

Item No.	Classification: Open	Date: 7/10/03	MEETING NAME Executive
Report title:		Appropriation of Land for Planning Purposes at the Island Site, Long Walk, Bermondsey SE1	
Ward(s) or groups affected:		Chaucer	
From:		Strategic Director Regeneration	

1.0 RECOMMENDATIONS

1.1 That the Council resolves as follows:

That the land known as the Island Site be appropriated for planning purposes.

2.0 BACKGROUND INFORMATION

- 2.1 In 1994 / 1995, the Council recognised that Bermondsey Square should be a part of the regeneration of the Bermondsey Street Area and prepared an Action Plan for the development of the wider area with support from the Civic Trust. This was quickly followed by the setting up of the Bermondsey Street Conservation Area Partnership Scheme (CAPS), a partnership between London Borough Southwark and English Heritage to grant aid, enhancement and repair of the local historic environment to assist in the physical regeneration of the area. The Bermondsey Street Area Action Plan identified the Bermondsey Square Site as being a key site for the regeneration of the wider area. The Island Site, shown edged black in Appendix 1 is part of the Bermondsey Square development site.
- 2.1 The site provides an opportunity to act as a 'stepping stone' for investment, directing interest from areas close to the River Thames and London Bridge Station southwards into Southwark and towards the Elephant and Castle area. The development of the Square could also act as a catalyst for existing businesses and retail units in the Tower Bridge Road area.
- 2.2 In 1996 the Council employed a Regeneration Manager to progress the delivery of the action points identified in the Area Action Plan and to assist with the CAPS.
- 2.3 As the Bermondsey Square site was of such significance an open 'design competition' for development ideas was undertaken. Following the receipt of several architectural proposals and significant local consultation the 'brief' was revised and evolved into a 'development brief' and re-released to the development market (1998).
- 2.4 Seven development proposals were received and following significant local area consultation the Urban Catalyst Ltd. proposals were selected as the preferred option.

- 2.5 Members will be aware that the redevelopment of Bermondsey Square has been a key project in the regeneration of the Borough. In March 1999 the Council granted approval to the selection of a development consortium, following a 'development competition' and extensive public consultation, and on the 13th March 2001, contracts were exchanged with UC (Bermondsey) Ltd (Urban Catalyst), the preferred developers.
- 2.6 On 28th January 2003 the Executive Committee granted approval to make a Compulsory Purchase Order to obtain the rights and land required to progress the redevelopment of Bermondsey Square. Approval was also granted to appropriate land for planning purposes but this appropriation excluded the area known as the Island Site.
- 2.7 The planning application for the proposed development was approved on 3rd July 2003, subject to the following conditions:
- The provision of an agreed servicing strategy
 - Improvements to pedestrian access around Tower Bridge Road & Abbey Street
 - The instigation of an archeological design completion for the Island site
 - The provision of a Section 106 agreement under the Town & Country Planning Act 1990

3.0 KEY ISSUES FOR CONSIDERATION

- 3.1 The development agreement with Urban Catalyst imposes obligations on both parties in terms of site assembly and obtaining of necessary consents. The Island Site not currently zoned in the Southwark Unitary Development Plan adopted in July 1995. There is a need to appropriate the Island Site for planning purposes to ensure that there are no impediments to development to the Bermondsey Square site.
- 3.2 Although planning permission has been obtained for the development of the property, the proposed development may infringe upon the rights of light of adjacent properties. The development cannot proceed until issues concerning the loss of rights of light have been resolved. This is due to the risk of possible challenge to the development and the resulting grant of an injunction preventing construction. Whilst there is currently no threat to the development, it is considered wise to take whatever precautions are available to the Council. Section 122 of the Local Government Act 1972 enables local authorities to appropriate land held by them for one statutory purpose to other statutory purposes, including planning purposes.
- 3.3 Once such land has been appropriated it benefits from the provisions of section 237 of the Town and Country Planning Act 1990 which enables third party rights to be overridden in respect of development carried out in accordance with planning permission subject to the payment of compensation on a statutory basis: this effectively commutes the risk of litigation and possible injunction to the payment of damages.
- 3.4 Members should note that the liability to pay compensation will fall upon the developer, Urban Catalyst, but there is a residual liability on the Council should Urban Catalyst fail to pay. It is possible for the Council to enter into an agreement with a third party to secure an indemnity against this liability. It is

considered however in this instance that these rights will have a negligible value.

- 3.5 Members should note that if Urban Catalyst went into liquidation (and hence was unable to pay any compensation due) the Authority would seek an alternative development partner who would then take on any such obligations for compensation to rights of light.

4.0 POLICY IMPLICATIONS

- 4.1 Members should note that the development proposed for this site will ensure comprehensive, sustainable buildings, with a genuine mix of uses for this important site with an appropriate development density for this 'Central Density Zone' (as defined in Southwark's draft UDP – 2002). This is in line with stated Government intention articulated through such documents as 'Towards an Urban Renaissance' and 'Urban White Paper'.

- 4.2 It is not considered that there are any negative policy implications in connection with the recommendations made in this report.

5.0 RESOURCE IMPLICATIONS

- 5.1 There are no resource implications with regard to this recommendation.

6.0 CONCURRENT REPORT FROM THE CHIEF FINANCE OFFICER

- 6.1 The appropriation of land for planning purposes at the Island site is to assist the regeneration of the Bermondsey area. This may result in household in its vicinity making claims that their properties have been adversely affected by the development. It is the developers' responsibility to assess, negotiate and meet these claims for compensation. Members should be aware that where land is appropriated for planning purposes it benefits from the provisions of section 237 of the Town and Country Planning Act 1990 which enables third party rights to be overridden in respect of development carried out in accordance with planning permission subject to the payment of compensation on a statutory basis: this effectively commutes the risk of litigation and possible injunction to the payment of damages. As such there are not financial implications for the Council of the appropriation, as the developer is required to pay all claims directly.

- 6.2 The Council will only be liable to pay the claims in the unlikely event that the developer was insolvent. In these circumstances capital funding would have to be made available. To mitigate this situation the Council may seek insurance from the current developer and would it is currently anticipated sell the site to another developer. In doing so the cost of the claims would be reflected in the price of the land.

7.0 CONCURRENT REPORT FROM THE BOROUGH SOLICITOR

- 7.1 Land acquired or appropriated to planning purposes enjoys the benefits of the provisions of section 237 of the Town and Country Planning Act 1990 which effectively commutes third party rights and restrictions over that land to an

entitlement to compensation on a statutory basis thus removing the risk of court action for an injunction which could disrupt or delay the redevelopment.

7.2 Although the Council would retain a potential residual liability to pay such compensation even after it has disposed of the land, it is possible to enter into an agreement to obtain an indemnity against such payments either from the developer or another party such as an insurer. The Director of Regeneration advises at paragraph 3.4 of the report that any compensation in respect of third party rights or restrictions affected by the proposed development should be very limited.

8.0 EQUAL OPPORTUNITY IMPLICATIONS

8.1 The proposals outlined in this report will extend the Council's ability to tackle issues of inequality and disadvantage within the Borough by facilitating economic regeneration of the area.

9.0 LOCAL AGENDA 21 CONSIDERATIONS

9.1 The appropriation of land for planning purposes will facilitate the redevelopment of this site and will ensure the regeneration of a disused property in an important commercial area of the borough.

10.0 BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Departmental Files	Southwark Property Chiltern House Great Portland Street London, SE17 2ES	Chris Le May 020 7525 5480

Audit Trail

Lead Officer	<i>Paul Evans Strategic Director Regeneration</i>	
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Version	<i>Final</i>	
Dated	<i>29th September 2003</i>	
Key Decision?	<i>Yes</i>	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor & Secretary	Yes	Yes
Chief Finance Officer	Yes	Yes
<i>List other Officers here</i>		
Executive Member	No	No
Date final report sent to Constitutional Support Services		

Appendix 1

Plan showing land to be appropriated
for planning purposes.

