

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 11/3/03	<b>MEETING NAME:</b> Executive
<b>Report title:</b>		<b>Compulsory Purchase of land and property within Bermondsey Spa regeneration Scheme not under the Councils Ownership</b>	
<b>Ward(s) or groups affected:</b>		Riverside/Grange	
<b>From:</b>		Strategic Director Regeneration	

### **RECOMMENDATION(S)**

1. That Executive resolve to make a Compulsory Purchase Order in accordance with section 226 of the Town and Country Planning Act 1990 and any other appropriate powers, for the acquisition of any and all property interests as required not within the Council's ownership in the Bermondsey Spa Regeneration Area as defined in the Bermondsey Spa Master Plan.

### **BACKGROUND INFORMATION**

2. As part of an original review of Council Estates for the Southwark Estate Initiative, a large area of Council owned land was identified containing derelict and underused sites, poor Council housing and retail units. In addition, other opportunities were identified on sites not within the Council's freehold ownership.
3. All the sites were situated close together and a decision was taken to look at the area strategically rather than allowing piecemeal development to occur. An opportunity presented itself where the Council could take the lead in shaping development in the area to help ensure the outputs contributed towards wider Council objectives.
4. In order to look at the individual sites as one distinct area, consultants were instructed to define a boundary and produce a study of development opportunities that linked Council objectives with the wider aspirations of the local community and businesses as well as Government guidance on sustainability and urban design.
5. The report put forward a Masterplan within a defined area and proposed that it be named the Bermondsey Spa Regeneration Scheme (BSR).
6. The Masterplan was reported to a meeting of the Council on 18th October 2000 where it was approved. The Masterplan labelled individual sites within the regeneration area. The report asks for necessary CPO s to be carried out within these sites for any and all property interests not within the Councils ownership.
7. The Masterplan identified four core objectives to this project:

- To Better the Area.
  - To Shape the Big Picture.
  - To Encourage Community Development.
  - To Optimise Council Land-holdings.
8. The intent of the proposals was that the individual sites would be disposed of for development under the criteria laid down on the Masterplan. This was to ensure the overall objectives could be met and to enable part of the capital generated to be re-cycled back into the local community.
  9. The project has now moved forward and a number of the sites have reached various stages of the development process.
  10. The Council owns the majority of the freehold interests of the properties located in the Bermondsey Spa Regeneration Scheme area shown in the Masterplan. However in order for the Council to progress the scheme it is essential that outstanding property interests not within the Councils ownership be acquired.
  11. The Property Division has already instigated negotiations over the acquisition of some of these interests. However, whilst these negotiations have been productive (with some interests already acquired), there is no guarantee of success on reasonable terms resulting in the need to seek powers of Compulsory Purchase.
  12. Reports agreed by councillors for Compulsory Purchase of any and all property not within Council ownership for sites C and G identified within the Bermondsey Spa Masterplan also for site F the Dickens Estate.

## **KEY ISSUES FOR CONSIDERATION**

13. The interests that may need to be acquired include both residential long leaseholds and business tenancies in addition to those freeholds in the ownership of third parties, restrictive covenants, over sail rights and other rights
14. Given that negotiations are proving difficult in some cases and these acquisitions are essential if the BSR project is to progress, a Compulsory Purchase Order (CPO) is required should these continue to be unsuccessful. The potentially long process involved in securing CPO powers makes it prudent to seek these in advance of the scheme as it can potentially take up to 18 months to confirm a CPO. The stages involved in this are:
  - Council resolution to make a CPO
  - Preparation of the CPO
  - Publication of notices prior to submission of order
  - Submission of order to Office of Deputy Prime Minister
  - Possible public inquiry
  - Confirmation/modification or rejection of the order
  - Publication of notices detailing decision
  - Execution of powers

Members should be aware that the making of a CPO does not preclude parties from reaching a negotiated agreement and indeed “threat” of a CPO can often distil some reality and purpose to negotiations.

15. These acquisitions will help ensure the schemes success, which will remove sub-standard, poorly designed and unsightly housing stock and business units to replace them with a modern mixed-use development incorporating the latest techniques in construction and urban design.
16. If these interests remain outside of the Councils ownership, the overall BSR will potentially fail resulting in the loss of substantial capital receipts and the ability to fund major public realm improvements.
17. The final factor is that central Government is currently reviewing the ‘right-to buy’ legislation and this has resulted in general applications across the Borough almost doubling. The Deputy Prime Minister has indicated that the review may include suspending the legislation in certain areas and if this is confirmed a further increase in the number of applications is expected.

### **Policy implications**

18. The resolution to seek compulsory purchase powers will have no policy implications. However the eventual re-development of the area will link in with the following Council and Government policies:

#### 19. Council and Corporate policy

- The Council’s commitment to regeneration and sustainability in housing as demonstrated through the 1998-2005 Southwark Housing Strategy.
- Recent planning policy in the form of the Councils review of the Unitary Development Plan where some of the most important issues being developed are concentrating development, higher densities, new housing, improving environmental quality and promoting mixed use development.
- Generation of substantial capital receipts will be generated to help the Council fund its Capital Programme which benefits all services.
- New developments in the area will incorporate the latest urban design thinking aimed at reducing crime and increasing the use of sustainable and environmentally friendly building techniques.

#### 19. Government policy

Development proposals link in with wider Government policy and advice such as the Urban White Paper as well as the Mayor of London’s Spatial Development Strategy. The key aims of these can be summarised as:

- To guide local authorities and investors to use land in a more sustainable manner

- To reuse 'brown-field' sites (sites previously built on).
- To increase habitation densities to cater for increased housing demand.
- To increase diversity in terms of land use, social and economic mix.

## **Agenda 21**

20. The resolution to seek compulsory purchase powers will have no agenda 21 implications. However, the eventual redevelopment of the area will produce buildings using the latest sustainable building techniques and urban designs.

## **Effect of proposed changes on those affected**

21. There are no direct implications of the report's recommendations on the Council's Managing Diversity and Equal Opportunities Policy. However it is considered that the overall objectives of the Bermondsey Spa Masterplan, the provision of a mixture of affordable housing, new retail and community facilities, new nursery provision and GP facilities assists the Council in achieving it's objectives in this area.

## **Resource implications**

22. The potential cost of acquiring these interests will be subject to several heads of claim as shown below:

### Residential tenants:

- Open market value of leasehold interest
- Home loss compensation (for owner occupied properties only)
- Disturbance compensation
- Professional fees

### Business tenants:

- Capital value of leasehold interest
- Disturbance compensation
- Possible re-location expenses

### Third party freehold owners:

- Market value of interest

## **Budget issues**

20. The purchase of properties within sites contained within the Bermondsey Spa Regeneration area will be funded from a budget to be identified within the capital programme in 2003/04 and future years.

## **Staffing issues**

24. The management and delivery of this scheme will be dealt with by the Development and Regeneration business unit within the Council's Property Division. There are no further resource implications resulting from the above recommendations.

### **Consultation**

25. Extensive consultation with the local community and internal departments was undertaken during the production of the original Masterplan for the area.
26. Further consultation has already been undertaken with the development of a number of the individual sites. A working group consisting of local councillors, residents, business owners and health and education representatives has been created and helps to inform the decision making process. In addition, public exhibitions of development proposals have been held to further engage the local community.
27. In addition to this public consultation if valid objections are made to the Office of the Deputy Prime Minister regarding the CPO and the Council is unable to secure the withdrawal of these, there will be a local public inquiry.

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

#### **Borough Solicitor & Secretary**

28. The Executive is recommended to authorise the making of a compulsory purchase order (CPO) in respect of a number outstanding property interests not under Council Ownership. The Council has a number of statutory powers which enable it to acquire land on a compulsory basis, subject to confirmation of the CPO by the Secretary of State.
29. Section 226 of the Town and Country Planning Act 1990 enables the Council to acquire land which –
  - a) is suitable for and required in order to secure the carrying out of development, re-development or improvement; or
  - b) is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.
30. In considering whether land is suitable for development, re-development or improvement the Council is required to have regard to the provisions of the UDP, whether planning permission for any development of the land is in force and any other consideration which would be material for the purpose of determining an application for planning permission on the land. The report draws members attention to the provisions of the UDP, draft Southwark Plan, Bermondsey Spa Masterplan and the consultation draft of the Bermondsey Spa SPG, all of which are relevant for these purposes.
31. Acquisition under planning powers has advantages in the context of a large redevelopment scheme as it facilitates use and development for a range of

purposes, rather than, say, acquisition under housing powers where the ultimate use and redevelopment of the land would have to be for housing and ancillary purposes.

32. Members should note that the various interests existing within the Bermondsey Spa Regeneration Area in the Bermondsey Spa Masterplan constitute "possessions" for the purposes of Article 1 of the First Protocol to the European Convention on Human Rights, which is incorporated into English Law by the Human Rights Act 1998. The Act provides that no person shall be deprived of his possessions, which includes a leasehold or freehold interest in land "except in the public interest and subject to the conditions provided for by law and by the general principles of international law." Acquisition under a compulsory purchase order, with the right to object and make representations to the Secretary of State and, in appropriate circumstances to the courts, would not be a breach of the Human Rights Act.
33. In agreeing the recommendations contained in the report, members are advised that they should be satisfied that the land is required for the purposes set out in section 226 of the Town and Country Planning Act 1990 and that the acquisition is in the public interest.

### **Director of Housing**

34. There is requirement to serve a Compulsory Purchase Order on leasehold interests in the Bermondsey Spa area to protect the interests of the Council if negotiated settlements cannot be agreed. It would be expected however that the leasehold interests on Housing Revenue Account land would be settled without this action.
35. Housing will forward-fund the acquisition of leasehold interests prior to the capital receipts being available from the Bermondsey Spa site sales.

### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Property Division file	Property Division. Chiltern House Portland St	Peter High 020 7525 5632
Bermondsey Spa Masterplan	Property Division. Chiltern House Portland St	Tim Thompson 020 7525 5422

**APPENDIX A**

**AUDIT TRAIL**

<b>Lead Officer</b>	<i>Paul Evans – Strategic Director of Regeneration</i>	
<b>Report Author</b>	<i>Toby Sowter – Projects Division</i>	
<b>Version</b>	<i>Draft</i>	
<b>Dated</b>	<i>27/02/03</i>	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Borough Solicitor & Secretary	Yes	Yes
Chief Finance Officer	Yes	No
Director of Housing	Yes	Yes
<b>Executive Member</b>	Yes	No
<b>Date final report sent to Constitutional Support Services</b>		





## **APPENDIX C**

### **AREAS DEFINED IN BERMONDSEY SPA REGENERATION AREA**

**DECLARATION OF RESPONSIBILITY FOR ENCLOSED REPORT**

Report Title: Compulsory Purchase of land and property within the Bermondsey Spa Regeneration area not within Council ownership

Committee/Sub-Committee: Executive

Date of Meeting: 11<sup>th</sup> March 2003

The enclosed report complies with guidance on format and presentation, is clearly and succinctly expressed and includes all relevant implications for Committee to take an informed decision.

Relevant implications have been taken into account as follows :-

(\* Tick as appropriate box for each category)

<i>Included</i>	<i>By Report Author/Lead Officer</i>	<i>In Consultation with relevant department</i>	<i>Concurrent Report</i>
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Legal Implications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Financial Implications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Personnel Implications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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I will ensure that either myself, the Report Author, or another Officer specifically nominated by the Chief Officer are available and able to take all questions on the Report at Callover and Committee/Sub-Committee.

Lead Officer

Name: Paul Evans Designation: Strategic Director Regeneration

Signed: ..... Contact No.: 55501

Date: .....

THIS FORM MUST BE COMPLETED BY AN AUTHORISED LEAD OFFICER IN RESPECT OF ALL COMMITTEE/SUB-COMMITTEE REPORTS