

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 17 <sup>th</sup> June 2003	<b>MEETING NAME</b> Executive
<b>Report title:</b>		Elephant and Castle – Procurement Arrangements for Development of Early Housing Sites	
<b>Ward(s) or groups affected:</b>		Borough-Wide	
<b>From:</b>		Directors of Housing and Regeneration	

### **Recommendation**

1. To agree the sequence of actions set out in paragraph 11 of this report as a means of taking forward the development of the early housing sites to provide new homes for Heygate residents.

### **Background**

#### **Relevant Council Decisions**

2. The Elephant and Castle scheme is intended to create a new town centre containing new commercial and leisure facilities and over 4000 new homes in an environment which aspires to Central London quality. To achieve this the Council has agreed in principle to demolish the Heygate Estate and to consolidate it's site with further land holdings released by the removal of the Elephant and Castle shopping centre and the re-working of the road network. The local population is being actively assisted to secure the maximum possible benefits from this change through programmes managed under the Elephant Links SRB Partnership.
3. Local people particularly those living on the Heygate estate have broadly supported these plans. The inevitable uncertainty has been reduced by the Council's adherence to the timetable that the Executive set as part of the Fresh Start proposals in July 2002. In order to maintain confidence it is essential that clear and unambiguous decisions are made by the authority at each critical point in the development programme.
4. In pursuit of these objectives the Executive has made a number of key decisions over the last 12 months:
  - a. July 2002 – Executive launches “A Fresh Start for the Elephant and Castle” and sets a work programme to advance the scheme.
  - b. November 2002 – Publication of deposit UDP, followed by draft SPG for the Elephant and Castle identifying the substantial mixed use development opportunity at the Elephant and Castle and supporting the Council's regeneration initiative.

- c. December 2002 – Executive endorses emerging development framework which identifies an opportunity area with the capacity for substantial development at the heart of the Elephant. It requires the demolition of the Heygate Estate and Shopping Centre and the creation of a new interchange .
- d. February 2003 – Executive agrees to pursue consultation exercise based on proposed development of 20 sites in both Council and private ownership to provide new homes for Heygate residents. In addition Executive agrees to release the Council-owned car park on Wansey Street for a demonstration housing development. This is intended to establish a benchmark for the quality of the new homes that the Council will require for the Heygate re-housing programme and throughout the subsequent phases of development..
- e. April 8<sup>th</sup> 2003 – Executive agrees terms for a partnership with Corus Plc to co-develop Wansey Street site.
- f. Executive on the 22<sup>nd</sup> April endorses the Elephant and Castle Framework for Development for public consultation release. This document was launched on 6<sup>th</sup> June and will be consulted upon widely for the next three months.

#### The Heygate Estate

- 5. The demolition of the Heygate Estate, achieved through the rehousing of its residents, is central to the development proposals agreed on the 22<sup>nd</sup> April. In developing this rehousing programme the Council achieves three objectives of immediate importance.
  - a. The replacement of poor quality, unpopular, estate-based housing with high quality new units in mixed tenure developments as Phase 1 of the project i.e. delivering immediate and visible benefits to the local population in advance of the main commercial development.
  - b. An opportunity to bring early coordinated investment and improvement into locations around the core development area where there are clusters of early housing sites.
  - c. The assembly of approximately 25 acres of development land necessary to create the regeneration opportunity based on the town centre model endorsed by the Executive in April.
- 6. In 1999 the Council commissioned a Mori survey which reported that 70% of Heygate tenants expressed a wish to move to a new home. On the basis of that survey and the original E&C competition brief the Housing Committee agreed a cessation of lettings on the Heygate Estate with effect from early 2001. Subsequently, following the Fresh Start launch, Marketlink were commissioned to undertake a more detailed survey based on randomly selected, representative discussion groups to further test local opinion. The Heygate component of this work lent further support to the original view that there was very strong demand amongst Heygate tenants to move to new homes sufficiently close to the centre to benefit from the imminent regeneration of the Elephant and Castle area. Details of this exercise were reported to Executive in December 2002.

7. In order to deliver the strategic Elephant and Castle regeneration programme the Council needs to meet the local Heygate aspirations. The proposal at the core of the following proposals is therefore to offer a new home in the surrounding area to every secure tenant who wishes to remain in the locality.
8. There are in total 1212 units on the Heygate Estate. Currently there are 142 vacant units (subject to licences for homeless occupation) and a further 100 leasehold properties. Based upon the survey work previously undertaken and the door to door housing needs survey carried out in the last quarter of 2002, the best evidence is that around 70% of tenants will wish to remain in the Elephant and Castle area. In other words, of the remaining 1000 tenanted households we estimate that 700 will require a new home on one of the early development locations.
9. Therefore the Council needs to prepare a programme of construction of at least 700 new social rented homes to meet local rehousing demand arising from decant of the estate. The Council has previously agreed that all new residential developments should be mixed tenure. To achieve this ambition it is proposed to develop a total of approximately 1000 units to contain the 700 replacement units i.e. approximately 300 of the 1000 will be for sale and/or intermediate tenure.
10. The sites agreed by Executive for consultation in February have the capacity to accommodate a programme of this size subject to securing planning consents. The Council's commitment to ensuring no net loss of social rented housing will be achieved through the development of more social rented units as part of subsequent phases of development including those on the Heygate footprint.

### **Factors for Consideration**

#### Development of Heygate replacement units

11. The Executive is recommended to approve a sequence of actions intended to give certainty of scheme implementation to Heygate residents, to the surrounding area and to the wider market of the Council's capacity to deliver the project's objectives. In summary this may be set out as follows.
  - a. The Council reconfirms its decision to secure the demolition of the Heygate Estate.
  - b. The Council reaffirms its existing commitment to replace the social housing capacity of the Heygate estate i.e. 1100 net units.
  - c. The Council confirms its assurance that Heygate tenants will be offered priority allocations of the new replacement housing.
  - d. This new housing will be achieved by developing out the sites identified by the Executive in February 2003.
  - e. The Council will secure terms for the development, ownership, occupation and management of this housing that will satisfy tenant aspirations in respect of rent levels and other tenancy terms, and meet wider project objectives in relation to quality and sustainability – see 12-14 below.
  - f. This development will be achieved through the formation of partnerships between the Council, RSL's and housebuilders supported by an active programme of tenant involvement.

- g. The Council will undertake to support the partnership working arrangements by agreeing in principle subject to appropriate cost recovery arrangements for use of appropriate CPO powers to acquire all the Heygate property interests and to pursue supporting measures for leaseholders as set out 15-22 below.
- h. The Council will initiate a formal procurement exercise to create these partnerships. The scale of the work envisaged means that this process will have to be undertaken under EU procurement law.
- i. This procurement exercise will set out explicitly and in detail those matters more generally referred to paragraph (e) above.
- j. In addition to this development exercise, the Council needs to agree an allocations policy as set out in 21-22 below for the Elephant and Castle that will meet the needs of those tenants who may not wish to move to new accommodation in the surrounding area.
- k. Throughout all of these processes the Council will maintain active programmes of resident involvement and consultation as detailed in 23-24 below.

### Tenant issues.

12. The Heygate TRA has already had an extensive involvement in the process of identifying and evaluating housing options. This has included numerous detailed working sessions with Council officers, professional advisors and community representatives. Work has also continued with the Heygate Project Team which has held meetings with senior RSL representatives including the SouHAG group and has undertaken site visits to a number of RSL-sponsored residential developments. Appendix B sets out summary details of the options that have been considered and debated through these processes.
13. The officer and independent professional advisory team have concluded from the analysis of these options that a partnership-based approach including RSL's is the only feasible means of achieving the scale of new build required. Resources do not permit direct Council development (minimum estimated cost net of land £60M). In effect the choice is a simple but stark one. Either the Council retains the Heygate estate, despite its evident failings and unpopularity and relies upon the uncertain availability of repairs and maintenance resources to manage its continued decline. In such circumstances the commitment already made to a wider programme of regeneration at the Elephant and Castle would become practically achievable. The alternative is that a programme of the kind set out in this report is undertaken to achieve new homes developed through a partnership with RSL's under which the Council uses its position to secure tenancy arrangements that protect the position of existing tenants, and in so doing paves the way for a comprehensive programme of change.
14. However, it is acknowledged that tenants still seek assurances that the provision of new homes by one or more RSL's will be on terms that are acceptable to them. It is acknowledged that this development is envisaged at a time when Government intervention is already promoting convergence of local authority and RSL tenancy arrangements and rent levels which will remove historic differentiations. Nonetheless tenants will expect guarantees in relation to offer terms and these need to be unambiguously secured through the procurement process. As part of the on-going consultative process it is proposed to seek contractual undertakings from prospective RSL providers in relation to the following matters:

- Comparability with prevailing Local Authority rent levels and other service charges
- Equivalence in effect of tenancy agreements i.e. tenant protection arrangements.
- Tenant control/representation on the board of the relevant RSL body.
- Management service standards for repairs etc
- Establishing a local identity for the RSL body to be established. The intention is to negotiate for the creation of a wholly owned RSL subsidiary with a strong local character and a significant local tenant representation on the board.

#### Leaseholder issues.

15. Approximately 105 leaseholders have already been addressed through the consultation process, and further briefings specifically directed towards their interests will take place during the consultation period. As with previous development schemes in the Borough will be necessary to secure formal compulsory purchase powers to support the acquisition programme of leaseholder properties and the small number of commercial interests within the estate boundary.
16. In all cases negotiated terms are preferable to acquisition by compulsion and assurances have already been given to leaseholders that the Council will seek all reasonably possible means to protect the interests of leaseholders particularly where they express a preference to remain in the area.
17. The housing procurement arrangements may be capable of providing for the provision of shared ownership or other forms of retained equity sales to assist continued owner occupation by displaced leaseholders that have insufficient equity or borrowing capacity to make outright purchases on the open market. A number of financial models to support such development are currently being formulated and their incorporation will be encouraged as part of the procurement and selection exercise.
18. Independently of this a number of developers have approached the Council and the GLA with initiatives to create affordable non-rented residential accommodation and this may provide an additional avenue to meet the aspirations of Heygate leaseholders, and those tenants who wish to “staircase” into owner occupation.
19. Underlying these possibilities is the entitlement of each leaseholder to receive a sum in compensation equivalent to the market value of their leaseholding at the date of purchase, together with a statutory home loss payment and additional disturbance payment relating to the costs associated with moving to a new property.
20. Where a displaced leaseholder is unable to make a purchase of another property or to otherwise secure suitable accommodation it may be necessary for such households to be brought within the ambit of the allocations policy to be established for the Elephant and Castle [see below].

#### Decant/allocations policy.

21. The current boroughwide decant policy was adopted by the Executive in December 2002. This policy was developed by a cross party working group with tenant and leaseholder representatives and was subject to consultation with Neighbourhood Forums, project teams (including Heygate), Tenants Council and Leaseholder Council. The main features of the policy are:
- ◆ That replacement properties (either new or refurbished) for all tenants are provided as part of the scheme
  - ◆ Tenants within a decant scheme may be registered on the transfer list whilst awaiting decant. This transfer application is considered separately from the decant process. If no offer of alternative accommodation is made on the basis of the transfer application, then the tenant will be expected to move to the replacement property.
  - ◆ Tenants within a decant scheme who are under-occupying may qualify for a move outside the decant scheme under the Under-occupation Initiative. These tenants will then have choice of registering for a replacement property as part of the decant scheme or of registering for a larger property elsewhere in the Borough
  - ◆ Whether or not there is a choice of landlord for individual tenants will depend on the nature of each regeneration scheme
  - ◆ If a leaseholder is not in a position to purchase another property on the open market in Southwark, Management Needs Panel may determine to make an offer of accommodation
22. In order to adapt that overarching policy to the particular circumstances of the Elephant and Castle a number of additional provisions are proposed as follows:
- a. Every secure tenant on the Heygate estate is to be offered a nomination to a new RSL home of a size and specification suitable for their assessed housing needs i.e. no additional bedroom is to be provided in the case of a newly built unit. This arrangement will be secured as part of a nominations agreement to be entered into the selected RSL[s]. The nominations process would require a cut off date to be built in so that new properties were occupied without delay or offered to other households.
  - b. Where a tenant expresses a specific requirement to remain as a Council tenant one reasonable offer of alternative Council property elsewhere in the Borough will be made to that household.
  - c. In the case of a leaseholder who is demonstrably unable to secure alternative accommodation on the basis of the compensation due to be paid by the Council that household will be offered rehousing.

These provisions will be considered as part of the boroughwide allocations review which is currently underway.

#### Heygate Consultation programme

23. It is vital for the success of the procurement process that the Council regularly communicates with Heygate tenants and leaseholders, provides information to meet their needs and to address their concerns, and provides them with an opportunity to

influence the content of the project brief, and the selection of the preferred RSL/housebuilder consortium.

24. A detailed programme of activity will be developed to dovetail with the procurement timetable. However in general terms it is envisaged that the programme will include the following components:

- Tours to other projects for Heygate project team
- Seminars for Heygate project team
- On-going support for the TRA e.g. in the preparation of their own newsletter.
- Block by Block exhibitions and questionnaires as a means of providing information on a one to one basis.
- Access to council officers to allow tenants and leaseholders to discuss issues of concern on a one to one basis.
- Regular newsletters from the Council
- Discussion groups through Marketlink to test opinion
- Referencing of individual households to determine housing need and discuss rehousing options.

#### Development Issues

25. The forms of housing to be developed will need to comply with a range of specific requirements. December's Emerging Framework Principles and the subsequent draft Framework for Development contain core principles relating to the quality of environment and the incorporation of sustainability measures that are intended to apply to every element of the overall scheme. Because of the scale of the Elephant and Castle project opportunities exist here, which would be unavailable in many smaller schemes to build in best practice arrangements to ensure environmental responsibility throughout the development scheme and the future life of the environment and buildings created. It is therefore essential that the first phases of development are seen to embody these principles, and the procurement exercise can achieve this by giving contractual effect to partnership objectives. For the early housing schemes the specification will need to include the following:

- Incorporation of experience and lessons gained through the Council's involvement in the European ZEN project and the Wansey Street housing demonstration scheme.
- Provision of a sustainability specification based upon the criteria set by Executive when agreeing the draft Framework for Development in April 2003.
- Design guidance e.g. Southwark's design and specification guide, and the advice contained in the framework for development and supplementary documentation.
- Achievement of Lifetime homes standards,
- Adherence to Good contractor code,

#### Partnership/contractual issues

26. It is proposed to select RSL/Housebuilder partnerships to build out sites using a competitive selection process utilising RSL's drawn from a pool of potentially suitable organisations. The RSL's operating in Southwark have already been briefed in

general terms on the overall project, and have expressed considerable interest in becoming involved. Over recent years the high and increasing cost of land has severely inhibited the abilities of RSL's to develop in the SE1 area. Provided that the terms of the competition for early sites development are clear, attractive and seem to be backed a firm commitment on the part of the Council it is likely that there will be strong and competitive response to the invitation to establish partners.

27. The preference at this stage is for a consortium comprising a number of RSLs [possibly including smaller, more specialist providers] committed to working to a single performance specification under the umbrella of a single RSL owned management vehicle with a distinct local identity and strong tenant representation at board level.
28. This is in preference to a looser arrangement comprising RSL's operating independently but within an overarching strategic framework of a kind that has been used elsewhere. This is because of the need to ensure the protection of the interests of Heygate tenants through the entire development process and because the initial housing phase is a precursor to the subsequent phases of mixed-use and town centre development.
29. It is proposed to package sites within these partnership arrangements based around the 4 clusters identified in the report to 11<sup>th</sup> February Executive – Harper road, Rodney Road, St Mary's, South Newington
30. The Council's role within this approach would be to:
  - a. Establish the brief for a competitive process to select RSL/housebuilder [which will address in detail the points set out in the above sections], and manage the selection process.
  - b. Provide sites and site information, regulate development and negotiate S106.
  - c. Establish local regeneration programme objectives, co-ordinate funding to deliver projects.
  - d. Act as regeneration agency with responsibility for managing linkages with wider programme objectives.
  - e. Communicate information to Heygate tenants and leaseholders and consult with them on the content of the brief and selection of preferred consortium of RSL/housebuilders

#### Financial Implications.

31. The intention is to seek proposals from potential RSL and housebuilder partners which offer a package of development consistent with the project brief derived from combining the Council's land holdings, the value generated by private for sale and intermediate housing components together with other resources accessible by or through the RSL's e.g. social housing grant, other form of public housing grant, internal reserves or borrowing, finance raised on the open market etc.



32. The procurement invitation will set out the basis of bid in such a way as to make all of the above transparent and to encourage as competitive process as possible in the pursuit of the required housing targets.
33. Costs associated with the management of the selection process, including communications and consultation will be met from the Elephant and Castle Development Team budget.

#### Procurement timetable

34. Based on information from similar exercises it is currently estimated that the procurement process to select RSL/housebuilders could take between 6-18 months from publication of an OJEC notice to contract award. Further work will be undertaken with the Council's professional team to develop a robust timetable which will need to include realistic timeframes for the following key activities.

Preparation of detailed brief for consultation  
Heygate Consultation  
Agreed brief/performance specification  
Procurement process  
Select Consortia

#### Comments from the Borough Solicitor and secretary.

35. The Council will be required to comply with EU procurement regulations, this being dictated by the value of works to be undertaken and also the Council's legitimate expectation of setting specifications for both the construction of new social housing and the subsequent management of the new accommodation. The Council will need to take advice on the best route to adopt. Although, with such a complex scheme it is likely to be by way of either the negotiated procedure for works or the public housing scheme works procedure. The Council will need to review the advantages and drawbacks of these options and select on the basis of the Council's requirements for flexibility and compliance with the regulations.
36. The proposed scheme is in essence a disposal of Council land with the requirement for the Council's selected partners to re-provide social and affordable accommodation on that land. The consent of the relevant Secretary of State will be required for such disposal under Section 32 and/or Section 43 the Housing Act 1985 (HRA land) or on the basis that non-HRA land will be disposed of at consideration less than the best that can reasonably be obtained by the Council the consent of the Secretary of State under Section 123 of the Local Government Act 1972.
37. We would advise that some consultation is carried out for the reasons set out below. However, as this is not a large scale voluntary transfer then the Council is not required to comply with the specified consultation procedure set out in Schedule 3A of the Housing Act 1985.
38. In respect of the decanting of the Heygate Estate, the Council has indicated that it will probably consult with the existing residents and persuade them of the benefits of moving to new housing. It will, however, be necessary for the Council to adopt procedures to the move and anticipate a small minority of social tenants who may for

their own reasons not want to vacate their current dwellings. The Council should seek further advice on the best method of enforcing vacant possession against such minority of tenants. The Council's choices are either to serve notice of seeking possession under Schedule 2, ground 10A of the Housing Act 1985. Prior to serving such notices the Council will need to obtain the approval of the Secretary of State as specified by Part V of Schedule 2 of the Housing Act 1985. Further, the Council will have to comply with the Part V specified consultation procedure.

39. In the event that the Council after taking legal advice, opts to proceed by way of compulsory purchase orders against tenants then no prescribed statutory consultation procedure would have to be adhered to. The Council is however, a public authority within the meaning provided in the Human Rights Act 1988 and further consideration would need to be given in respect of the legitimate rights and expectations of its tenants to be consulted and involved in connection with the proposed schemes.
40. The Council in considering the possible use of CPO powers must do so on the basis of a full vires review, and an agreed indemnity basis with its RSL partners.
41. Those tenants and leaseholders who are decanted from the Heygate will have the right to a number of statutory compensation payments under legislation which includes the Planning and Compensation Act 1991 and the Land Compensation Act 1973.

Background Papers	Held	Contact
Deposit Southwark Plan 17.12.02 Executive Papers and appendices; Emerging Framework Principles for E&C [December 2002] and ; Early Development and Investment Opportunities [Feb 2003]; Framework for Development [Apr 2003]	All papers held at Elephant & Castle Development Team Coburg House 63-67 Newington Causeway SE1 6LS	Regeneration Dept - Jon Abbott 020-7525-4902 Housing Dept - Maurice Soden 020-7525-7810 <a href="mailto:jon.abbott@southwark.gov.uk">jon.abbott@southwark.gov.uk</a> <a href="mailto:chris.horn@southwark.gov.uk">chris.horn@southwark.gov.uk</a> <a href="mailto:Maurice.sden@southwark.gov.uk">Maurice.sden@southwark.gov.uk</a>

APPENDIX A – Audit Trail

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<b>Report Author</b>	Jon Abbott/Maurice Soden	
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<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	No	
<i>List other Officers here Strategic Director of Education and Culture, Strategic Director of Housing</i>		
<b>Executive Member</b>		Yes
<b>Date final report sent to Constitutional Support Services</b>	9 <sup>th</sup> June 2003	

## APPENDIX B - Assessment of delivery routes

- a. Council – Assuming 85k per unit the first phase Heygate re-housing programme (700 units) would cost £60m [not including land value] over 4 years. The impact on the capital programme would be enormous, tying up all resources on one programme in one part of the Borough and preventing the Council from delivering on other key commitments [school buildings programme, Decent Homes etc].
- b. ALMO – creation of arms length management organisation that would allow access for specific funding for investment in stock. Major new build programmes have not featured in the early development of the ALMO programme. Most of the Government funding identified to support the programme is targeted at meeting the Decent Homes standard. To establish an ALMO an authority requires a two star approval from Housing Inspectorate. Southwark has had an inspection of the repairs and maintenance service and was assessed as 1 star ('fair') service with 'promising prospects for improvement'. Establishing an ALMO for Elephant & Castle is not a realistic option in the short to medium term.
- c. HRA PFI. This is a relatively untested approach with only two HRA PFI contracts having been signed to date. The new criteria allows for new build under PFI arrangements. The process requires application on bidding round of which there have been two so far. If approved, there is a second stage assessment of the outline business case. The progress for the authorities involved so far has been very lengthy, but recent changes to the guidance have increased the potential for contract standardisation in order to reduce the timescales pre contract. Southwark has commissioned a feasibility study into PFI for acquired properties. If no PFI credits were available, there would be a considerable call upon the HRA to service loan repayments.
- d. RSL. Experienced agencies in building new social housing with successful track record in Southwark. Familiar with Council standards. Clear regulatory framework. Have access to own balance sheets and have borrowing capacity. Will build and manage new homes and therefore have a commitment to people who will occupy those homes. Only credible route for delivering programme in accordance with timetable and with available funding resources.