038m² of employment space whereas the existing Business Park contains 1,850m². However when the Lucey Way arches is included this will provide another 1,800m² of employment space thus resulting in a net addition of space of around 1,000m². The Business Park currently provides jobs for around 40 persons so the additional employment space should generate around 20-25 welcome new jobs for the immediate locality.
24. The proposed transfer is not without risk, for a variety of reasons; regeneration may not happen within a reasonable timescale hence the provision of the reacquisition option after five years. The purchaser may seek to develop the site differently than the approved scheme; this risk is however mitigated by the fact that obtaining a different planning consent will be time consuming and expensive. In addition, Nuffield will need to work closely with the STL to relocate the existing Business Park lessees to achieve vacant possession.
25. The proposed transfer of the council's interests in the Business Park to the funder follows many years of negotiation. It is usual practice when disposing of land interests for a period of marketing to take place with offers invited to give confidence that the best price has been achieved. However, in this case, the previously described lease arrangement mitigates this. Even if a purchaser were found for the council's under-lease, the approval Nuffield would be necessary before the lease could be transferred to a third party and unless the purchaser was of a similar financial standing to the council (improbable) it is most unlikely Nuffield would agree to the transfer.
26. The Business Park is held in the corporate property holdings account and therefore forms part of the General Fund. S233 of the Town & Country Planning Act 1990 enables the council to dispose of land held for planning purposes as this is for the proper planning of the area.

Rationale for Recommendations

27.
 - a) Furthering the long standing Bermondsey Spa regeneration policy.
 - b) Securing additional mixed tenure housing for the locality
 - c) Improvement of the physical/aesthetical environment of the locality
 - d) Creation of additional employment
 - e) Protection of the council's influence in the event of the regeneration not commencing within five years

Community impact statement/public sector equalities duty

28. The Equality Act 2010 imposes a general equality duty on public authorities (PSED), in the exercise of their functions, to have due regard to the need to:
 - Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act.

- Advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it.
- Foster good relations between people who share a relevant protected characteristic and those who do not share it.

29. For the purpose of the PSED the following are 'protected characteristic' considerations:

- Age
- Civil partnership
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex and sexual orientation.

30. This report sets out an initiative that will result in a low rise business park being demolished and replaced with new higher quality business/retail space with new housing above. It is not considered that there will be any detrimental impact to the protected characteristics outlined above.

31. The initiative will have an impact on the existing occupiers of the Business Park that will not have the leases of their accommodation renewed. However, the prospective developer's connected company holds the lease of the railway arches fronting Lucey Way that can be used to provide nearby replacement accommodation. The terms for such relocations will be a commercial matter for the parties concerned.

Resource implications

32. These are set out in the closed version of this report.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

33. Paragraph 9 of the report explains that this land at Dockley Road remains the last significant site within the Bermondsey Spa Masterplan area which remains to be regenerated. The reason for the delay is explained by the reluctance of the owner of the long leasehold interest to dispose of a valuable asset which produces a rental income flow which is increased by the regular five yearly rent reviews which can only be upwards.

34. The desire to try and facilitate a redevelopment has increased following a planning application which originated from a developer connected with one or more of the occupiers of the Business Park. Whilst there is delegated approval for this application, the planning permission has not been granted since the applicant or developer does not have any interest in the site. The council has therefore been exploring different possibilities to progress the regeneration.
35. The significant difficulties which militate against an open market disposal of the site are indicated at paragraph 24 of the report. In view of these, a decision has been taken to dispose of both the council's freehold and its long leasehold interests at what is considered to be the best consideration reasonably obtainable. Details of this are as set out at paragraph 6 of the closed report. Accordingly the disposal will satisfy the requirement as contained in section 123, Local Government Act 1972 which provides that a council shall not dispose of land (unless it is by way of a short tenancy) for a consideration which is less than the best that can be reasonably obtained without obtaining the consent of the Secretary of State.
36. Since the obligation under section 123 is satisfied, the council is empowered to dispose of this site in accordance with the general power of competence contained within section 1, Localism Act 2011 which allows a local authority to do anything that individuals are able to do unless otherwise restricted by a separate piece of legislation such as the requirement to obtain best consideration.
37. It is noted that the proposal will include a right of buyback by the council if the substantial development has not taken place on the site.

Strategic Director of Finance and Governance

38. These are set out in the closed version of this report.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Bermondsey best quality of life in London	160 Tooley Street London SE1 2QH	Patrick McGreal 0207 525 5626
Link: http://www.cityam.com/248483/these-londons-best-areas-quality-life		
Masterplan summary	160 Tooley Street London SE1 2QH	Patrick McGreal 0207 525 5626
Link: http://www.southwark.gov.uk/info/200180/bermondsey_spa/1144/bermondsey_spa_masterplan		
Planning application document	160 Tooley Street London SE1 2QH	Patrick McGreal 0207 525 5626
Link: http://planbuild.southwark.gov.uk:8190/online-applications/applicationDetails.do?activeTab=summary&keyVal=_STHWR_DCAPR_9550863		

APPENDICES

Appendix	Title
Appendix A	Plan showing Dockley Business Park edged

AUDIT TRAIL

Cabinet Member	Councillor Fiona Colley, Finance, Modernisation and Performance	
Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	Patrick McGreal, Regeneration, North	
Version	Final	
Dated	19 October 2016	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	In closed version
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		19 October 2016