

Item No. 20.	Classification: Open	Date: 24 July 2018	Meeting Name: Cabinet
Report title:		Disposal of Council's Freehold Interest in former car pound, Mandela Way, SE1	
Ward(s) or groups affected:		South Bermondsey	
Cabinet Member:		Councillor Victoria Mills, Finance, Performance and Brexit	

FOREWORD BY COUNCILLOR VICTORIA MILLS, CABINET MEMBER FOR FINANCE, PERFORMANCE AND BREXIT

This report recommends the sale of the council's interest at 25 Mandela Way. The site is currently used for open storage and sale of the land will pave the way for a redevelopment that provides much needed new homes and a range of new jobs.

The new homes will include affordable homes at rent levels which are compliant with the New Southwark Plan. Firmdale, who run hotels across London and who bought the long leasehold interest in the land in 2014, will continue with their plans to develop a commercial laundry on the site providing 100 local jobs. Firmdale is an accredited Living Wage employer. Other retail, office/light industrial use in the new development will generate up to 50 additional local jobs. These uses will also generate business rates that will help the council mitigate the loss of government funding and the capital will contribute to the council's capital programme.

RECOMMENDATIONS

That the Cabinet agrees to (all in accordance with the terms set out in the closed cabinet report):

1. Sell its freehold interest in land at Mandela Way (as shown outlined in black in Appendix 1) to the long leasehold owner of the site Firmdale Hotels for mainly residential development subject to planning permission being obtained;
2. That the Cabinet authorise the director of regeneration to negotiate the sale and development agreement with Firmdale Hotels and place a covenant on the site which binds successors in title to an affordable housing requirement.

BACKGROUND INFORMATION

3. The council is the freeholder of land at Mandela Way SE1 over which a long leasehold was granted for a premium at a peppercorn to Firmdale Hotels. There are approximately 247 years left on the lease.
4. Firmdale Hotels is a hotel group established in the 1980s with seven boutique hotels in Central London and one in New York. Firmdale bought the long leasehold interest in the land from the council in 2014 to develop a commercial laundry with ancillary commercial space on the site. Firmdale's existing laundry,

which is located in Fulham, serves around 26 hotels in London, including Firmdale's hotels as well as Claridge's and the Connaught. Firmdale have confirmed that they are an accredited Living Wage employer.

5. Since that time plans have been announced for the extension to the Bakerloo Line down the Old Kent Road and the Old Kent Road Draft Area Action Plan has been published and is being consulted upon.
6. A planning application for a mixed use development including retail, office/light industrial and 231 units of residential accommodation has been made on the site following detailed pre-application discussions that have taken place with the councils planning department. Firmdale's laundry continues to be part of the plan and would be provided alongside other commercial space for SMEs and some retail. In all, it is estimated that the scheme would generate around 150 full time jobs, including 100 jobs in the laundry.
7. The land is currently used as open storage although the existing planning permission for the commercial laundry was implemented earlier this year. It is in a Preferred Industrial Location, however, this area was designated a Housing Zone by the GLA in February 2015.
8. The council has prepared a draft Area Action Plan for the Old Kent Road area which includes this site and allows residential and mixed use proposals.

KEY ISSUES FOR CONSIDERATION

9. Negotiations have taken place between Firmdale Hotels and the council's Property officers and its advisors Montague Evans regarding the sale of the council's freehold interest in the land. The council is advised that it has obtained best consideration with the terms agreed with Firmdale
10. A planning overage has been agreed so that if a higher density is achieved than that currently indicated in pre-planning discussions with the councils planning department then the uplift in value is shared.
11. If Firmdale were to sell on the site for a larger sum than has been agreed then the council would benefit from an overage payment reflecting this.
12. The requirement for the delivery of 35% affordable homes is a requirement of planning policy however developers often make a viability case that this figure is not justifiable. To ensure compliance with council planning policy the council will require the developer in the development agreement to provide 35% affordable housing. The mix of affordable units will be required to be planning policy compliant. As proposed, the scheme will be required to deliver 70% of the affordable units as social rented and 30% as intermediate. The freehold of the site will not be transferred until the policy compliant scheme has been implemented. A covenant will be placed on the site to bind successors in title to the affordable housing requirement.
13. If planning permission for the proposed scheme is not consented then the sale of the freehold does not proceed. However the leaseholder has implemented their consent for the Laundry and mixed commercial scheme so can build that out under the terms of their lease.

Policy implications

14. The disposal of the council's interest will generate a capital receipt that can be used by the council to further its key strategic objectives.
15. Redevelopment of an early site on the Old Kent Road Opportunity Area will assist in the council's objectives as expressed in the Old Kent Road Draft Area Action Plan.
16. The ability to impose restrictions on the land title to ensure that planning requirements on the provision of social rented housing within the affordable homes will mean greater certainty that the council's policies are implemented.

Community impact statement

17. The impact of the revised residential led development on the local community will be slight but positive. The current temporary use of the site is an eyesore and its redevelopment will improve the visual amenity of the area and provide much needed private and affordable housing.
18. Officers have given due regard to the councils public sector equality duty in the sale of the freehold interest and do not believe that there are any PSED implications arising from the proposed sale and redevelopment.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

19. Section 1, Localism Act 2011 provides councils with a general power of competence whereby a local authority has the power to do anything that individuals generally may do. However, this 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, Local Government Act 1972 is a pre-commencement statute which imposes restrictions on a council's power to dispose of land.
20. Section 123, provides that a council shall not dispose of land under the section (unless it is by way of a short tenancy) for a consideration which is less than the best that can reasonably be obtained except with the consent with the Secretary of State.
21. Paragraph 10 of the report confirms that the developer will pay a consideration to reflect the value of the council's reversionary interest and that it is confirmed that this will represent best consideration.
22. The report also comments on the importance of ensuring that the scheme is planning policy compliant providing 35% affordable housing. This is complicated by the fact that the site is currently within a Preferred Industrial Location although this will be reconsidered as the draft Old Kent Road Area Action Plan emerges and the area was designated a Housing Zone by the GLA in February 2015. A further complication is development plan policy (London Plan Policy 3.12) supported by the National Planning Policy Framework allows the affordable

housing contribution in a scheme to be reduced where viability appraisals suggest this is justified.

23. Whilst a requirement to this effect will be included in the sale agreement, this will not necessarily be effective against a successor in title of the purchaser. It will be necessary to bind not simply the purchaser but also the land being disposed of for the covenant to be enforceable against future purchasers. The covenant is proposed in recommendation 2 and referenced in paragraph 12.

Strategic Director of Finance and Governance (FC16/010)

24. The report is requesting Cabinet to grant an option to acquire the council’s freehold interest in land at Mandela Way SE1 (as shown outlined in black in Appendix 1) to Firmdale hotels for residential development and to authorise the Director of Regeneration to negotiate the terms of the sale agreement and subsequent development agreement with Firmdale. Terms of the agreement and the financial implications are detailed in the closed version of the report.
25. The strategic director of finance and governance notes the director of regeneration considers the proposed transaction as set out in the closed version of the report to represent best consideration in terms of S123 of the Local Government Act 1972.
26. The capital receipts generated from the proposed arrangement will be recycled into the council’s capital receipts funds in financing council priorities.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Draft Old Kent Road Area Action Plan	160 Tooley Street, London SE1 2QH	Tim Cutts 020 7525 5380
<p>Link: (copy and paste link into browser) https://www.southwark.gov.uk/planning-and-building-control/planning-policy-and-transport-policy/development-plan/area-action-plans?chapter=2</p>		

APPENDICES

No	Title
Appendix 1	Site plan showing the site area edged black

AUDIT TRAIL

Cabinet Member	Councillor Victoria Mills, Finance, Performance and Brexit	
Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	Marcus Mayne, Principal Surveyor	
Version	Final	
Dated	13 July 2018	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Director of Law and Democracy	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		13 July 2018