

Item No. 7.	Classification: Open	Date: 30 July 2007	MEETING NAME Major Projects Board
Report title:		Elephant and Castle Regeneration - Approval of preparation, seeking authorisation and use of Compulsory Purchase Powers in the Elephant and Castle Core Area. Appropriation of land within Elephant and Castle Core Area for planning purposes.	
Ward(s) or groups affected:		East Walworth, Cathedrals, Chaucer, Newington	
From:		Strategic Director of Major Projects	

RECOMMENDATIONS

1. That the Major Projects Board resolves to make a compulsory purchase order ("CPO") for the acquisition of all relevant property interests (i.e. freehold and leasehold interests) which are not already owned by the Council which it is necessary to acquire for the purposes of the Elephant and Castle regeneration) within the area edged red in the plan attached as Appendix 1 to this report ("the Core Area").
2. That subject to the terms of this Report the Major Projects Boards delegates to the Head of Property authority to make, progress and conclude the CPO and the acquisition of the relevant property interests, which shall include (but not exclusively):
 - (a) carrying out land referencing and preparing a schedule of the relevant property interests to be affected and serving any requisitions for information;
 - (b) deciding when the CPO should be made;
 - (c) preparing all necessary documentation, including the CPO, the Order Plan and the Statement of Reasons;
 - (d) submitting the CPO to the Secretary of State for confirmation;
 - (e) publishing requisite advertisements and notices in connection with the CPO;
 - (f) preparing any necessary public inquiry documentation;
 - (g) engaging professional consultants, solicitors and counsel in connection with the CPO and any public inquiry;
 - (h) dealing with any blight notices;
 - (i) agreeing compensation payable to the owners of relevant property interests and conducting proceedings in the Lands Tribunal in relation thereto;
 - (j) exercising the CPO in order to vest title to the relevant property interests in the Council (preparing and serving notices to treat and of entry, or making general vesting declarations, as appropriate, and entering into such other documents as are necessary to vest title in the Council);
 - (k) the doing of any other thing which is conducive or incidental to making, progressing, completing and exercising the CPO and acquiring the relevant property interests.

3. That the Major Projects Board authorises the Head of Property to acquire the relevant property interests either by agreement or by virtue of the exercise of compulsory purchase powers.
4. That the Major Projects Board authorises the entering into of a suitable indemnity agreement with the party to be selected as the Council's Master Development Partner to fund the acquisition and all other costs associated with the acquisition of interests within the Core Area other than the land shown coloured blue on the attached plan. This indemnity will be contained within the Regeneration Agreement or a separate agreement.
5. That the Major Projects Board authorises the Strategic Director of Major Projects in conjunction with the Head of Property to exclude a relevant property interest from the CPO where that relevant property interest is to be developed in accordance with the Elephant and Castle SPG or otherwise in a way which is consistent with the Elephant & Castle regeneration scheme.
6. That the Council make available the necessary funds to complete the acquisition of all third party interests where the Council is freeholder, currently estimated at £23.5m, of which £5m should be made available immediately (i.e. within financial year 2007/08).
7. That the Major Projects Board approves the appropriation of Council owned land (without dwellings) within the CPO Area from current departmental holdings (including housing) to holding for planning purposes.
8. That the Major Projects Board approves the making of an application to the Secretary of State for Communities and Local Government for the appropriation of Council owned land (with dwellings) within the CPO Area from current departmental holdings (including housing) to holding for planning purposes.

BACKGROUND INFORMATION

9. The recommendations in this report are in support of the regeneration of the Elephant and Castle.
10. Resolving to make a CPO for the Elephant and Castle regeneration scheme is the next step in securing title and vacant possession of development sites within the Core Area and follows logically from the decisions previously agreed at Executive beginning from the report "A fresh start for Elephant and Castle" approved on the 23rd July 2002.
 - An initial survey of public attitudes towards the Elephant and Castle and the prospects for its regeneration.
 - Publication of initial Framework for Development establishing the Council's general objectives for achieving comprehensive and sustainable redevelopment of the core area.
 - An extensive programme of in depth consultation and opinion testing accompanied by an intensive technical testing and development of the framework.
 - Initial scoping of the early housing programme including identification and consultation upon possible sites.
 - Adoption in February 2004 of the revised, detailed framework as Supplementary Planning Guidance (SPG).
 - Approval in July 2004 to proceed with procurement of RSL partners to develop the early housing sites.
 - Approval, in November 2004, of commencement of Commercial Partner Selection process

- Approval in February 2005 of a policy for Elephant and Castle Leaseholders
- Approval in July 2005 of the disposal of the Elephant and castle Early Housing Sites
- Approval in November 2005 for the stage 2 commercial partner selection process
- Approval in March 2006 for the stage 3 commercial partner selection process
- Approval in December 2006 for the stage 3 commercial partner selection
- Approval in January 2007 for a report concerning Business continuity at the Elephant and Castle
- Approval in March 2007 for the variation of terms of disposal of Elephant and Castle early housing sites

KEY ISSUES FOR CONSIDERATION

The Core Area

11. The Core Area reflects the boundaries of the Elephant and Castle Core Area (“ECCA”) designated as Site 39P and also includes the Elephant and Castle Lesiure Centre which is designated as site 41P within the Southwark Plan which the Council resolved to adopt on 27th June 2007 and is within the boundaries of the Elephant & Castle Development Framework SPG adopted in February 2004.
12. There are two distinct areas of land within the Core Area:
 - Land held freehold by the Council and/or located within the boundary of the Heygate Estate. This is called “Category A land” below, and is land where the acquisition of the land for the purposes of the development, is to be funded by the Council. This land is shown shaded blue on the plan attached as Appendix 2 to this report
 - Other land in 3rd party ownerships within the Core Area acquisition of which is necessary to facilitate the Elephant and Castle regeneration project. This is called “Category B land” below, and is land where the acquisition of the land for the purposes of the development, is to be funded by the Council’s chosen Master Development Partner (“MDP”), in the manner set out below.

Land Held Freehold By The Council And/Or Located Within The Heygate Estate (“Category ‘A’ Land”)

13. Category A land consists largely of residential private leasehold interests on the Heygate Estate; at present there are 115 interests remaining. These are households that either bought their properties under “Right to Buy” legislation or have purchased a property previously acquired under that legislation. All of these interests need to be acquired to be able to deliver vacant possession of the estate to facilitate the development.
14. There has been a programme of acquisitions on the estate running since May 2004. Some 60 private leasehold interests have been acquired in that time and these have been negotiated on the basis of receiving the same compensation package as would be payable under a CPO.
15. There are certain other elements of land which fall within Category A in addition to residential private leasehold interests on the Heygate estate. There are some private commercial leasehold interests and one private freehold interest (Crossways Church). There is also some other, non-housing land owned by the Council (such as highways land).

Leaseholder Rehousing Policy

16. Those residents whose residential private leasehold interests on the Heygate Estate are acquired under the proposals in this report, or whose interests have been acquired in the past, will be dealt with in accordance with the Leaseholder Rehousing Policy which was agreed at Executive on the 8th February 2005. The rehousing policy gives leaseholders who meet agreed criteria and who are unable to purchase on the open market in Southwark or more specifically the Elephant and Castle the opportunity to remain in the area. Where leaseholders wish to take advantage of the rehousing options, analysis of the leaseholders' financial situation including their assessed entitlement to compensation will identify which of the re-housing options are affordable and appropriate. This is set out in a detailed leaseholder policy that has been negotiated and agreed with leaseholder representatives. The rehousing options within the policy are as follows:-
 - a) Buying a property on the open market
 - b) Buying a shared ownership unit
 - c) Buying a retained equity unit
 - d) Comparative value transaction
 - e) Becoming a tenant within one of the new early housing site properties or within the Council's existing stock
17. The procedure for implementing the rehousing policy has been drafted and it is envisaged that a leaseholder referencing exercise, which will begin to identify which of the rehousing options leaseholders will qualify for, will commence later this year.
18. The costs of acquiring these interests is to be met from Council resources – further referred to later in this report

Third Party Land (“Category ‘B’ Land”)

19. In order to ensure the comprehensive development of the ECCA envisaged by the Southwark Plan and the Elephant and Castle SPG it is necessary to secure compulsory purchase powers in order to assemble all land necessary for redevelopment, since ownership is currently in disparate and fragmented ownership. Only through a comprehensive development can the aspirations of the Elephant and Castle SPG and the Southwark Plan be put into effect. The Council accordingly proposes to enter into a Regeneration Agreement with a MDP to carry out this comprehensive regeneration.
20. Inclusion of a relevant property interest within the CPO is referred to as “scheduling”. Initial scheduling is underway at present.
21. The acquisition, or progress of any steps towards acquisition, of any of the properties not referred to as Category ‘A’ Land above is subject to suitable indemnity provisions which will be contained in the Regeneration Agreement (or other document) between the Council and its chosen MDP – this ensures that the Council does not have to expend financial resources in promoting the CPO.

Resolution To Grant A Compulsory Purchase Order

22. It is proposed that Section 226(1) (a) of the Town and Country Planning Act 1990 (“TCPA”) is the relevant power in this instance for the purposes of compulsorily acquiring the interests required to progress the regeneration of the Elephant and Castle. The detailed application and use of S226 (1)(a) is set out further in the Legal Implications section below.

23. It is the Council's intention to make every effort to acquire voluntarily all of the relevant property interests (subject of course to the indemnity from the MDP in the Regeneration Agreement) rather than resorting to exercising the compulsory purchase powers recommended in this report. Such acquisitions would take place using the Council's powers under section 227 of the Town and Country Planning Act 1990 (TCPA).
24. Where interests are acquired by agreement for "planning purposes" (and are expressed to be acquired for that purpose) the Council will benefit from the provisions of section 237 TCPA. In summary, s237 TCPA enables third party rights to be overridden in respect of works carried out in accordance with planning permission subject to the payment of compensation (and subject to certain limited exceptions such as the rights of utilities). This effectively commutes the risk of litigation and possible injunction to the payment of compensation.
25. The terms of any development agreement will be drafted so that the liability for payment of any such compensation falls upon the Council's chosen commercial development partner. However, there is a residual liability on the Council under s237 TCPA should the developer fail to make payment to claimants. It is intended that the Regeneration Agreement will provide indemnity and security against this liability in addition to the general indemnity for CPO costs.
26. However, in the event that compulsory powers do need to be used to acquire relevant property interests, to avoid any unnecessary delay it is accordingly considered desirable to resolve at this point to give the Head of Property the delegated authority to make a CPO at the relevant time in the future. Although it would be premature actually to make the CPO at this point, it is useful for the Council to pass this resolution now because, coinciding as it does with the selection of the MDP, it will demonstrate to the market and to owners of the relevant property interests that the Council is ready and willing to use compulsory purchase powers to ensure the site is assembled to enable the comprehensive regeneration project to proceed.
27. The timing of the making of the CPO will need to be carefully co-ordinated with the grant of outline (or, more probably, hybrid) planning permission for the regeneration scheme, and also to some extent with the funding arrangements. This will be dealt with within the framework of the Regeneration Agreement, which will amongst other things contain a costs indemnity for the Council and will give the MDP a say in when the CPO is made.
28. Once the CPO is made, it has to be submitted promptly to the Secretary of State for Communities and Local Government (the Secretary of State) for confirmation. Notices will be sent to those affected by the CPO informing them of the making of the CPO and the CPO will be advertised in a local newspaper for two consecutive weeks. Any objection to the order can be made to the Secretary of State within 21 days from the date of notification of the CPO. In the event that objections are made to the CPO then, unless such objections can be negotiated away, the Secretary of State must hold a public inquiry at which the objections can be considered. An inquiry usually follows from submission of the CPO in about nine to twelve months (hence the need for the timing of the compulsory purchase, planning and funding arrangements to be carefully co-ordinated, especially in a complex scheme such as this).
29. If the Secretary of State is satisfied that there is a "compelling case in the public interest" for the confirmation of the CPO then the CPO will be confirmed either as submitted to the Secretary of State or with the Secretary of State's modifications. Thereafter, it can be exercised in either of two ways (by notice to treat/notice of entry procedures or by a general vesting declaration) in order to secure title and possession of the relevant property interests.

Appropriation of Council owned land for planning purposes

30. The Council owns land including land currently held for housing purposes within the ECCA which is due to be developed in the regeneration of Elephant and Castle. The Housing Department (as it then was) decided to cease re lettings on the Heygate Estate in January 2001. The development of this housing land and of other Council owned land, subject to its vacation, is now required to enable the regeneration scheme to proceed.

31. In order for the Council to develop the site for purposes other than those for which the land is currently held (which is largely housing purposes), the Council needs to appropriate the land currently held for housing or other purposes, for planning purposes. The Council has the powers to do this either under section 122 of the Local Government Act 1972 (where there are no dwellings) or by obtaining the consent of the Secretary of State by making an application under section 19(2) of the Housing Act 1985 (where there are currently dwellings on the site). Before the appropriation occurs, the Council's Housing and Housing Directorate will be required to declare the land so held by them as surplus to operational requirements.
32. Such land as is owned by the Council within the Core Development Area which is due to be developed in the Regeneration of Elephant and Castle; but which is not housing land will also need to be appropriated to planning purposes.
33. This report seeks the approval of the Major Projects Board to the appropriation of land. The actual appropriation will not take place until shortly before any disposal of the land. Once such land has been appropriated for planning purposes it benefits from the provisions of section 237 TCPA (see earlier in this report for a description of the effect of s237 TCPA).

Policy Implications

34. The Elephant and Castle Regeneration Programme is a key project within Southwark Council's Corporate Plan 2006/2007. The plan states that progression of the Elephant and Castle along with the Council's other major Regeneration projects is a key corporate objective.
35. The Executive approved "A Fresh Start for Elephant and Castle" in July 2002. Following extensive consultation and scoping exercises, the Development Framework for the Regeneration of Elephant and Castle was adopted as Supplementary Planning Guidance in February 2004 and will be included in the Local Development Scheme as required under the transitional arrangements to the new planning framework under the Planning and Compulsory Purchase Act 2004. The Core Area is within the boundaries of the ECCA designated as site 39P and includes the Elephant & Castle Leisure Centre which is designated as site 41P within the Southwark Plan which the Council resolved to adopt on 27th June 2007 and is within the boundaries of the Elephant & Castle Development Framework SPG adopted in February 2004. The Major Project Board's agreement to the recommendations of this report is essential if the proposed scheme is to be implemented.

Community Impact Statement

36. Upon confirmation of the Compulsory Purchase Order by the Secretary of State the Council will be able to use its statutory powers to acquire those non-Council titles to land and associated rights within the Core Area required for the delivery of the Elephant and Castle SPG. The SPG was informed by a thorough going analysis of all aspects of the local area. In particular the preparation of the framework had regard to the previous single regeneration budget data collection and programme design which assessed both the problems and opportunities which exist at the Elephant and Castle.
37. The effect of negotiated or compulsory acquisitions will be to dispossess private persons and organisations from their rights in the land. Appropriation of the land will also affect people's rights in the land (see above). These are necessary processes to ensure the redevelopment and regeneration of the site can proceed notwithstanding multiple interests in the site. This is considered acceptable where the proposals are in the public interest and where, as in this case, the advantages of regeneration substantially outweigh the disadvantages to those dispossessed and are proportionate in that context.
38. The intended use of compulsory purchase powers by the Council at the Elephant and Castle has been well-documented and advertised through newsletters and briefings to residents and

stakeholders. It is a statutory requirement (as governed by Compulsory Purchase legislation) of the Council to advertise the Public Inquiry which will consider the confirmation of the Compulsory Purchase Order. Any person affected by the Compulsory Purchase Order will be entitled to represent any objection or concern they have at the Public Inquiry.

39. To elaborate further, the overall purpose of the Elephant and Castle project is to address the poor quality of housing, infrastructure, public facilities, and local economic engagement by building upon the strengths of its population, location, and accessibility. The Elephant and Castle is extremely diverse in terms of its ethnicity and its socio economic profile. The scheme is designed to maintain this variety through the creation of a mixed use mixed tenure development that retains as many as possible of the existing population. Through investment in education training and skills programmes [some of which have now been operating for over 5 years] the Council and the LDA are actively supporting local people and businesses to take advantage of the opportunities that will flow from the regeneration programme. By these means it is intended to maintain the variety and diversity of the Elephant and Castle which are defining characteristics of the area whilst addressing the current deprivation indicators.
40. The overall Elephant and Castle Programme continues to be accompanied by continuous consultation, communication and engagement activities including exhibitions, market opinion surveys, newsletters, research programmes, and detailed housing referencing centred on the Heygate estate. The project team are undertaking a full Equalities Impact Assessment (EqIA) of the scheme within the overall corporate programme for production of EqIA's. The scope of the exercise includes the SPG framework and the processes associated with the scheme including rehousing, communication, and procurement. The exercise also addresses the Council's intended project outcomes, monitoring and review arrangements.
41. The proposed CPO will enable the acquisition of all interests in the Core Area, including business premises. A particular area of activity has been the Council's Elephant and Castle programme to help retain local, independent businesses within the area. The Council has been actively negotiating rights of first refusal for existing businesses to move to newly built retail premises. This is a direct means of supporting continuity of service provision to local people and it represents an extension of the approach taken to Heygate residents which seeks to encourage them to take up offers of new homes generated through the Elephant and Castle Early Housing programme. None of the arrangements so far put in place will be adversely affected by the recommendations in this report; in fact the Council's draft Charter fully anticipates the confirmation of compulsory purchase powers.

Resource Implications

42. There are no direct staffing implications arising from this early development.
43. The cost of acquiring the non Council interests within the Heygate Estate will need to be met through the Council's capital programme.
44. All other property interests within the ECCA, not contained within the Heygate Estate, which it will be necessary to acquire for the regeneration of Elephant and Castle will be funded through an indemnity with the Council's selected commercial development partner.

Financial Implications

45. It is currently estimated that the cost of acquiring the remaining interests will be in the region of £23,500,000. A spend profile is set out below. This is based on the information within the Report to Executive dated 19th June 2007. It will be noted that the proposed spend for 2007/08 is higher than the £5m referred to in paragraph 6 of this report. It is considered that this is acceptable in order to meet timescales as commitment can be made to purchase in 07/08 and actual completion could take place in 08/09

SPEND PROFILE - HEYGATE ACQUISITIONS (£m)	2007/08	2008/09	2009/2010	TOTAL
	9.25	11.25	3.0	23.5

46. The above figure is based on the current market value of the remaining leasehold interests in the Heygate Estate with allowance made for home loss payments, fees and disbursements. As the acquisitions will take place over a period of approximately 2¼ - 3 years this figure will alter according to property market fluctuations and Members should recognise that there may be the need to report back with revised funding estimates during the course of the project.
47. Should compulsory purchase powers be required to acquire leasehold interests the Council will face increased costs in legal fees and surveyors fees to utilise their statutory powers.

Legal Implications

48. Section 226(1)(a) of the TCPA is the appropriate power in this instance to secure the compulsory acquisition of properties within the Core Area. Section 226(1)(a) enables authorities to acquire compulsorily any land in their area:

"if they think that the acquisition will facilitate the carrying out of development, redevelopment, or improvement on, or in relation to, the land".

49. Section 226(1A) then states:

"But a local authority must not exercise the power under [Section 226(1)(a)] unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects-

the promotion or improvement of the economic well being of their area;

the promotion or improvement of the social well being of their area; or

the promotion or improvement of the environmental well-being of their area."

50. It is considered that the use of this section is therefore appropriate having regard to the Council's aspirations for the comprehensive redevelopment of the Elephant and Castle. as set out in the Southwark Plan and the Elephant and Castle SPG and also in the Council's 2005-2008 Corporate Plan. The interests to be acquired by CPO are required in order to permit the redevelopment and regeneration of the area to take place. The comprehensive redevelopment will promote and improve the economic, social and environmental "well being" of both the Core Area itself and the surrounding area. Within a town centre context it will provide much needed housing, employment-generating and leisure facilities, high quality public open space, a better standard of accommodation for residents and will help to create a sustainable and diverse community, together with a range of commercial uses which will assist in attracting investment and growth opportunities to the area.
51. Government guidance in Circular 06/2004 ("Compulsory Purchase and the Crichel Down Rules") sets out the circumstances in which local authorities may use compulsory purchase powers. It recognises that CPO powers under the 1990 Act provide a "positive tool" to local authorities in assisting them to acquire and assemble land where it is necessary to implement the proposals set out in their community strategies.
52. The overriding requirement of the Circular is that there should be a "compelling case in the public interest" for the CPO. The more comprehensive the justification for compulsory purchase which the acquiring authority can present, the stronger its case will be. The Circular

advocates progressing and justifying a CPO against a clear strategic framework and recommends that the acquiring authority is able to confirm there are no planning hurdles or other impediments to the implementation of the scheme.

53. For the purposes of confirming a CPO, the guidance identifies the considerations which will be taken into account by the Secretary of State in making such a decision, including:
- whether the purpose for the land being acquired fits with the adopted planning framework for the area;
 - the extent to which the proposed plan will contribute to the achievement of the promotion or improvement of the economic social or environmental well being of the area;
 - the potential financial viability of the scheme for which the land is being acquired, a general indication of funding intentions and commitments from third parties should suffice
 - whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by other means.
54. The Elephant and Castle is specifically identified in the Southwark Plan as a regeneration area and is the subject of a site specific detailed development framework in the form of the Elephant and Castle SPG adopted by the Council in 2004 after an extensive public consultation process. The London Plan also identifies the Elephant and Castle as an Opportunity Area – an area for new and improved homes and more commercial opportunities. In addition, the Council has since November 2004 been undertaking a series of high profile public procurement processes to select an MDP to undertake the comprehensive redevelopment of the Elephant and Castle regeneration scheme. The likely economic, social and environmental benefits of the regeneration scheme are described fully elsewhere and on this basis it is therefore considered that the Council has extremely good grounds on which to found a successful CPO.
55. It is important that when the CPO is submitted to the Secretary of State for confirmation that the Council can show that there are no impediments to the implementation of the regeneration scheme. This includes any planning impediments and any funding impediments. This will require coordination with the MDP within the framework of the Regeneration Agreement.
56. As is already set out in the report, officers will continue to seek to negotiate the acquisition of interests by agreement rather than relying solely on the compulsory acquisition powers available. Section 120 of the Local Government Act 1972 contains wide powers for local authorities to acquire land by agreement for any of their statutory functions or for ‘the benefit, improvement or development of their area’. Section 227 of the TCPA also enables a Council to acquire land by agreement for facilitating the carrying out of development, redevelopment or improvement and for the social economic and environmental well being of the area. Where land is acquired by agreement for planning purposes the Council can rely on s.237 TCPA (see above) It is considered therefore that there are adequate powers available to the Council to secure outstanding interests in the land by agreement.
57. Council officers have already served demolition notices on the Heygate Estate. This will ensure that no further residents are able to exercise their right to buy which will minimise the Council's exposure in terms of new interests being created in the site whilst the CPO is being prepared and progressed.
58. The initial stage of a CPO will be to ensure that the Council correctly identifies all necessary interests in the order land that need to be incorporated within the schedule of the order. Officers are currently in the process of appointing a referencing company to carry out this area of work.

59. In the event that the CPO is eventually confirmed, the subsequent stage would be to vest all necessary title in the Council. In these circumstances it is likely that the best means of doing so will be by way of the General Vesting Declaration (“GVD”) procedure. This is something that can easily be carried out by the Council's legal advisors as and when this stage is achieved. The GVD effectively transfers the title in the property and entitlement to possession of it to the Council.

Human Rights Considerations

60. The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights (“the Convention”).
61. In proposing this order the Council has duly considered the rights of property owners under the Convention, notably under the following Articles: *Article 1 of the First Protocol* This protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international law.
62. The Council has also considered the rights contained within Article 8 of the Convention, which protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interest of national security, public safety or the economic well being of the country.
63. The appropriate test when considering the operation of human rights legislation on the exercise of compulsory purchase powers is one of proportionality. In relation to these Convention rights the Council has been conscious of the need to strike a balance between the rights of the individual and the interest of the public. In light of the significant public benefit that would arise from the development of the Elephant and Castle it would be appropriate to make the CPO so that the relevant property interests can be acquired compulsorily if they cannot be acquired by agreement. Objections can be made against the CPO that will then have to be considered by the Secretary of State before she decides whether or not to confirm the CPO.

Consultation

64. Members will be aware that public consultation has been a corner stone of the preparation of the regeneration plans for the Elephant and Castle scheme throughout the project
65. The Elephant and Castle Development Team has been engaged with the residents of the Heygate Estate and their representatives since 2002 and continues to actively involve them through periodic exhibitions, regularly meetings with the Heygate Project Team and quarterly newsletters. With regard to the wider regeneration a continuous series of public consultation events has been held over the past 4 years culminating in the “Renaissance” consultation event in January 2007. The results of that consultation showed a 94% overall support from the respondents to the survey held during the exhibition over its 5 days duration (550 responses).
66. The status of the Elephant and Castle as a regeneration area was also extensively consulted on as part of the adoption process of the Southwark Plan. The area was adopted for consultation in the 2nd draft deposit of the emerging Southwark Plan in February 2004.

Identified risks and how the will be managed

67. The identified risks are:
- a. Inadequate capital and revenue support during the lifetime of the acquisition programme (Category A Land only)
 - b. Failure to enter into Partnership with Master Development Partner

- c. Secretary of State does not confirm CPO

Responses

- a. Please refer to concurrent report of the Finance Director
- b. Negotiations are currently ongoing. As with all commercial transactions there is an element of risk until contracts are entered into however the Council is not exposed to any financial risks as no acquisition work, or works that might expose the Council to such risks will be undertaken until such time as the indemnity agreement is concluded.
- c. Provided that the legal basis for the CPO is sound and all procedures are followed correctly confirmation of the order should be a matter of procedure. If there are objections that cannot be resolved prior to public inquiry the Inspector will make a recommendation to the Secretary of State based on all issues and there is always a small possibility, however unlikely, that the order may not be confirmed or may be confirmed with amendments. However, the selection of the Master Development Partner is a major factor in strengthening the Council's case for confirmation.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Finance Director

- 68. The terms of appointment of a preferred partner may have a bearing on the recovery of costs incurred by the Council in acquiring leasehold interests within the estate. Subject to the details of such terms as may be agreed, there may be timing mismatches between the Council's financial commitments and any capital payments receivable under the provisions of the Principal Development Agreement. This could lead to funding gaps for the Council, the durations of which will be more accurately assessable once the Master Development Partner selection has been made. However, such gaps will need to be managed by either short term borrowing or substitution of existing capital receipts earmarked for other schemes within the Housing Investment Programme. Any use of capital receipts currently earmarked for other schemes to bridge temporary funding gaps will need to be restored from the payments due from the selected partner. Any temporary borrowing or use of earmarked capital receipts will be reported to the Executive through the normal monitoring process to the Executive.

Strategic Director of Legal and Democratic Services

- 69. The powers under which the Council operates when taking and implementing these decisions are set out in the body of the report (see in particular "Legal Implications" above; paragraphs 30-32 in relation to the decision to appropriate Council-owned land; and paragraphs 59 – 62 in relation to the Human Rights Act). The report sets out in paragraph 31 that when making the decision to appropriate housing land, the Council is using its powers under either section 122 Local Government Act 1972 or by obtaining the consent of the Secretary of State by making an application under section 19(2) Housing Act 1985. The report makes it clear that such relevant consents will need to be obtained.
- 70. Part 3C of the Council's constitution reserved to the executive, decisions on acquisition of land and property which involve the use of compulsory purchase powers. The council assembly decided at its meeting on 27th June 2007 that executive committees have the power within the role and functions delegated to them to decide all matters reserved to the executive. This report describes how the proposals put forward are within the Elephant and Castle project. The Major Projects Board therefore has the power to take the decisions proposed, including the decision on the appropriation of land (including housing land).
- 71. It is essential that consultation with the residents is carried out before housing land is appropriated for planning purposes, because the appropriation could have significant effect on

the secure tenants of adjoining property. This exercise will need to satisfy the requirements of Section 105 of the Housing Act 1985: Consultation on issues of Housing Management. The report confirms at paragraph 32 that the actual appropriation will not take place until shortly before any disposal of the land.

BACKGROUND PAPERS

Background Papers	Held At	Contact
See paragraph 10 above for a list of previous decisions informing this report.	Coburg House, 63-67 Newington Causeway, London SE1	Paul Scaplehorn 020 7525 4909

APPENDICES

No.	Title
Appendix 1	The Core Area
Appendix 2	The Category A Land

AUDIT TRAIL

Lead Officer	Chris Horn – Project Director Elephant and Castle Regeneration	
Report Author	Paul Scaplehorn	
Version	Final	
Dated	19 July 2007	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Legal and Democratic Services	Yes	Yes
Finance Director	Yes	Yes
Executive Member	Yes	No
Date final report sent to Constitutional Support Services		20 July 2007