

Item No. 5.	Classification: OPEN	Date: February 19 2009	Meeting Name: Major Projects Board
Report title:		Sale of Site G – Spa Road Shops and residential accommodation - Bermondsey Spa	
Ward affected:		Grange Ward	
From:		Strategic Director of Major Projects	

RECOMMENDATIONS

1. That Major Projects Board notes and approves the principal terms set out in this report for the disposal of 80 -118 Spa Road, known as Site G Bermondsey Spa to Hyde Housing Association.
2. That Major Projects Board authorises the Head of Property to agree any variations to these terms that may be necessary to achieve the regeneration in the light of further negotiations and securing full planning consent provided the terms represent best consideration.

BACKGROUND INFORMATION

3. A plan is provided at Appendix A to this report. Site G comprises two parades of shops with residential above situated either side of Vauban Street including public highway at Marshall's Place and is shown edged red on the plan. The two blocks are identified as Phase 1 and Phase 2 within this plan.
4. The shop units within Phase 1 are vacant, boarded up and have suffered from flood damage internally. The whole block is subject to anti-social behaviour particularly in the common parts serving the residential areas. Phase 2 is also severely dilapidated although the shops are still trading. Appendix B contains photographs of the properties included in the site.
5. Site G is a key site within the Bermondsey Spa Regeneration Area and forms part of the Master Plan adopted in October 2000. The redevelopment of this site would contribute to the key objectives of that plan: *to better the area, to shape the bigger picture, to encourage community development and to maximise the value of the Council's land holdings*. It would offer an opportunity to enhance the street scene and the quality of both the retail and residential accommodation.
6. The Borough holds the freehold interest in the site except the parcel shaded pink on the plan (Appendix A) known as 90 Spa Road. On 25 September 2007 Major Projects Board approved the acquisition of the freehold interest in this shop together with the upper residential parts and also the leasehold interest in the maisonette known as 112 Spa Road through negotiation. The Major Projects Board delegated the negotiation and agreement of compensation terms for the acquisition of relevant interests to the Head of Property. The acquisition of 112 Spa Road has now been completed and negotiations are continuing to acquire 90 Spa Road.
7. In the event that negotiations are not successful, Major Projects Board also resolved, at the same meeting, to make a compulsory purchase order for the acquisition of the interests set out in the above paragraph (and other interests as may arise). The Board delegated to the Head of Property the overall progression and conclusion of the Compulsory Purchase Order which shall include the preparation of all necessary documentation, Order Plan, service of requisitions for information and vesting of title in the Council (as appropriate). It is however currently hoped that the acquisition of 90 Spa Road can be achieved without the need to use CPO powers.

8. The ground floor retail units are subject to three separate leases but the Council is able, under the terms of these agreements, to terminate without recourse to compulsory purchase. A commitment has been given to re-provide for these businesses as part of the regeneration and for this reason it is proposed to develop the site in two phases to ensure continuity of trading. The completion of Phase 1 will provide replacement retail accommodation for the shops currently trading in Phase 2 and so protect these businesses and the service that they provide to the community.
9. At the meeting in September 2007, Major Projects Board also approved that negotiations take place with Hyde Housing Association with a view to disposing of the assembled site to the Association for its market value. It was resolved at this meeting that when the principle sale terms were agreed they should be reported for an Executive Decision to the Major Projects Board.

KEY ISSUES FOR CONSIDERATION

Obtaining vacant possession

10. Within Phase 2, there are three shop leases and possession of these can be achieved within the terms of these leases and the provisions of the Landlord and Tenant Act 1954.
11. There is also a convenience store with residential above (Number 90) which is not within the Council's freehold ownership but the owner has indicated willingness to sell with a possible link to an offer of replacement accommodation being offered in Phase 1 and negotiations are taking place.
12. There are currently four tenants occupying the residential accommodation within Phases 1 and 2 and it is proposed to decant these households to new affordable housing units in St James Square during March/April 2009.
13. The redevelopment of this site will also require the stopping up of a section of Highways Land known as Marshall's Place (shown shaded brown on the plan in Appendix A) but initial consultation with Highways and local residents has taken place about this proposal and there have been no adverse comments.

Progressing the regeneration

14. In order for the Borough to deliver a scheme that meets the objectives of the Masterplan and to ensure the development is delivered in two phases, Hyde Housing have been asked to partner the Borough in progressing the redevelopment of this site.
15. Hyde is very active in the Bermondsey Spa Regeneration Area and has recently completed the Artesian Building which provides 75 new homes and construction is well advanced on Site D and Site E-H, St James Square which when complete will provide over 400 new homes.
16. Weston Williamson Partnership have designed, at Hyde's expense, a high quality scheme for the site in consultation with local residents. An artist's impression of the proposed development is shown in Appendix C. The scheme includes a total of 48 new flats (24 affordable) and 8 new standard sized retail units.
17. There is a risk that if redevelopment does not proceed now on this basis, the two blocks could deteriorate still further and the Council could be forced to demolish Phase 1 without a redevelopment proposal in place.

Achieving best consideration

18. When disposing of housing land under Section 32 of the Housing Act 1985 and in accordance with consent E.3.1. of the General Housing Consents of 2005, the consideration will need to reflect the best consideration reasonably obtainable.
19. A sale by auction or tender to the highest bidder following proper marketing will generally be seen to discharge this obligation. In this case, where direct negotiation with a single buyer has taken place, in order that an objective view can be taken, a valuation report has been obtained from a national practice of Chartered Surveyors to confirm that the agreed price represents best consideration.

Disposal Strategy

20. It is recommended that the principal sale terms are agreed as follows

- That contracts are exchanged for sale on the basis of a two phase completion.
- That a capital sum is paid for the Council's freehold interest in Phase 1, with vacant possession and subject to the grant of planning consent for the proposed scheme.
- That simultaneously, a 125 year lease of the ground floor shops in the Phase 1 is granted to the Council at a nominal premium.
- Hyde Housing Association to meet the Council's legal and valuation fees
- That the contract includes a provision for Hyde to submit one planning application for the whole site on the basis that Phase 1 contains 100% affordable housing and Phase 2 comprises 100% private housing. Both phases will have retail units at ground floor level.
- That the sale contract provides an option for Hyde to purchase Phase 2 at market value when Phase 2 is completed. If they do not wish to proceed the Council can dispose of this part of the site as appropriate.

21. The negotiation of this disposal to Hyde has been affected by the 'credit crunch' and Hyde, in line with other RSLs current position, are not willing to commit to purchase the site on the basis of inclusion of homes for private sale at this time.

22. The proposed agreement is therefore based on a first phase of 100% affordable housing. This proposal has been discussed with Planning Officers and they have no objections in principle.

23. It has also been agreed to include the commercial space in the agreement on the basis of a sale and leaseback to the Council which will enable the Council to keep control over the mix of uses in the scheme, ensure that local businesses are protected where ever possible and also benefit from a future revenue stream.

24. The purchase price for Phase 2 will be set in approximately 2 years time by an independent valuer when Phase 1 is nearly complete. Hyde will have the option to purchase at this price but if they choose not to proceed the Council will be free to seek an alternative purchaser – for a scheme that already has planning consent and does not require any element of affordable housing and should present an attractive option to a range of purchasers.

Consultation

25. Both the overall Bermondsey Spa Masterplan and the Site C Masterplan have been subject to extensive public and community consultation. Exhibitions and public meetings have been held and observations received and considered.
26. There has been general consultation on the principle of the regeneration following the site's inclusion within the Masterplan. Meetings have been held with tenants and leaseholders (both commercial and residential) to explain the implications of the redevelopment.
27. When the planning application is prepared and submitted for the proposed scheme in due course, statutory consultation will take place in the usual way
28. All leaseholders have been visited and details of their compensation entitlements provided.

Policy implications

29. The Regeneration of the Bermondsey Spa area is a long standing Borough policy. An overall Masterplan was prepared by Llewelyn-Davies and adopted in 2000. This envisaged the Regeneration being dealt with as a series of defined land sites.
30. The Southwark Plan 2007 includes Bermondsey Spa as a specific Action Area and sets out the following vision for the area. "An accessible area with an integrated mix of high quality homes, shops, offices, public spaces and community facilities around a spine of employment uses along the railway line".
31. The Plan also seeks to retain and increase businesses within the area and promote active frontages that encourage pedestrian flow, improve safety and further create a sense of place. The UDP also seeks very high urban design standards that encourage exemplary design and vitality that enhances the local character of the area.
32. Site G is listed as Site 21P in the Plan and is proposed for mixed use of C3 providing 32-75 units with A1 use classes at ground floor level.

Community Impact Statement

33. The regeneration of Bermondsey Spa is considered to have benefits to not only the immediate community but also the Borough as a whole in that it will act as a catalyst to further investment. It is therefore necessary to balance the benefits that could be provided by the proposed scheme against the possible impact to those with an interest in the affected land. In carrying out this exercise a degree of proportionality should therefore be adopted. 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.
34. The furtherance of the Regeneration will not negate the Council's Diversity and Equal Opportunities policies. Indeed in the long term it is anticipated the diversity of the area will be widened.

Resource implications

35. There are no direct staffing implications arising from the proposed sale and redevelopment.
36. The project management costs are budgeted for within the Major Projects budget and the compensation costs will be met from the Housing Investment Programme.

Financial implications

37. The proposal from Hyde Housing Association is to purchase the freehold interest in Phase 1 of the site subject to obtaining planning consent for the proposed scheme. The proposal also includes the grant of a 125 year lease of the 4 retail units to the Council at a nominal premium and rent.

Identified risks and how they will be managed

38. The key risks to this project have been identified as:

- Delays in obtaining planning consent for the development
- Delays in the acquisition of 90 Spa Road.
- Delays in the stopping up of Marshall's Place

39. The risks will be managed via the Council's existing risk management process

40. Delays to obtaining planning consent would impact on the completion of the sale of Phase 1 and the capital receipt. This risk will be managed by supporting Hyde through the process and ensuring effective consultation is carried out with all the key stakeholders prior to submission of the application.

41. Delays to the acquisition of 90 Spa Road would impact on the completion of the sale of Phase 2. If the acquisition cannot be agreed by negotiation, procedural risks with regard to the confirmation of a compulsory purchase order will be minimised by the appointment of experienced and competent legal advisers to act on behalf of the Borough and advise its appropriate officers of their legal and statutory duties with regard to compulsory purchase and associated matters.

42. Delays to the stopping up of Marshalls Place would also impact on the completion of the sale of Phase 2. This risk will be managed by early liaison with Highways, statutory undertakers and local consultation to ensure the application is successful.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Finance Director

43. The capital consideration for the site exceeds the valuation of the site for development, and its current value in use. The receipt is marginally lower than the estimated receipt originally anticipated within the capital receipts profile, however, this is unsurprising given the recent downturn in the property market. It is also recognised that any delay in selling this site could lead to a deterioration in the state of the properties, potentially requiring investment by the Council, which would be avoided by immediate disposal of the site.

44. The anticipated costs associated with disposing of this site are included in existing budgets within the Major Projects team and the Housing Investment Programme. It is not anticipated that the legal and valuation fees incurred by the Council in respect of this sale will exceed the £20,000 being met by Hyde.

45. An anticipated capital receipt for Phase 2 has been included in the capital receipt profile projected for the financial year ending March 2011. The Bermondsey Spa Team must keep the Finance Director updated on the likely timing of this receipt.

Head of Property

46. It is recommended that Site G Bermondsey Spa phase 1 be sold to Hyde Housing Association under the terms outlined in paragraph 20 for the development of affordable housing with retail units beneath. The purchasers will also be granted the option to purchase phase 2 of the development at open market value.
47. It is confirmed that the transaction represents best consideration by way of an independent practice of Chartered Surveyors there is therefore no impediment preventing the transaction from proceeding.
48. The sale will bring forward a key site in the Bermondsey Spa regeneration programme forward for development which is currently derelict. In the past 12 months there has been a significant downward shift in the property market. Development sites have been affected disproportionately with many house builders and housing associations suffering finance difficulties due to the housing slump. This transaction therefore represents best consideration in current market conditions with the additional benefit that the price for phase 2 will be set in approximately 2 years time when hopefully the market will have recovered.
49. Further more the Council receives on long leases at effectively nil rent the ground floor retail units which it will manage as part of its commercial estate. This will provide the Council with a substantial revenue stream in the future which will increase over time in an improving area.

Strategic Director of Legal and Democratic Services

50. Apart from the public highway land at Marshall's Place and the freehold land at 90 Spa Road, all the land contained in the site is held within the Council's housing portfolio. In accordance with Section 32 of the Housing Act 1985 ("the 1985 Act") the disposal of land held for housing purposes, otherwise than the grant of a secure tenancy, requires the Secretary of State's consent.
51. A number of general consents have been issued under the General Housing Consents 2005. Consent E.3.1 permits a local authority to dispose of any land held for the purposes of Part II of the 1985 Act for the best consideration that can reasonably be obtained provided that any dwelling-house included in the disposal :
 - (a) is vacant;
 - (b) will not be used as housing accommodation; and
 - (c) will be demolished.
52. Paragraph 19 above states that a valuation report has been obtained to confirm the agreed price represents the best consideration.
53. If the Major Projects Board is satisfied, firstly that the other requirements in the consent will also be met, that is that at the disposal date all the dwelling-houses will be vacant, not used as housing accommodation and will be demolished; secondly that the land has been declared surplus to requirements; and thirdly that the disposal represents value for money, it may proceed with the approval of the recommendations.
54. It is understood that, apart from two secure Council tenants occupying Nos. 98 and 106 Spa Road who are to be decanted to new units in St James Square at the beginning of 2009, vacant possession of the whole of Phase 1 has now been obtained following "buy backs" of the leasehold interests, including the acquisition of 112 Spa Road referred to in paragraph 6 above. If the secure tenants decline the new units the Council will need to obtain a court order under one of the grounds in Schedule 2 to the Housing Act 1985. Redevelopment grounds are those

under Ground 10 and 10A. In both cases possession will only be granted if suitable alternative accommodation is available. If the Council does not intend to demolish, reconstruct or carry out work on the development Ground 10 would not be available as a ground for possession. However, Ground 10A would be available if the dwellings are in an area which is the subject of a redevelopment scheme that has been approved by the Secretary of State.

55. In relation to Phase 2, paragraph 10 above states that possession of the three shop leases can be obtained under the provisions of the Landlord and Tenant Act 1954. There is one registered lease, of 92 Spa Road, held by John Parry (Turf Accountants) Limited expiring on 24 December 2012. It is understood there are two Council tenants occupying Nos. 82 and 84 Spa Road who are to be decanted to St James Square in the same way as those at Nos. 98 and 106. As in relation to the secure tenants referred to in paragraph 42.5, if they declined the new housing offered the Council would need to obtain a court order pursuant to Schedule 2 of the Housing Act 1985.
56. There will be costs associated with giving the tenants the statutory home loss payments and disturbance payments where justified under the Land Compensation Act 1973. The current home loss payment is set at £4,400 and the average disturbance cost in the region of £750.
57. Any secure Council tenants in occupation who fail to engage, refuse a decant offer of re-housing to St James Square or fail to obtain re-housing through the Council Homeseach Scheme would face legal proceedings for possession brought by the Council in the Lambeth County Court under Ground 10 of Schedule 2 of the Housing Act 1985 on the basis that the Council intends to demolish the building(s). A requirement of the ground is that alternative accommodation is available that is reasonably suitable to meet the needs of the tenant and their family.
58. The acquisition of the 125 year leases by the Council referred to in the Disposal Strategy in paragraph 20 above, and the proposed purchase by agreement of 90 Spa Road referred to in paragraphs 6 and 7 above, are permitted in accordance with Section 120 of the Local Government Act 1972 ("the 1972 Act") which provides that a local authority may acquire by agreement any land for the purposes of any of their functions or the benefit, improvement or development of their area, notwithstanding that the land is not immediately required for any such purpose, and that until such time, it may be used for the purpose of any of the Council's functions.
59. If the acquisition of 90 Spa Road cannot be achieved by agreement, Section 226(1)(a) of the Town and Country Planning 1990 Act ("the 1990 Act") would enable the Council to acquire the property compulsorily if it thinks the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land being acquired and it is not certain that the Council will be able to acquire it by agreement. In exercising this power it must have regard to Section 226(1A) of the 1990 Act which states the local authority must not exercise such power unless it thinks that the development, re-development or improvement or improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of their area.
60. In relation to the stopping up of Marshall's Place Section 247 of the 1990 Act provides that the Council may by order authorise such if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with the planning permission. All applications to stop up a highway need to be approved by the Council's highways department.
61. In addition, Section 116 of the Highways Act 1980 enables the Council to make an application to the magistrates court for a stopping up order on the ground that the highway is not necessary. The Council would need to demonstrate that all the buildings abutting the highway are empty and will be demolished. Planning permission would be needed to demolish any residential properties. In any event this would need to be discussed with the Council's planners in advance.

Alternatively a resolution to dispose of the land excluding the redevelopment of Marshall's Place might enable this if all the buildings abutting it are empty. The advantage of this would be that no compensation would be payable.

62. For the avoidance of doubt it is considered that this is a land transaction and that accordingly no contracts or procurement issues arise requiring any comments in relation thereto.
63. It is therefore considered that the Council has sufficient powers to achieve the aims referred to in this report, and in the event that a compulsory purchase order is deemed necessary, the Board may similarly proceed with the approval of the recommendations.

BACKGROUND PAPERS

Background Papers	Held At	Contact
Project files	Bermondsey Spa Regeneration Area Team Major Projects 63-67 Newington Causeway London, SE1 6BD	Jane Seymour 020 7525 4907

APPENDICES

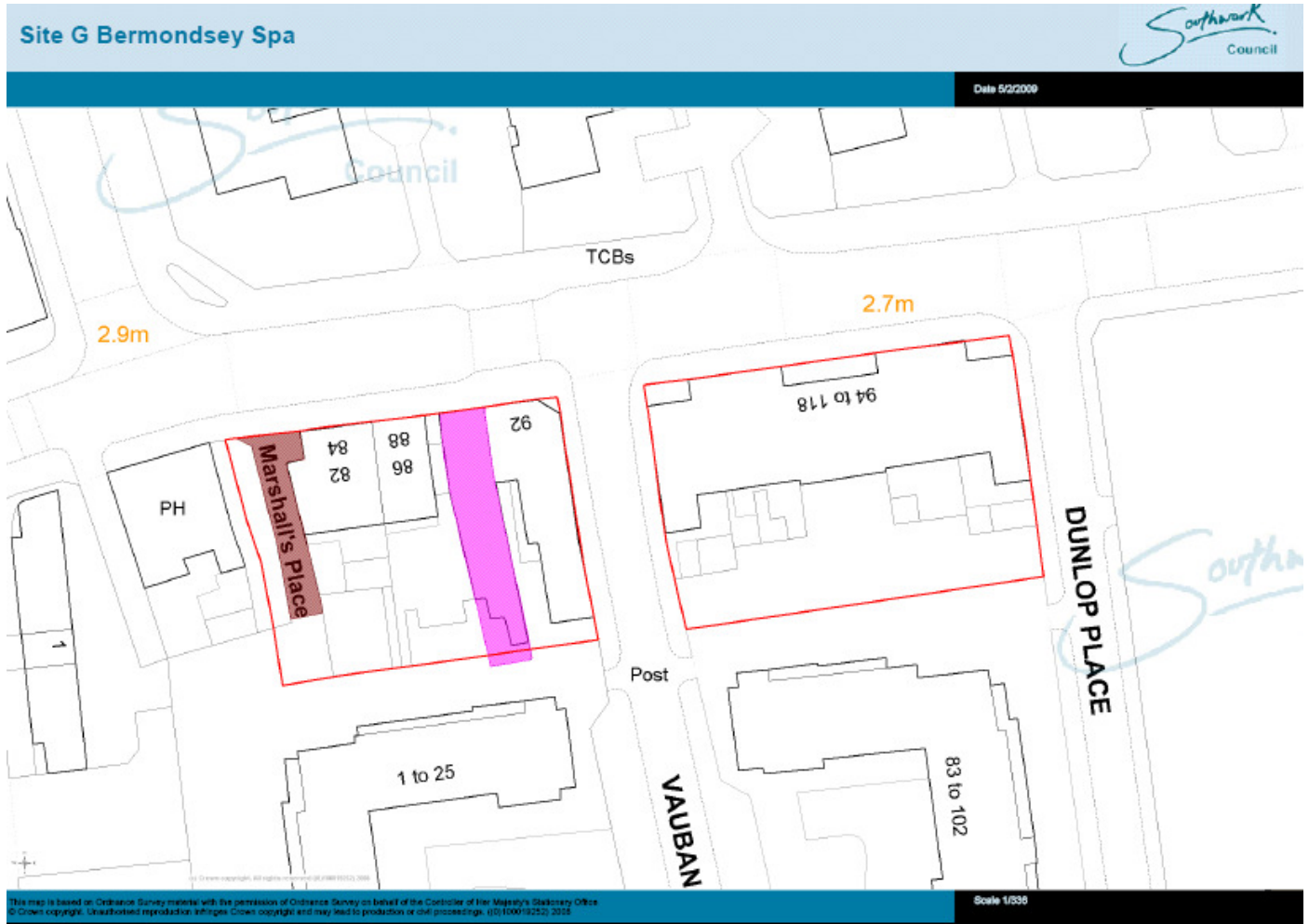
No.	Title
Appendix A	Plan depicting the extent of Site G and the two phases proposed for development.
Appendix B	Photographs of the site
Appendix C	Artists impression of proposed scheme

AUDIT TRAIL

Lead Officer	Stephen McDonald – Strategic Director of Major Projects		
Report Author	Jane Seymour Principal Surveyor		
Version	Final		
Dated	February 9 2009		
Key Decision?	Yes	If yes, date appeared on forward plan	September 2008
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER			
Officer Title	Comments Sought	Comments included	
Legal: Borough Solicitor & Secretary	Yes	Yes	
Chief Finance Officer	Yes	Yes	
Head of Property	Yes	Yes	
Executive Member	Yes	No	
Date final report sent to Constitutional Support Services	February 10 2009		

Appendix A

Plan



Appendix B

Phase 1 94-118 Spa Road



Phase 2 80 – 92 Spa Road



Appendix C

Artist's impression of proposed Hyde Scheme showing existing public house at 98 Spa Road



Elevations showing proposed Hyde scheme alongside proposed scheme for public house

