

Item No. 3.	Classification: Open	Date: 29/09/04	MEETING NAME Planning Committee
Report title:		Release of funds from the Ake Larsen Agreement No.30 (A/C No. 005) for the funding of tree lighting at the Elephant and Castle.	
Ward(s) or groups affected:		Chaucer, East Walworth and Cathedral Wards	
From:		Strategic Director of Regeneration	

RECOMMENDATION

1. That an allocation of £135,204.00 be approved from the Elephant and Castle Ake Larsen Agreement No.30 (A/C No. 005) to provide additional coloured tree lights in trees around the north and south roundabouts at the Elephant and Castle.
2. That the funds are made available to the Elephant Links SRB programme as part of its Elephant Impacts improvement scheme currently being developed in the area.

BACKGROUND INFORMATION

3. The planning agreement dated 21 July 1989 as amended by Supplemental Agreements dated 4 January 1990 and 2 October 1991 required, amongst other things, that the developer pay to Southwark Council the sum of £500,000 to be applied by the Council towards "such works to the Elephant and Castle Project Zone as the Council shall consider appropriate and in particular improvements to the environment including but not limited to landscaping".
4. The Elephant and Castle project zone is defined within the Agreement as "the area within 500 metres from the site (such area being measured by reference to the nearest point of the site)". The first site borders Keyworth St, Ontario St, London Rd and Skipton St in LBS. The second site borders Skipton St, Newington Causeway and Southwark Bridge Rd in LBS.
5. The terms of the agreement suggest an appropriate use of the funds in the area would be any physical works which contributed to an improvement in the visual amenity of the area, e.g. lighting schemes, highway works, public art, landscaping, provision or maintenance of open space etc.

KEY ISSUES FOR CONSIDERATION

- 6.. The LDA and Elephant Links Community Partnership Board have agreed a major programme of high profile environmental improvements to spearhead the impending remodeling of the area. This is part of the £1.5 billion regeneration programme. Backed by £700k of SRB funds over 3 years, the 'Elephant Impact Programme' will provide early benefits to local residents, visitors, businesses and tourists in the central area. The scheme has been designed to complement the future development proposals and consequently has been focused on areas and buildings unlikely to be effected by the redevelopment. The overall improvement

scheme will consist of a number of elements:

- i] Feature lighting of up to four prominent landmark buildings
 - ii] Decorative tree lights
 - iii] Improvements to two mainline rail bridges
 - v] Streetscape/lighting improvements around eleven schools in the central area
 - vi] Tree Planting
 - vii] Subway improvements – relamping and cleaning blitzes
7. The first phase of this programme saw feature lighting installed on Hannibal House, courtyard lighting at Rockingham Estate and colour coded tree lights around the north and south roundabouts at the Elephant and Castle (using funds from the Ake Larsen Planning agreement and SRB funds).
8. Further tree lighting will improve the appearance of the area by creating an aesthetically pleasing environment, which is desperately needed in the area. It aims to improve the safety and security in the area by providing additional illumination to people using the area – residents, students, visitors, businesses/traders etc to create a more human scale physical environment.
9. The objectives of the Elephant Impact Programme accord with the requirements for spending the money from the Ake Larsen agreement and the works outlined in 5 fall within the designated area. SRB funding requires that projects identify sources of match funding in order to multiply the impact of each SRB £ spent. Consequently the partnership is seeking agreement to use funds from this S106 to match its contribution.

POLICY IMPLICATIONS

10. The proposal assists objectives as set out in the current **UDP**. Policies that are assisted are: -

POLICY R.2.1: In designated Regeneration areas at Bankside, Elephant and Castle, Old Kent Road and Peckham and within the London Docklands Area (the UDA), as originally designated in 1981, investment will be welcomed and public/private sector partnerships encouraged. In these Regeneration Areas, or others which may be designated later, planning permission will normally be granted for proposals which:

- (i) generate employment;
- (ii) improve the environment;
- (iii) meet the needs of local residents;
- (iv) bring back into the beneficial use vacant land or buildings;

POLICY E. 1.1: Where possible new developments and refurbishments must be designed to enhance safety and security in the environment and the Council will seek improvements to existing areas in the following ways:

- (i) increase the overlooking of public areas;
- (ii) prevent the creation of dark or secluded areas;
- (iii) provide and maintain adequate lighting;
- (iv) make a clear distinction between public and private space and provide 'defensible space';
- (v) prevent the creation of secure enclaves which do not contribute to the

security of the area as a whole;
(viii) maintain or improve pedestrian and road safety.

POLICY E.3.4: The Council will encourage and carry out environmental works giving priority to schemes within the following areas:

(i) Regeneration Areas (see Policy R.2.1: Regeneration Areas);

11. **Compliance with S106 of the TCPA, 1990 & Circular 1/97** The expenditure of developer contributions will comply with S106 of the Town and Country Planning Act, 1990 and Circular 1/97 'Planning Obligations'.

12. **Elephant Links Strategic Objectives**

The Project addresses the following strategic objectives in the Elephant Links Delivery Plan:

SO1- Sustainable City Links - Strategic target is to improve quality of the public realm and environmental standards. The local target is to improve streetscape to central London standards and to improve the quality of open space and urban design throughout the area. *Position at end of lifetime of the scheme* - improved quality of life as measured by opinions of local residents and users of the area and a significant majority of local people consider the environment and streetscape improved to an acknowledged central London standard.

SO2 - Transport Links Strategic target is to create pedestrian friendly public realm. *Position at end of lifetime of the scheme* - increased numbers of pedestrians and pedestrian routes through area and reduced fear of crime.

EFFECT OF PROPOSED CHANGES ON THOSE AFFECTED

13. There is a distinct lack of attractive and high quality spaces in the Elephant Links SRB area. The existing tree lights have been very favourably received. Further tree lights will create a more continuous and higher quality tree lighting scheme built on the existing placement of tree lights.

14. It is anticipated that a spin off benefit of the improved visual amenity of public spaces would be a reduction in the perception of crime and an increased willingness for local people to care for and maintain their environment.

15. DETR recognises that improving community identity and improving the visual appearance of public areas go hand in hand with accepted means of reducing crime and other projects that prevent anti-social behaviour and deter crime from taking place.

16. **Equal opportunity implications**

The proposed tree lighting scheme will benefit all residents, businesses, students, tourists and the general public, who live, work, move through and make use of the area. Improved lighting will be of particular benefit to vulnerable people and those who experience a greater fear of crime (e.g. women, previous victims of crime, the elderly, people with visual impairment).

17. **Local agenda 21 implications**

The tree light scheme adheres to the following principles:

- *Minimise light pollution* – the tree lights are low energy ambient lights. They emit some illumination but are primarily a visual amenity feature. Designs comply with Institute Electrical Engineer standards
- *Columns* - where feeder poles for the cables to the lights are used, this has been considered with regard to existing and future light column posts and an anti-clutter design strategy will be employed
- *Maintenance* - up to six monthly tree growth checks as advised by LBS Street-scene and Transport for London. Normal cleaning, replacement and tree pruning to be absorbed into Environment& Leisure and TfL programmes but funded until March 2006 by Elephant Links. The tree lights are added to the asset register for LB Southwark to maintain and likewise for TfL to maintain. LED light is low maintenance and hardwearing – approx a 14yr lifespan.
- *Tree damage* will be avoided by careful installation – LBS and TfL Arboriculturalists advise on fit and location of spheres in the trees and fitting special materials that consider tree growth etc

RESOURCE IMPLICATIONS

18. The Project was in the Elephant Links Delivery Plan agreed by Executive committee in April 2004 and by the LDA in May 2004.
19. There is adequate funding in the Ake Larson agreement to resource this project.

CONSULTATION

20. The Programme Management Panel and the Elephant Links Community Partnership Board have agreed the project as a major capital spend project within the current Delivery Plan. The LDA has also approved the project on the same basis, releasing an additional £700K capital into the Elephant Links SRB programme to deliver this project.
21. An appraisal panel of local stakeholders that include local business and residents on 12 March 2004 approved the project.
22. The streetscape improvements are in direct response to the public's opinion of the area being of poor quality streetscape, public open space and urban design. 42 % of people surveyed in the area rated the environment as poor. 'Operation Eyesore' Central London Partnership Survey, Planning and Evening Standard, 15 April 1999 nominated the area as among the most neglected in London. The community profile survey ranked cleaner and better environment as first priorities for action. This is in line with the Environment and Leisure continued investments into improvements into maintenance and upkeep of the environment. The project directly supports LB of Southwark's Cleaner, Greener, Safer ethos and initiatives.
23. Various TRA and the wider public have been consulted and surveyed through roadshows, public meetings, open sessions, newsletters, targeted communication and more widespread publicity, marketing and press releases.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Borough Solicitor & Secretary

24. This report seeks to secure use of funds from the Ake Larsen Elephant and Castle Site 3 Planning Agreement for “such works to the Elephant & Castle Project Zone (a 500 m radius from the site of the above Development as described in paragraph 4 above) as the Council shall consider appropriate and in particular improvements to the environment including but not limited to landscaping”.
25. Southwark Legal provided a Legal Concurrent to Elephant Links on 26 August 2003. It was advised that there were some restrictions on the use of the funds, which were provided for “works”; suggesting physical works (rather than social assistance) such as lighting, highway works, public art, landscaping, etc. The funds may be used for such works as the Council considers appropriate “and in particular improvement works to the environment including but not limited to landscaping”. This suggests more than 50% of the funds should be used for improvement works to the environment. This must include some landscaping works, but it is not a requirement for the only use of the funds.
26. Conditions in Planning Agreements (including provisions of a financial nature relating to payments by developers) must fairly and reasonably relate to:
 - i) the provisions of the Development Plan and;
 - ii) planning considerations affecting the Site
27. The request for funding of the phase (2) tree lighting scheme if successful will utilise the remainder of the funds to be allocated under this Agreement. Therefore it is essential to look at the use of the funds “as a whole” to determine whether the Agreement has been complied with. At present, all the works that have been funded by the Agreement and have taken place are considered to be improvement works to the environment. It is considered that the tree lighting schemes are a landscape treatment and have been identified as “landscaping works” which fulfil the requirements of the Agreement in respect of landscaping.
28. Members are entitled to have regard to the assurance of the Director of Regeneration that the requirements of 24 and 25 above have been met.
29. The Council is required to permit the Developer to tender for the carrying out of any of the “works” subject to the Council’s normal terms. In this case, the Developer is two companies; Allhus Ltd who are a now dissolved development company and Tegel I Real Estate (“Tegel”) whose registered offices are in the Netherlands. In December 2003, following the approval of the use of funds for phase (1) of the tree lighting scheme, the Council wrote to Tegel I Real Estate BV advising them of the works and requesting that Tegel advise the Council if it wished to be advised of future works projects in respect of which the Tegel may wish to have the option to tender for. No response has been received to date.
30. In addition, the Council is obliged to give the Developer an opportunity to tender for works subject to the Council’s “Normal Terms” and it is intended that the Council notifies the Developer of such works projects, once funds are approved, prior to the start of the tendering process for these works, in compliance of its obligations under clause 6.4 of the Agreement.
31. The works proposed by this Report would be capable of coming within the requirements of the Agreement provided such works meet the distance criteria and the proposed use of the funds falls within the provisions of the Planning Agreement; and the legal test set out at 24 and 25 above is satisfied.

Other Officers

Concurrent from Finance Officer.

32. Agreement S106/30 A/C No; 005 was subject to a variation dated 2/10/1991 whereby a further sum of £500,000 was paid by the Developer for works of improvement in the "Elephant and Castle Zone"
33. The balance of this second contribution currently available to spend amounts to £135, 204.39 and therefore the proposed use of £135,204 for the purposes stated can be approved subject to the purposes of the expenditure and the area in which the works are to be carried out complying with the terms of the S.106 Agreement.
34. Clause 6.4 of the Agreement requires that the Developer be given an opportunity to tender for works subject to the Council's "Normal Terms". It is believed that these works would not be appropriate or of interest for the Developer to tender for but to ensure compliance with the agreement covenants it is recommended for procedural purposes that the Developer be advised in writing of the intention of the Council to instruct other parties to perform the works prior to the instructions being given.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Project Proposal	Elephant Links Project Team 3 rd Floor Coburg House 63-67 Newington Causeway Elephant and Castle London SE1 6BD	Rhianon Jenkins 0207 525 4908
Independent Appraisal	"	"
Minutes of the Project Appraisal Panel	"	"
Minutes of the Elephant Links Board Meeting	"	"

APPENDIX A

Audit Trail

Lead Officer	Paul Evans
Report Author	Rhianon Jenkins
Version	Draft v2

Dated	20.09.04	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor & Secretary	Yes	Yes
Chief Finance Officer	No	No
Gary Whitney (Finance Officer for Section 106 Regeneration)	Yes	Yes
Mick Lucas/Peter Jones (LBS Environment and Leisure – Streetscene and Public Protection Unit)	Yes	Yes
Sean Connolly (Mgr Environment Development Team, Environment and Leisure)	Yes	Yes
Joshua Tinker (Arboriculturalist - LBS Environment and Leisure – Streetscene and Public Protection Unit)	Yes	Yes
Robert Wetherill (Borough Manager, Transport for London)	Yes	Yes
Executive Member	No	No
Date final report sent to Constitutional Support Services	21.09.04	