

Item No.	Classification: Open	Date: 17 August 2017	Meeting Name: Delegated decision: Director of Regeneration
Report title:		Proposed Acquisition of Freehold Interest in Land in the Old Kent Road opportunity area	
Ward(s) or groups affected:		Livesey, South Bermondsey, East Walworth, Grange, Chaucer, Nunhead, Peckham	
From:		Head of Regeneration Old Kent Road	

RECOMMENDATION(S)

- 1 Approve revised terms for the acquisition of the freehold interest in land in the Old Kent Road opportunity area.

BACKGROUND INFORMATION

- 2 At its meeting of 9 May 2017 Cabinet agreed to approve in principle the acquisition of the freehold interest in land in the Old Kent Road opportunity area, subject to completing due diligence and the agreement of Final Heads of Terms. The negotiation of terms and agreement of the financing structure to be adopted to fund the acquisition were delegated to officers.
- 3 The purpose of the acquisition was to strengthen the council's asset base and the incomes derived from it and also secure an asset which provides longer term regeneration potential, including the provision of new homes as well as other asset management opportunities to accommodate council services and facilities.
- 4 At the point that cabinet made the decision, an acquisition price had been agreed with the vendor. Since that point, in undertaking due diligence, the council has been made aware of an additional overage agreement that would apply to the site that would entail a sharing of any uplift in value resulting from the redevelopment of the site with the vendor. As a consequence, subject to the formal approval of the Director of Regeneration, officers have submitted an offer of an additional payment to the vendor to revise the terms of the acquisition by removal of the overage agreement. The offer has been accepted by the vendor and the payment would comprise an addition to the acquisition price agreed by Cabinet on 9 May. A decision to delegate this decision to the Director of Regeneration was made by the Leader of the council on 14 August 2017.

KEY ISSUES FOR CONSIDERATION

- 5 The sale process and rationale for investment were set out in paragraphs 6 – 9 of the open report received by cabinet on 9 May and these have not changed. As is noted above, since the May Cabinet decision, officers have been made aware of an additional overage that would apply to the site. This overage would entail sharing 50% of any future uplift in value which results from a redevelopment with the vendor. Subject to formal agreement, the vendor has accepted a revised offer to remove the overage agreement. While this entails the council paying a greater up

front cost, the potential future saving that would be achieved by the council retaining 100% of any uplift in value is considerable and far exceeds the initial payment.

Policy implications

- 6 The purchase of land which will provide a commercial return to the council and in the longer term asset creation through regeneration is consistent with the Asset Management Plan 2010 and the Asset Management Plan for the Commercial Property Estate, December 2016.

Community impact statement

- 7 As is stated in paragraph 10 of the open report to Cabinet of 9 May, in preparing the Old Kent Road area action plan (AAP), the council has completed an equalities analysis for the Old Kent Road opportunity area. Any reuse or redevelopment of the proposed acquisition land will occur in the context of the emerging framework for the Old Kent Road and will need to comply with policies in the AAP. In formulating the recommendations of this report the potential impact on the community has been taken into account, including people identified as having protected characteristics. No specific equality implications have been identified in relation to this report.

Resource implications

- 8 None.

Legal implications

- 9 See para 12-14 below.

Financial implications

- 10 Addressed in closed report.

Consultation

- 11 In view of confidentiality requirements and commercial sensitivity in relation to this as yet uncompleted transaction, external consultation has not been undertaken. Internal consultation has taken place with all relevant departments, including the provision of advice from Director of Law and Democracy and Strategic Director of Finance and Governance.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

- 12 The Cabinet has previously been asked to authorise the acquisition of certain land within the Old Kent Road Opportunity Area. As explained, it is now proposed to make a higher initial payment instead of the previously agreed price but with the Council no longer being committed to pay to the Seller any overage which had previously been the intention. There remains the possibility of a liability for overage to a previous vendor as explained in paragraph 9 of the closed report, but that is not a matter which can be negotiated with the current vendor of the land.

- 13 The power for the Council to make the acquisition is still in accordance with section 120(1), Local Government Act 1972 and a fuller explanation was given in the legal comments for the report to Cabinet for the meeting held on 9 May.
- 14 A decision to delegate this decision to the Director of Regeneration was made by the Leader of the council on 14 August 2017. Part 3 of the Constitution confirms the ability of the leader to delegate part of his executive functions.

Strategic Director of Finance and Governance

- 15 This report proposes the purchase of land in the Old Kent Road opportunity area, subject to the outcome of the due diligence process. The council has published the draft area action plan for the Old Kent Road, which sets out an ambitious vision for regeneration over a period of 20 years or so.
- 16 Paragraphs 6 – 9 of the open report received by cabinet on 9 May outlined the rationale for purchasing this land, including the flexibility around the future strategic options for use and the potential for comprehensive site redevelopment.
- 17 In the shorter term the estimated rental income greatly exceeds the associated financing costs for this purchase.
- 18 As with the wider commercial property portfolio held by the council, this will be subject to ongoing review. The council's capital programme will be updated to reflect this commercial portfolio purchase, reported to Cabinet in July 2017.

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the council's constitution, I authorise action in accordance with the recommendation(s) contained in the above report (and as otherwise recorded in Part B below).

Signature

Date 17/8/17

Designation Director

PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:

- 1) All key decisions taken by officers (including contract reports)
- 2) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

1. DECISION(S)
As set out in the recommendations of the report.

2. REASONS FOR DECISION
As set out in the report.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION
N/a

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION (IF APPLICABLE)*
N/a

*Contract standing order 4.5.1 states that for contracts with an Estimated Contract Value of over £100,000, the lead contract officer (LCO) must consult with the relevant cabinet member before a procurement strategy is implemented.

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST
<i>If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.</i>
N/a

6. DECLARATION ON CONFLICTS OF INTERESTS

I declare that I was informed of no conflicts of interests.*

or

~~I declare that I was informed of the conflicts of interests set out in Part B4.*~~

(* - Please delete as appropriate)

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Open and closed reports and printed minutes on the 'Proposed acquisition of freehold interest in land in the Old Kent Road opportunity area' made to Cabinet on 9 May	160 Tooley Street	Tim Cutts (020 7525 5380)
http://modern.gov.southwark.gov.uk/ieListDocuments.aspx?CId=302&MId=5380&Ver=4		

APPENDICES

No.	Title
None	

AUDIT TRAIL

Lead Officer	Colin Wilson, Head of Regeneration Old Kent Road	
Report Author	Tim Cutts, Senior Regeneration Manager	
Version	Draft	
Dated	4 August	
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	Yes
Cabinet Member	Yes	No
Date final report sent to Constitutional Team / Community Council / Scrutiny Team		