

<b>Item No:</b> <b>14</b>	<b>Classification:</b> Open	<b>Date:</b> November 28 2006	<b>Meeting Name:</b> Executive
<b>Report Title:</b>		Reference to Executive: Business Continuity at the Elephant & Castle	
<b>Ward(s) or Group affected:</b>		Cathedral, Chaucer, East Walworth and Newington	
<b>From:</b>		Overview & Scrutiny Committee [25 October 2006]	

## RECOMMENDATIONS

1. That the executive notes the recommendations of Regeneration & Resources Scrutiny Sub-Committee [27 September 2006] as follows:
  1. The Sub-Committee notes that an integral part of the regeneration of the Elephant and Castle assumes that retaining as much of the existing local enterprise as possible will create a strong foundation from which this sector can be expanded within the areas of new development (as reflected in the adopted Supplementary Planning Guidance), and that the majority of businesses intend or hope to be trading at the Elephant and Castle after demolition of the existing shopping centre. The Sub-Committee is particularly aware that BME business may be especially vulnerable to the effects of the redevelopment.
  2. The Sub-Committee also notes that the Council has taken steps to support active promotion and marketing of the centre during its remaining life. It also recognises that some replacement business premises have now been secured at Castle Industrial Estate, Elephant Road [also known as the "Volvo Site"] under a planning gain agreement. However traders are disappointed with this agreement, with real concerns about the viability of a number of "affordable" units potentially available to traders. The Council needs to give due weight to these concerns when negotiating similar agreements in the Elephant & Castle area.
  3. The Sub-Committee takes the view that, in light of recommendation 1 above, traders are rightly disappointed that discussions have not moved forward since the Sub-Committee's meeting on 12 January 2006. Local businesses contribute to the well being of the local community and should be treated on an equal footing with other stakeholders.
  4. Moving forward, the Sub-Committee strongly recommends that the Executive (at such time as it considers the Strategic Director of Regeneration's anticipated report on business continuity at the Elephant & Castle in November 2006) takes action in the following three key areas in which potential exists to assist the business community, i.e.

- (i) The Council should secure further replacement business premises with “affordable” rents at the earliest opportunity, taking full account of the timeframes for their occupation and the viability of the trading situation for these individual units in relation to the development of their surrounding environment.
- (ii) A comprehensive financial package should be worked up to specifically cover relocation costs.
- (iii) The Sub-Committee believes there will come a time before demolition of the existing shopping centre, at which trading will become markedly more difficult. No definitive legal reason has been put forward as to why the Council’s well-being power under the Local Government Act (2000) could not be used to provide assistance during such a transitional period at the Elephant and Castle.

This power of well-being, intended to promote the economic, social and environmental well-being of those living in, working in or visiting a local area, has to date been applied by other local authorities in respect of a number of unique regeneration projects. The Sub-Committee recommends that (subject to legal advice) the Council explores the application of this new power to provide business continuity at the Elephant and Castle.

- 5. The Council should ensure that any assistance proposed under the power of well-being is developed well in advance and available swiftly to relevant traders at such time as it is required by them.
- 2. That in accordance with the Council’s constitution the Executive provides a written response to these scrutiny recommendations within two months.

**Executive’s response to Scrutiny**

- 3. In anticipation of a full response to scrutiny’s recommendations by the Strategic Director of Regeneration, the executive may wish to make an interim response to scrutiny noting the sub-committee’s recommendations and asking officers to continue to consult on the issue of business continuity at the Elephant & Castle.

**BACKGROUND INFORMATION**

- 4. Between 2005-2006 the Regeneration and Resources Scrutiny Sub-Committee met formally in public on six occasions and informally with traders on a number of others to consider the impact of regeneration on small businesses at the Elephant and Castle shopping centre.
- 5. The sub-committee made recommendations to the Executive on 11 October 2005, which body received and noted its report.

6. On 12 January 2006 the sub-committee interviewed Councillor Catherine Bowman on the regeneration of Elephant & Castle, including specific reference to the report *Generic professional, legal and survey advice for existing businesses – Elephant & Castle shopping centre SE1* commissioned from G L Hearn by Business Extra [October 2005]. The Sub-Committee asked for further comments including written guidance on the use of discretionary powers to assist traders.
7. Following the May 2006 local elections a new Regeneration & Resources Scrutiny Sub-Committee was re-established for the 2006-07 municipal year. The sub-committee subsequently met directly with traders on 12 September 2006 at the Elephant & Castle Shopping Centre in order to clarify the current situation and concerns prior to formal committee.
8. At the final scrutiny inquiry session on 27 September 2006 the Strategic Director of Regeneration was invited to respond to comments within the G L Hearn report of October 2005 in respect of powers available to the authority in this situation and to clarify outline the direction and anticipated content of his report to the Executive.
9. Stakeholders including: the Chairs of both the Elephant & Castle Traders Association and the Black & Minority Ethnic Tenants Associations; the Chair of Southwark's Chamber of Commerce, the Director of Business Extra; and the former Chair of Regeneration & Resources scrutiny sub-committee participated in this meeting, at the conclusion of which the sub-committee put forward its observations and recommendations as set out in paragraph 1 of this report.
10. On 25 October 2006 these recommendations were considered and formally ratified by the Overview & Scrutiny Committee without amendment.

#### **KEY ISSUES FOR CONSIDERATION**

11. These recommendations represent the conclusion of a review which started in 2005 since which time the sub-committee has worked within the statutory roles and responsibilities of all agents involved in the regeneration of the Centre to provide a platform for forward-focused discussion between local independent traders and officers around issues faced by traders. The Council's procurement process has now reached its final stage and selection of the developer is anticipated in January 2007.
12. The history of the scheme in its entirety has been well rehearsed in many previous Executive and scrutiny reports and will not be repeated here. In summary however, the starting point for scrutiny work was recognition of the challenges that regeneration of the Elephant & Castle presents to existing small and independent businesses in and around the Shopping Centre. The primary trader concern remains whether businesses will survive not only through the transitional period prior to 2010 centre demolition but through the subsequent physical upheaval of regeneration.
13. Subject to legal advice, and in the absence of known legal impediment and in light of its application by other local authorities in respect of number of unique regeneration projects, the sub-committee recommends the executive explore use of its well-being power under the Local Government Act (2000) to provide

business continuity during the inevitable transitional period at the Elephant and Castle. The Council has already determined that a strong independent small business sector is a policy objective and scrutiny believes application of these powers could provide a means to meeting this objective.

14. It is understood that business support/advice agency Business Extra has been commissioned by Southwark to prepare a report [further to that prepared in October 2005] for the executive including: issues around compensation; information to assist the authority to better define expected demand for this; and clarification of potential sources of assistance to traders. The first draft of this guidance was anticipated prior to submission of final bids in late October 2006.

## **LEGAL & FINANCIAL IMPLICATIONS**

15. Scrutiny recommends that the authority secures more replacement business premises with “affordable” rents, addresses business relocation costs via a comprehensive financial package, and explores the application of the Council’s well-being power under the Local Government Act (2000) to provide transitional assistance supporting business continuity at the Elephant & Castle. Accordingly, advice on the specific legal and financial implications raised by the sub-committee’s recommendations has been requested.

## **EQUALITIES IMPLICATIONS**

16. There are no additional equalities implications raised by this report.

## **CONSULTATION**

17. There are no specific consultation issues raised by this report.

## **SUPPLEMENTAL ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Regeneration**

18. Following the scrutiny meeting members and officers have had a number of meetings with the traders and the landlord of the shopping centre. The further information to be provided by Business Extra is still awaited. A full response to the recommendations will be included in the report to be brought forward to the executive as soon as possible.

### **Borough Solicitor**

19. This report asks the Executive to prepare a written response to the scrutiny recommendations. Those recommendations include consideration of the likely applicability of the Council’s well-being power (section 2(1) Local Government Act 2000) – paragraph 4(iii). It refers to the need for legal advice on the use of this power (paragraph 13).
20. The Acting Borough Solicitor confirms, as is referred to in paragraph 4(iii) of the report, that the well-being power gives local authorities ability, subject to the checks and exclusions set out in the statute and accompanying guidance, to take action to promote well-being where it is considered that this will achieve any one or more of the following three objectives:

- The promotion or improvement of the economic well-being of their area;
  - The promotion or improvement of the social well-being of their area;
  - The promotion or improvement of the environmental well-being of their area.
21. Further advice from the Borough Solicitors department will be provided on the Council's ability to use this power. That advice will be given on the response to this report, as set out in any report requested by the Executive as a result of the current report. Advice will also cover other relevant legal issues such as the law governing business tenancies as contained in Part 11 Landlord and Tenant Act 1954 as amended.

## BACKGROUND DOCUMENTS

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Generic professional legal and survey advice for existing small businesses - Elephant & Castle Shopping Centre, London SE1, G L Hearn for Business Extra [October 2005]	Business Extra Limited, 175a Walworth Road, London SE17 1RW	Patrick Blunt T: 0207 701 001 <a href="http://www.bizextra.biz">www.bizextra.biz</a>
Reference to Executive: continuity for small businesses at Elephant & Castle [11 October 2005], Regeneration & Resources Scrutiny Sub-Committee	Scrutiny Team Rm 3.16, Town Hall, Peckham Road, London SE5 8UB	Lucas Lundgren Scrutiny Project Manager T: 0207 525 7224
Powering up: making the most of the power of well-being, Local Government Association [December 2003]	Local Government Association, Local Government House, Smith Square, London SE1P3HZ	LGConnect T: 0207 664 313 <a href="http://www.lga.gov.uk">www.lga.gov.uk</a>
Regeneration & Resources Scrutiny Sub-Committee agendas and minutes <a href="http://www.southwark.gov.uk/YourCouncil/AgendasMinutes/RegenerationResourcesMeetings/">http://www.southwark.gov.uk/YourCouncil/AgendasMinutes/RegenerationResourcesMeetings/</a>	Scrutiny Team Rm 3.16, Town Hall, Peckham Road, London SE5 8UB	Lucas Lundgren Scrutiny Project Manager T: 0207 525 7224

## AUDIT TRAIL

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<b>CONSULTATION WITH OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Acting Borough Solicitor	Yes	Yes
Strategic Director of Regeneration Paul Evans	Yes	Yes
Director of Finance Duncan Whitfield	Yes	No