

<b>Item No.</b> 16.	<b>Classification:</b> Open	<b>Date:</b> 12 March 2019	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		585 – 589 Old Kent Road – Acquisition of Site to Deliver New Council Housing	
<b>Ward:</b>		Old Kent Road	
<b>Cabinet Member:</b>		Councillor Victoria Mills, Finance, Performance and Brexit	

## **FOREWORD – COUNCILLOR VICTORIA MILLS, CABINET MEMBER FOR FINANCE, PERFORMANCE AND BREXIT**

Southwark Council has the ambitious target of building 11,000 new council homes by 2043. Whilst our current pipeline of new homes is heavily focused on building on existing council land it will not be possible to meet our promise without the acquisition of more land.

An opportunity has arisen on the Old Kent Road to make a major acquisition for housing that underlines our commitment to our council home programme and to building a strategic land bank for council house delivery.

This is a prominent site so this acquisition also ensures that a future housing scheme is of the highest quality in terms of design, architecture, materials, public realm and build quality.

As well as around 450 new homes, any future development will need to include replacement business space. This could potentially include much needed affordable business space or light industrial units. The revenue from this will provide a vital income stream for the housing revenue account.

## **RECOMMENDATIONS**

That cabinet:

1. Authorises pursuant to s120 of the Local Government Act 1972 and s9 of the Housing Act 1985, that the council acquires the freehold interest in the property shown edged red on the plan at Appendix A.
2. Authorises the principal purchase terms set out in full in paragraph 4 of the closed version of this report and substantially in paragraph 22 of this report.
3. Authorises the acquisition through the housing revenue account (HRA) with the primary focus being the delivery of high quality council housing. Interim income derived from the acquisition will accrue to the HRA.
4. Delegates to the director of regeneration authority to agree the detailed terms of the acquisition.

## **BACKGROUND INFORMATION**

5. 585 – 589 Old Kent Road is shown edged red on the plan at Appendix A to this report. It comprises a 1990's, single storey plus mezzanine, retail warehouse unit with associated surface parking spaces. It has a site area of 5,532m<sup>2</sup> (1.36 acres). It currently trades as Currys PC World.
6. The property is situated within the Old Kent Road Action Area that aspires to transform the area with substantial new housing, an improved public realm, employment opportunities and enhanced transport infrastructure including an extension to the Bakerloo Underground Line.
7. The opportunity to purchase the property has arisen and the council submitted a bid subject to cabinet approval that has been accepted by the vendor (Legal and General Assurance Society Limited).
8. Southwark's housing strategy to 2043 pledges to use every tool at the council's disposal to increase the supply of all kinds of homes across the borough and to build 11,000 new council homes by 2043.
9. The council plan commits the council to build or start on site an additional 1,000 council homes meaning that by 2022 the council will have built or started on site 2,500 new council homes towards the target of 11,000.
10. The council does not currently have sufficient sites for council housing development to meet its 2043 target and suitable sites are scarce. The site at 585-589 Old Kent Road would provide an opportunity to make a significant contribution to the delivery of new council homes in line with both the housing strategy and the council plan.

## **KEY ISSUES FOR CONSIDERATION**

11. It is proposed that this acquisition is funded through the HRA. It is recognised that a key factor in the council achieving its ambitious target of 11,000 new council homes by 2043 is the availability of land. This is the first major acquisition for housing and demonstrates the council's commitment to the council home programme and the importance of building a strategic land bank for council house delivery.
12. Given the prominence of the site and scale it is imperative that a housing scheme of the highest quality in terms of design, architecture, materials, public realm and build quality is brought forward.
13. The inclusion of the property within the Old Kent Road Opportunity Area means it offers scope to deliver new housing in pursuit of the council plan undertaking. Discussions have taken place with planning officers and these suggest the site may accommodate around 450 new homes. It will also need to provide replacement business space in the order of 1,600m<sup>2</sup>. Cabinet should bear in mind these outputs are indicative and in no way fetter the planning committee's ability to determine any application it receives on its own merits.
14. Further work will be undertaken to establish the quantum and type of business space to be incorporated into the scheme including potential for affordable business space and light industrial.

15. Assuming the property is acquired, a decision can subsequently be taken as to the mix of the new homes that can be delivered. Whilst, an entire council housing scheme may be justified by need, this has to be considered in the light of the ability to fund the provision so a mix of at least 50% council rent with the remaining properties for market sale (to assist funding) may, subject to the design of the new housing, be appropriate. This is in line with adopted council policy for HRA land.
16. The property is to be acquired subject to a lease that expires in June 2022. This means the council cannot obtain possession before then. Bringing new housing schemes forward inevitably takes time in design, planning and commissioning terms so the existence of the lease is not an issue. Indeed it means the property will yield an income and should remain occupied whilst plans for the site are formulated and taken forward ready to build.
17. In the light of the planning status, the property's location and the council's plan undertaking to build more homes it is appropriate that the council seek to acquire the property.
18. Section 120 of the Local Government Act 1972 enables the council to acquire land for any of the council's functions under the Local Government Act or any other enactment, or for the benefit, improvement or development of their area.
19. The acquisition of the property for housing will fulfil the requirements of s120 as the provision of housing is one of the council's functions; in addition the local area will benefit from the new homes and the enhanced environment around the homes and from the construction jobs created through its development.
20. Section 9 of the Housing Act 1985 provides that a local housing authority may provide housing accommodation by erecting houses or by converting buildings into houses or by acquiring houses. The Housing Act therefore gives the council power to build houses itself on land acquired for that purpose.
21. Principal terms for the purchase of the property have been accepted by the vendor and the council and these are set out in the next paragraph. Inevitably when the contract for the purchase is negotiated there will be items of detail that will also require agreement and it is recommended that the director of regeneration be delegated authority to agree such matters.

### **Principal Purchase Terms**

22.
  - a) The council pays the consideration set out in the closed version of this report
  - b) On exchange of contracts the council pays a deposit of set out in the closed version of this report
  - c) Contracts to be exchanged after the cabinet has approved the purchase subject to the period for call in.
  - d) On completion, the property to be subject to the lease referred to in paragraph 13.

- e) The transfer to be subject to a five year claw back provision in the event of the property of part of it being sold on within five years on the basis of 50% of the net profit arising from the acquisition and subsequent sale.
- f) The parties to meet their own costs of the transfer.

### **Commentary on Principal Purchase Terms**

23. a)-b) Refer to closed version of report.
- c) This is a challenging timescale required by the vendor.
  - d) See paragraph 11.
  - e) This is a term to deter prospective purchasers from 'flipping' the property. In the light of the lease and the Council's purchase motive this provision is extremely unlikely to bite.
  - f) A standard provision.

### **Rationale for Recommendations**

24. a) To assist in providing new homes for person's on the housing waiting list.
- b) To further a commitment within the new council plan.
  - c) To enhance the council's asset base.

### **Community impact statement**

25. The new council plan was the subject of extensive community consultation. The recommendations herein further the delivery of the *A Place to Belong* commitment set out in the plan.
26. The Equality Act 2010 requires the council in the exercise of its functions to have due regard to the need to:
- a) eliminate discrimination;
  - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
27. Relevant protected characteristics for the purposes of the Equality Act are:
- Age
  - Civil partnership
  - Disability

- Gender reassignment
  - Pregnancy and maternity
  - Race
  - Religion or belief
  - Sex and sexual orientation.
28. In considering the recommendations herein the cabinet must have due regard to the possible effects them on any groups sharing a protected characteristic in order to discharge its public sector equality duty. This is an ongoing obligation.
29. If the recommendations set out are approved, the council will purchase a retail building that will ultimately be demolished and new homes including ones to be let at council rent levels erected in its place. The new homes will greatly improve the quality of life of its residents some of which may have protected characteristics. When the time comes to terminate the lease of the retail unit to enable the housing scheme to proceed, it will be necessary for regard to had to any possible effects on groups with a protected characteristic arising from the action.

### **Financial implications**

30. The acquisition of the property will incur substantial capital expenditure and this is considered in detail in the closed version of the report.
31. As set out in paragraph 13 the property will generate an income between acquisition and termination of the lease that exists. This income will more than cover the council's holding costs for the property and the excess will be available to the housing revenue account.
32. Submitting the bid for the property and processing the legal documentation necessary to complete the purchase, has and will incur revenue costs but these will be met from existing budgets.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Strategic Director of Housing and Modernisation**

33. The site provides the opportunity to provide much needed new council housing as part of the programme to deliver 11,000 new council homes by 2043 and 2,500 by 2022. Once purchased, an options appraisal with be carried out to identify the most appropriate delivery route and redevelopment option.

#### **Director of Law and Democracy**

34. As set out in this report the property will be acquired pursuant to s120 of the Local Government Act 1972 which gives the council power to acquire land by agreement for the purposes of (a) any of the council's functions under the Local Government Act or (b) the benefit, improvement or development of the area. The report sets out at paragraph 16 how these requirements are met.

35. Section 9 of the Housing Act 1985 states that a local housing authority may provide housing accommodation by erecting houses or converting buildings into houses on land acquired by them for the purposes of the Housing Act.
36. Section 120(2) of the Local Government Act 1972 further provides that where land is acquired for a purpose and it is not immediately required for that purpose, it may be used for the purpose of any of the council's functions until it is required for the purpose for which it was acquired. This provision would authorise an "investment" use as envisaged by this report.
37. Taken together these provisions give the council adequate legal powers to acquire the property for housing and to use it for investment purposes in the interim period prior to construction of housing.

**Strategic Director of Finance and Governance**

38. Set out in closed version of the report.

**BACKGROUND DOCUMENTS**

Background Papers	Held At	Contact
Council Plan 2018/9 – 2021/22	160 Tooley Street London SE1 2QH	Paula Thornton 020 7525 4395
<b>Link (please copy and paste into your browser):</b> <a href="http://moderngov.southwark.gov.uk/documents/s78763/Report%20Council%20Plan.pdf">http://moderngov.southwark.gov.uk/documents/s78763/Report%20Council%20Plan.pdf</a>		

**APPENDICES**

Appendix	Title
Appendix A	Plan of 585 – 589 Old Kent Road

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Victoria Mills, Finance, Performance and Brexit	
<b>Lead Officer</b>	Kevin Fenton, Strategic Director Place and Wellbeing	
<b>Report Author</b>	Marcus Mayne, Principal Regeneration South	
<b>Version</b>	Final	
<b>Dated</b>	28 February 2019	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES/CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Housing and Modernisation	Yes	Yes
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	In closed version
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	28 February 2019	