

Executive

Tuesday November 24 2009

7.00 pm

Town Hall, Peckham Road, London SE5 8UB

Supplemental Agenda No.2

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10.	Elephant and Castle - Heads of Terms	51 - 68
	To consider and agree issues relating to the Heads of Terms agreement and exclusivity arrangements with Lend Lease Europe Ltd for the Elephant and Castle regeneration.	

Contact

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Date: November 20 2009

EXECUTIVE – NOVEMBER 24 2009

ITEM 6 - DEPUTATION REQUEST – ASTBURY ROAD AREA RESIDENTS ASSOCIATION

Comments of the strategic director of children's services

1. Own Life Ltd is a private provider of semi-independent housing and support for looked after children and young people. Southwark Council has purchased places in the borough from Own Life since 2004, but none of these placements have been at the Astbury Road premises.
2. There are currently five looked after young people placed with Own Life Ltd by Southwark Children's Services, living at five different properties across the borough.
3. All semi-independent placements are procured as spot contracts on behalf of the Adolescent and Aftercare Service. Before purchasing these placements Children's Services require private providers to submit the following information: audited financial accounts, staff qualifications, CRB checks on staff, references, health and safety information / certification (gas, electricity etc), the organisation's statement of purpose and all policies and procedures.
4. There are no formal regulatory procedures for semi-independent placements, as a consequence any placements made by Southwark Children's Services are subject to close monitoring in line with the spot contract agreement with each provider.
5. In light of the deputation we will be reviewing our monitoring arrangements to ensure that Southwark Council takes immediate action if concerns are raised by residents living near properties where Southwark young people are placed to ensure the provider acts promptly to resolve.
6. If nuisance issues arise caused by young people placed by neighbouring local authorities, they will need to be responded to by reporting them to the Police or Southwark Anti Social Behaviour Team. The Police, Southwark Anti Social Behaviour Team and Southwark Children's Services are already working closely together to address the issues and with a view to drawing up guidelines for the Own Life concerning the behaviour of some of the young people placed in their property.

Item No.	Classification: Open	Date: November 24 2009	Meeting Name: Executive
Report title:		Elephant and Castle – Heads of Terms	
Ward(s) or groups affected:		Cathedrals, Chaucer, East Walworth and Newington	
From:		Deputy Chief Executive	

RECOMMENDATIONS

1. That Executive agrees to the terms in this report pertaining to a Heads of Terms agreement with Lend Lease Europe Ltd for the Elephant & Castle regeneration and delegates authority to the Chief Executive to sign the agreement.
2. That the current exclusivity arrangements with Lend Lease Europe Ltd continue to remain in place until such time as may reasonably permit the signing of the Regeneration Agreement between the Council and Lend Lease Europe Ltd.
3. That officers report to Executive to seek their approval to enter into the Regeneration Agreement for the development at the appropriate time.
4. That the Executive requests officers to continue negotiations with TfL and the GLA to safeguard the viability of all phases of the project including the shopping centre.
5. That Executive requests officers to accelerate the demolition of Phase 1 as soon as practically possible.
6. That Executive advise the Finance Director to incorporate within the refreshed capital programme the demolition of Phase 1.

Report Summary

7. The 27 July 2009 Executive report authorised officers to extend the exclusivity agreement with Lend Lease Europe Ltd (Lend Lease) whilst continuing to progress negotiations with Lend Lease according to a timetable agreed between both parties at that time.
8. In accordance with the timetable, officers have concluded those negotiations on terms outlined within this report and recommend that the Council signs Heads of Terms with Lend Lease and proceeds with the negotiation of the Regeneration Agreement (RA).

Background

9. The background to the development of the Elephant and Castle project is detailed and subject to various reports to the Executive. However, the key points of information are summarised here.
10. In February 2004 the Council adopted a development framework for the Elephant and Castle in the form of supplementary planning guidance [SPG]. The SPG identified an area for regeneration and the guidance promoted a low carbon mixed use town centre comprising mixed tenure residential units, retail, leisure and complimentary town centre uses, and business space, based around a network of open routes and public spaces.
11. Subsequently these objectives were adopted into the Southwark plan which was formally adopted following a public inquiry in 2007. The emerging core strategy agreed by Council Assembly on 4 November 2009 consolidates these objectives and sets out an updated strategic planning framework for development at the Elephant and Castle.
12. The delivery of these aspirations requires a commercial partner to prepare a planning application and secure agreement on public transport and infrastructure issues. The Executive agreed in 2005 to pursue this objective by means of a European Union Procurement process comprising three stages. This exercise culminated in July 2007 when the Executive agreed to select Lend Lease Europe Ltd as its preferred Master Development Partner and instructed officers to proceed with detailed negotiations to conclude full contractual documentation in order to give effect to the proposed joint working arrangements.
13. Following the decision, officers commenced negotiations on the Heads of Terms. However, the subsequent severe downturn in the economy which commenced in July 2007 resulted in an agreement to suspend negotiations in January 2008. In order to maintain confidence, both parties agreed to enter into an exclusivity agreement in July 2008, but continued market uncertainty resulted in this agreement being further extended until 1 July 2009. The expiration of that exclusivity arrangement led to the Executive considering further options at their meeting of 27 July 2009 at which it was agreed to sign a further exclusivity agreement with Lend Lease which set out a new timetable for completing revised Heads of Terms by November 2009.
14. Officers have been in negotiations with Lend Lease throughout the time since the Executive meeting of 27 July 2009. Those discussions have centred upon negotiating and agreeing the Heads of Terms pertaining to the regeneration and commercial elements required for a RA that would realise the aspirations for regeneration of the Elephant and Castle and provide best consideration for the Council's land.

Progress to date

15. The proposed RA with Lend Lease covers approximately 50% of the Elephant & Castle Opportunity Area. There has been further development in terms of the progress of both infrastructure and development schemes in the wider Opportunity Area which is detailed below.
16. The redevelopment of the former Castle House in the form of the 43 storey Strata tower is now well underway. The development by Brookfield comprising 408 units (of which 98 are affordable including 20 shared equity units which are being directed in the first instance towards Heygate leaseholders) is already a landmark on the London skyline and is expected to be complete by May 2010. The development has generated a £1 million programme of public realm improvements.
17. There have also been significant developments along the west side of Walworth Road which was formerly included within the proposed master plan area, however, due to market considerations, these developments have been fast tracked. Private developments have been completed at Crampton Street (186 units; 42 affordable) and Steedmen Street (113 units; 25 affordable). In combination these early schemes have brought considerable investment to the area, increased market confidence in the regeneration and secured benefits for local residents in the form of public realm, employment and training opportunities and affordable housing units.
18. Two other significant schemes have been consented in the area; at the site of the former London Park Hotel (known as 360°) and also at 50 New Kent Road (known as Oakmayne Plaza). The former designed by Rogers, Stirk and Harbour comprises 470 units (of which 151 are affordable) and will include a new home for Southwark Playhouse. The 'credit crunch' and the subsequent recession has impacted on the viability of both schemes and as a consequence, the construction of these developments has not yet progressed as planned. However, significant schemes for the redevelopment of Eileen House and 85 Newington Causeway are currently in planning and this demonstrates continued market confidence in the area and that commercial development activity can be expected to recommence in the medium term.
19. In the short term, development activity in the area has been maintained through partnership schemes with housing association partners on Council owned land which have successfully secured Homes and Communities Agency (HCA) funding. Two sites at New Kent Road and St George's Road are underway and further developments at Brandon Street, Townsend Street and Library Street will commence before the end of the financial year.
20. Further tangible evidence of improvements to the public realm includes the refurbishment of St Mary's Churchyard, funded with a grant from the LDA. The churchyard designed by landscape architects Martha Schwartz was completed in

March 2008 and the newly landscaped park including children's play facilities was formally opened in May 2008.

21. The Council also retained additional funds from the LDA of £600k which will go towards the cost of removing the southern roundabout and subways at the Elephant and Castle. Transport for London (TfL) have confirmed additional funding of £1.2m towards these costs. This scheme was agreed with the Mayor of London and subject to tender returns and Network Assurance approval, TfL currently expects to commence implementation of this project early next year.

Regeneration Heads of Terms

22. The Heads of Terms that relate to the regeneration elements set out the commitments by both parties to achieving the broader regeneration benefits of the project in line with the Council's clear commitments and the selection criteria outlined in the tendering process. These are essential to ensure that a comprehensive, high quality, holistic and cohesive scheme is delivered to the benefit of local residents, businesses and key stakeholders creating a thriving new quarter for London.

23. The RA will contain a clear statement of the objectives which the parties are seeking to achieve; which are also known as the development objectives. The undertaking of the phased development will be in a manner that is consistent with the Council's overriding objective for the area which is to build on its strengths and overcome the weaknesses and, as a result, establish the Elephant & Castle Opportunity Area as a thriving and successful urban quarter. The Council's vision is for the creation of a place that:

- Supports a successful, vibrant mix of homes, shops and businesses and other uses and activities.
- Has its own clear and positive identity, that builds on the strengths of the area and reflects its function as a new destination in South Central London.
- Creates opportunities for socially excluded people and households to be a key part of the transformation of the area.
- Provides opportunities for local independent businesses, reflective of the diversity of the surrounding residential populations, to contribute to the distinctive identity of the Elephant & Castle.
- Improves the life chances of individuals through enhancing health, educational attainment, skill levels and employability of individuals.
- Contains a range of high quality recreation and cultural facilities.

- Is safe and free from the fear of crime.
 - Supports centres of learning and training at all levels.
 - Shifts the emphasis and gives priority to pedestrians, public transport and cycling rather than cars.
 - Has a high quality, accessible and integrated public transport system.
 - Has a high quality, attractive and successful public realm of streets and spaces that are well designed and easy to understand.
 - Is clean and well maintained.
 - Has an integrated network of high quality green spaces and green lanes that draws people into and through the area, encourages activity and improves the appearance and the quality of life for the people in it.
 - Provides for the economic, education, cultural, social and other needs of a diverse mix of existing and new residents.
 - Provides a balanced and integrated mix of residential accommodation, across the full range of private as well as social, key worker and other affordable housing.
 - Has easy access to a diverse range of good quality local facilities and services.
 - Adopts a balanced and integrated range of measures to maximise the efficient use of natural resources, limit carbon emissions and minimise waste.
 - Contains new and refurbished buildings that are well designed, flexible and energy efficient.
24. Given the size, complexity and timetable for the project, it is acknowledged that it will not be possible to negotiate and agree all the detail of the project before entering into the RA. Because of this, there will be an agreed 'Master Regeneration Business Plan' (MRBP) setting out the additional detail and which will form the basis of taking the project forward, setting the benchmark against which future decisions will be based.
25. The MRBP will be prepared by Lend Lease, with input from the Council who will be expected to perform as an active partner. Once the initial MRBP has been approved by the Council and Lend Lease it is proposed that a Steering Group is established to oversee project delivery. In this way the process of approval and regeneration is streamlined. Two senior Council officers appointed to the Steering

Group will be nominated by the Executive when decisions are taken on the RA. There will be a formal process of reporting progress to the Executive.

26. The MRBP will include but not be limited to:

- Draft Masterplan
- Infrastructure Plan
- Phasing Plan
- Land Assembly Strategy
- Planning Strategy
- A Design Philosophy
- Financial Strategy
- Funding Strategy
- Procurement Strategy
- Third Party Developers
- Communications Strategy
- Marketing, letting and exit Strategy
- Socio-economic Strategy

27. In addition, there will also be a Business Development Plan. This will be prepared for each plot or phase as appropriate and will deal with the detailed aspects of funding, costs and delivery.

Socio-economic strategy

28. A key element of the MRBP is the socio-economic strategy, the headline objectives of which are:

- that a programme will be funded and implemented to support local people into construction jobs with contractors on the development site;
- that formal construction apprenticeships will be provided through the Project;
- that a programme will be funded and implemented to support local people to access jobs generated by the completed Project and associated local economic growth;
- that support will be provided to those furthest from the labour market to progress towards employment opportunities;
- that a facility be provided in the Regeneration Area from which to deliver economic development programmes to local residents and businesses;
- that a full time co-ordinator be provided to support the development, implementation and delivery of economic development programmes;

- that support be provided for SME and BME businesses to access contracts during and post construction of the Project;
- that the Project delivers affordable business space;
- that the Project provides opportunities for local businesses in the temporary use of vacant land; and,
- that the Project will provide arrangements for the continuation, growth and sustainability of the Elephant and Castle market in line with the above.

Governance

29. The RA will provide for a formal regime to regulate the interface between the Council and Lend Lease. The expectation is that the formal regime will only act as a “fail safe” position and that, in practice, the parties will communicate in good faith to the extent necessary to ensure the delivery of the project and each aspect of it by way of meeting regularly as a Steering Group as outlined below.
30. The Steering Group will be set up to oversee progress of the Project at a strategic level. It will consist of not less than 4 individuals, two appointed by each of the Council and Lend Lease, and will be chaired by one of the Lend Lease appointees. The Council and Lend Lease each undertake to appoint members who have the appropriate experience and qualifications and to ensure that at least one of their respective appointees attends each group meeting.
31. Lend Lease is required to convene Steering Group meetings quarterly. If required, an urgent meeting can be convened by either party.
32. The party convening the meeting is to prepare the agenda and circulate it at least 48 hours before the meeting and Lend Lease will prepare minutes and circulate them within 5 working days afterwards.
33. The parties will need to be satisfied at signing of the RA, as to the authority of any members of the Steering Group, from a local authority/corporate governance perspective, to bind Lend Lease and/or the Council. The two senior Council officers appointed to the Steering Group will be nominated by the Executive when decisions are taken on the RA. There will be a formal process of reporting progress to the Executive in line with the Council’s scheme of delegation.

Estate Management

34. In order to ensure a coherent approach to the future management of the development, an estate management strategy will be agreed between both parties. This will guarantee a quality management regime for the area addressing maintenance, cleanliness, quality of public realm, and community safety. An

important aspect of the selection of a single development partner and future landowner is that it enables a coordinated approach towards the long term success of the regeneration of the project and the cohesion of the new quarter in line with the agreed aspirations.

Environmental objectives

35. It is an objective of the Council that the project will meet (or indeed exceed) the targets set out in the development framework for environmental sustainability. The RA will address this in two ways:

- The design of the buildings to be comprised within the project in terms of their environmental efficiency; and
- The interface with the Multi Utility Services Company (“MUSCo”) intended to be promoted by the Council in consultation with Lend Lease.

36. All buildings provided as part of the project will be required to meet agreed standards in relation to matters such as energy efficiency, water and waste management and be designed to:

- connect into services intended to be provided by the MUSCo, when available (including non portable water, combined heat and power supplies, utilities and data services and waste disposal and treatment services); and,
- connect into and use the services intended to be provided by the MUSCo when made available.

Commercial Heads of Terms

37. The commercial elements of the Heads of Terms outline the commercial basis on which the RA will be drafted. The RA will in effect allow for the disposal of Council owned land (Phases 1 – 5) in two main tranches once conditions precedent are met allowing the regeneration of the Elephant & Castle to progress. The disposal of land will take the form of two 999 year leases, giving the Council additional control over the development, further to the statutory planning processes in place. Additional land may be brought into the RA on agreement by both parties. In consideration of its land interests, the Council will receive land payments as set out in paragraph 41, a priority return as set out in paragraph 43 as well as overage in accordance with terms set out in paragraph 44.

38. In addition, both parties are committed to work together as part of the RA to bring forward the redevelopment of the shopping centre (Phase 6) once economic circumstances allow and a viable scheme is proved to allow for the development to come forward.

39. The remaining commercial terms are in accordance with those set out in the closed report.

Programme

Project Milestones

40. At this stage, the agreed key milestones are as follows:

- Signing of RA by March 2010;
- Commencement of demolition of Phase 1 – February 2010; if it proves viable and expedient, the demolition of Phases 2 - 5 will be brought forward once the site achieves vacant possession by agreement between Lend Lease and the Council;
- Detailed planning consent and conditions precedent met for phase 1 by end April 2011; and,
- Outline planning consent received and conditions precedent met for Phases 2 – 5 by end February 2013 (subject to provision of an extension to allow for legal challenge).

41. Further milestones will be agreed between both parties through the governance structure as part of the development programme.

Pre-development work

42. Following signing of the RA, Lend Lease will prepare a MRBP; progress pre-development work on the master plan; prepare applications for outline planning consent of phases 2 – 5 and a detailed application for Phase 1.

Phase 1

43. Lend Lease have agreed to commence with the demolition of Phase 1 acting as the Council's agents prior to the signing of the RA; subject to the recovery of costs from the Council. On submission of a detailed application for Phase 1 Lend Lease will, subject to achieving consent and subject to conditions precedent being met commence construction on site.

Phases 2 – 5

44. On submission of an outline application for Phases 2 - 5 Lend Lease will, subject to achieving consent prepare detailed applications in relation to the development of Phases 2 – 5. On grant of planning consent and subject to conditions precedent being met, Lend Lease will commence construction on site.

Phase 6

45. Phase 6 'the shopping centre' will be included in the RA. Previously this was in the programme as Phase 1, however, due to factors outside the control of both parties the timing of this phase has been changed due to the:

- proposed changes to the Mayor's LVMF strategy which could have significant impact on the quantum of development and therefore, viability;
- economic downturn which has had a significant impact on commercial retail development with potential impact on value of over 40%; and,
- ongoing negotiations with TfL to find an integrated transport solution which is affordable.

46. The Council and Lend Lease are committed to working together to progress negotiations with St Modwen with a view to agreeing a viable scheme for phase 6. This will be brought forward as soon as practically possible when it is felt that the issues highlighted in paragraph 45 have been resolved and a viable scheme can be progressed.

Planning Applications

47. Lend Lease will be responsible for making the appropriate applications to optimise the site value of the site in accordance with the agreed Master Plan. Issues such as transport infrastructure, section 106 contributions and quantum of affordable housing will be determined through the statutory planning process in the normal manner. Initially, two applications will be made: a detailed application for phase 1 and an outline application for phases 2 – 5.

48. Throughout the development of the applications, the Council will be fully involved through the governance arrangements that will be in place which will require the Council's agreement (acting in a reasonable capacity) and sign off to the application. In addition, the Council will provide a dedicated development management officer to support the planning process.

Exclusivity

49. The Council agrees to extend the exclusivity period for such time as may reasonably permit the RA to be completed.

KEY ISSUES FOR CONSIDERATION

Heygate Rehousing

50. Critical to the delivery of the Elephant and Castle programme has been the need to secure vacant possession of the Heygate estate. The Council stopped letting units on the estate in 2004 and in June 2007 the Executive agreed the 'Heygate

Action plan' to accelerate the rehousing of residents from the estate with the aim of achieving vacant possession by September 2009. Progress towards this objective has been positive and as of 13 November, 1080 properties have been secured. The Wansey Street block is now completely vacated and to ensure safety, the hoarding of the site has commenced. Currently, the number of households remaining on the estate are as follows;

Secure tenants	58
Non-secure tenants	14
leaseholders	28

51. There has also been positive progress in terms of buying back leaseholders on the estate as 84% have been successfully repurchased (152 in total). Of the remaining leaseholders, the Council is in positive discussions with all of them.
52. There are 12 secure tenants and no leaseholders remaining in the Rodney Road and Wingrave blocks. This area forms part of phase 1 of the proposed regeneration programme. Therefore, it is anticipated that the phased demolition of the estate beginning with these blocks will commence early next year once vacant possession has been obtained. The Heygate rehousing team are prioritising these secured tenants for rehousing. If a direct offer is declined, the Council will apply to the court for a court order for possession.

MUSCo

53. In order to give effect to the Council's objective of a zero carbon development, the Executive in July 2008 selected a consortium led by Dalkia PLC to form a Multi Utilities services Company (MUSCo) to deliver sustainable infrastructure for the Elephant and Castle development area and to assess the feasibility of delivering a comprehensive network for surrounding developments including the Aylesbury estate. The Council has used s106 agreements to ensure that early developments referred to in paragraphs 16 - 18 above can be connected to the network when it becomes operational.
54. Since their selection, the consortium led by Dalkia PLC have taken into consideration:
- the emerging master plan being developed by Lend Lease for the Elephant and Castle;
 - the impact of the economic downturn on build out rates
 - the emerging area action plan for the Aylesbury; and,
 - changes in national legislation and targets for zero carbon buildings.
55. The consortium are now engaged in work to update their business plan and refine their proposals as a result of the above. Officers anticipate that a further report setting out a way forward will be brought to the Executive in the new year. The

Council and Lend Lease remain committed to delivering a holistic energy solution for the Elephant and Castle of which, the MUSCo is a key element.

TfL

56. Due to the requirements of the cost of transport mitigation, the Council and Lend Lease have been in negotiations about the full impact of this on the viability of the development. The Council, Lend Lease, GLA and TfL are jointly working in partnership to an agreed action plan to look to resolve the identified issues in a more mutual manner. In conjunction with TfL, the planning authority and the development partners, a new transport impact assessment has been commissioned to further understand the impact of the scheme on the transport infrastructure in light of the changes to scope as outlined above. The new study will focus on all modes of transport including walking, cycling, bus, tube and train.

Affordable Housing

57. The level of affordable housing will be determined through the normal statutory planning processes in accordance with the emerging Core Strategy. It is in both parties interest to secure HCA grant funding which will effectively be treated as a revenue stream to the project. Initial discussions with the HCA have taken place and further detailed negotiations are planned once the RA has been signed in order to explore funding opportunities.

Economic Climate

58. The Council will be entering into a RA in difficult economic circumstances and what is perceived to be the bottom of the property cycle. The financial model agreed by both parties reflecting the Heads of Terms represents current realistic values subject to projected inflation in accordance with market indicators. Therefore, the Council will benefit, through the overage arrangements, from improvements in the property market should they occur.

Land Payments

59. Land payments to the Council will be dealt with in the same manner as any other receipts and will be allocated in accordance with the Council's priorities as part of the capital programme. This programme is due to be revised as 'Capital Refresh' which is due to be reported to the Executive in January 2010.

Land Sales

60. The Council's landholdings at the Elephant & Castle are held within the Housing Revenue Account. Receipts from the disposal of the land would therefore fall to the HRA. Officers are currently investigating options allowing for the use of these receipts for non-housing purposes in order that the Council's priorities and those

of the Elephant & Castle regeneration project can be met. Proposals will be brought forward to the Councils' Executive as part of 'Capital Refresh'.

61. It is intended that the Council will use general consent E 3.1 under Section 32 of the Housing Act 1985 for the disposal of land. General consent E 3.1 requires that the disposal can take place under this consent providing that any dwelling:

- is vacant;
- will not be used as housing accommodation; and
- will be demolished.

62. If the above three tests are met and the transaction is at Best Consideration, then Secretary of State's (SofS) consent is not required to approve the disposal of land.

63. The Executive will need to be satisfied in the proposed report seeking approval to enter into a RA that payments the Council will receive for the land represents best consideration or in the eventuality this is not demonstrated, a specific consent from SofS will be required. If this is not forthcoming, the risk to the Council is exposure to the abortive costs in the development of the RA consisting of consultancy and associated professional fees.

FINANCIAL IMPLICATIONS

Revenue

64. Lend Lease have agreed to fund the Council's revenue costs and together with existing revenue budgets, this will enable the proper management of the project without additional recourse to Council finances.

Capital

65. The Council has agreed to pay for the demolition of Phase 1 up to a maximum agreed fee. The Finance Director needs to make budget provision for this. The Council will benefit through its profit share and overage arrangements as this will make Phase 1 more viable and as a consequence, increase its profitability without it adversely affecting the Council's budget.

Statement of Community Impact

66. The partner selection competition itself was based upon the Development Framework for the Elephant and Castle which was informed by a thorough 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.

67. 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. The project will maintain the variety and diversity of the Elephant and Castle which are defining characteristics of the area whilst addressing the current deprivation indicators.
68. The project continues to be accompanied by continuous consultation, communication and engagement activities including exhibitions, market opinion surveys, newsletters and research programmes. A full Equalities Impact Assessment (EqIA) of the scheme has been undertaken in accordance with the corporate programme for production of EqIA's; this will need to be reviewed once the RA is agreed. Additional consultation over and above the requirements of the statutory planning process will be undertaken with the local community in preparation of the planning applications.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Supplementary advice of Strategic Director of Communities, Law & Governance

Best Consideration

69. Paragraph 37 of this report sets out the terms on which it is proposed that the Council's land will be disposed of by way of the grant of two 999 year leases.
70. As the land falls within the Council's Housing Portfolio, the disposal can only proceed in accordance with Section 32 of the Housing Act 1985, for which purposes the consent of the Secretary of State for the Department of Communities and Local Government is required.
71. A number of general consents have been issued in the General Housing Consents 2005.
72. Consent E3.1 states:
- "A local authority may dispose of any land held for the purposes of Part II for the best consideration that can reasonably be obtained, provided that any dwelling house included in the disposal:
 - is vacant;
 - will not be used as housing accommodation; and
 - will be demolished"

73. The report indicates at paragraphs 40 - 44 and 50 - 52 that the dwellings on the land will be vacant, following the programme for achieving vacant possession, and will not subsequently be used as housing accommodation but will be demolished. These requirements of General Consent E3.1 are therefore satisfied and if the payments the Council will receive for the land represent the best consideration that can reasonably be obtained, the specific consent of the Secretary of State will not be required.
74. The decision on whether or not the payments that the Council will receive represent best consideration will be taken at the time of entering into the Regeneration Agreement envisaged by this report.
75. The Executive will need to be satisfied in the proposed report seeking approval to enter into a RA that payments the Council will receive for the land represents best consideration or in the eventuality this is not demonstrated, a specific consent from SofS will be required.

Supplementary Advice of the Finance Director

76. This report presents a number of recommendations arising from the Heads of Terms agreement for the Elephant & Castle regeneration project. These follow on from detailed negotiations between the Council and Lend Lease and represent the most current agreement between the two parties at this time.
77. The financial and commercial implications of these Heads of Terms are laid out within the body of the report and are represented within a financial model that has been reconciled by both parties and independently reviewed by PwC and by Drivers Jonas (commercial and valuation consultants to the Council) respectively. These implications remain subject to contract to be established through the Regeneration Agreement and the Master Regeneration Business Plan.
78. The Council is required to ensure that best consideration is received in respect of any land transfer and these issues are referred to throughout this report (paragraphs 60 - 63 and 69 - 75). At the point of agreement to the RA, the tests for best consideration as outlined in the report will need to be applied. In the event of best consideration not being achieved, the Council would have the opportunity to refer to the Secretary of State.
79. The Finance Director notes a range of governance arrangements being implemented through the RA and particularly: the Steering Group; the business planning processes; annual auditing arrangements; and open book accounting. These arrangements are detailed in the report. Collectively they will allow the Council to have appropriate oversight of the regeneration project. The Council will need to ensure that appropriate resources are made available to support these essential control mechanisms. These need to be contained within existing

budget planning processes and later with support from contributions made by Lend Lease on agreement to the RA.

80. The governance arrangements will need to ensure that all costs and fees incurred by Lend Lease are properly controlled throughout the development and are appropriate for the developments being undertaken..
81. The report identifies costs in respect of demolition of Phase 1 in order to help de-risk progress with this part of the development by providing early site access and revenue creation. The Finance Director notes that provision will need to be included in the refreshed capital programme to be presented to Executive in January 2010.

Reason for urgency

82. It is not possible to wait until the next meeting of the Executive to consider this decision because of the timetable between Lend Lease and the Council which requires a decision in order to progress the regeneration of the Elephant & Castle as the exclusivity period between the Council and Lend Lease expires at the end of November 2009.

Reason for lateness

83. The discussions and negotiations on the Heads of Terms have been ongoing between the Council and Lend Lease beyond the stage at which Executive papers would have been circulated. In order to provide an appropriately comprehensive report it was not possible to circulate in the normal timetable.

Background Papers

Background Papers	Held	Contact
21 July 2009 Executive Open Report Elephant and Castle Update Development Agreement - Update on negotiations with Lend Lease	Everton Roberts Constitutional Team	Everton.roberts@southwark.gov.uk Ext. 57221

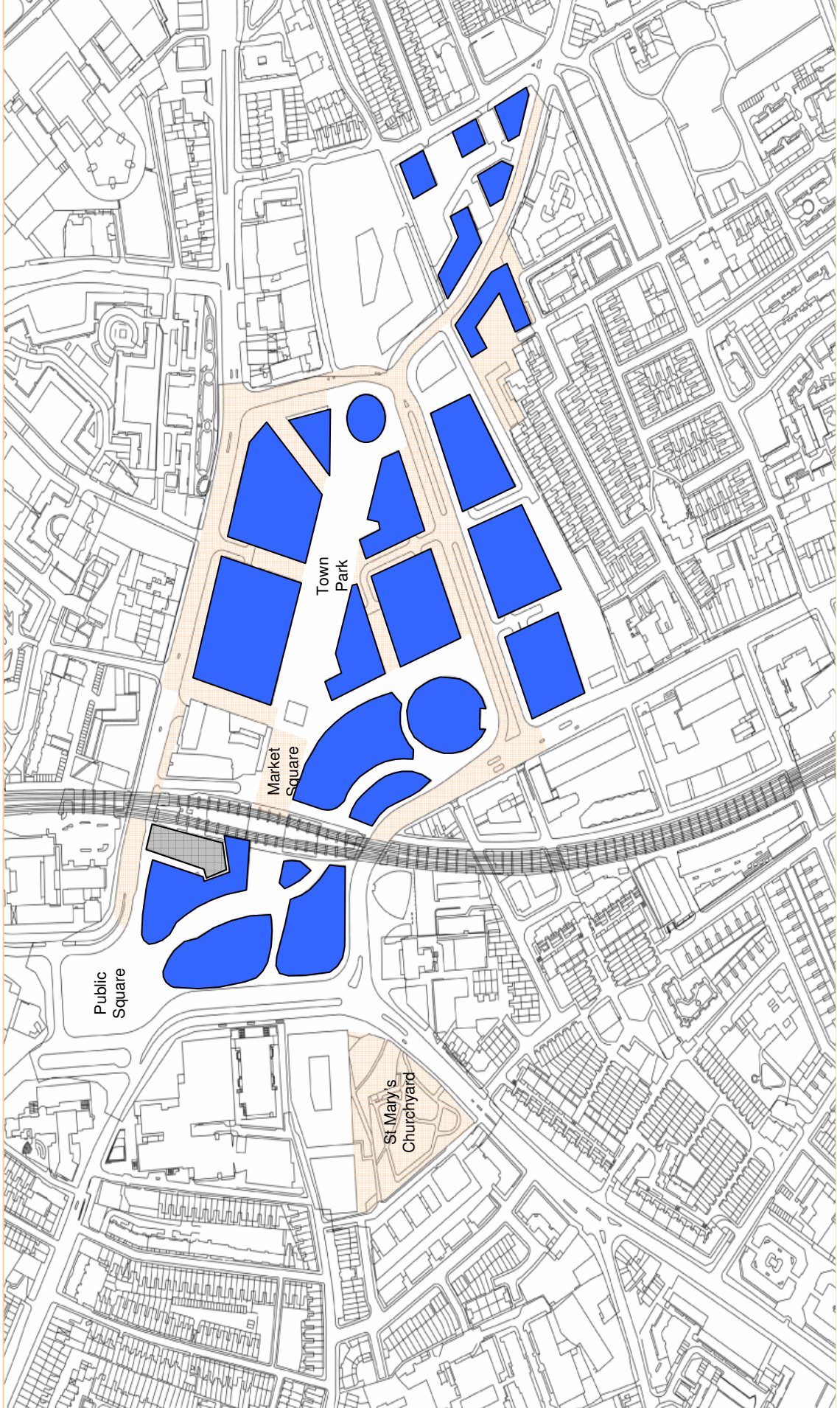
Appendices

APPENDIX A	Elephant & Castle Area Plan
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Audit Trail

Lead Officer	Eleanor Kelly – Deputy Chief Executive		
Report Author	Steve Platts – Head of Property		
Version	FINAL		
Dated	20.11.09		
Key Decision?	Yes		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER			
Officer Title	Comments Sought	Comments included	
Strategic Director – Communities, Law & Governance	YES	YES	
Finance Director	YES	YES	
Executive Member			
Date final report sent to Constitutional Support Services	20.11.09		

Elephant and Castle Current Masterplan Area



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EXECUTIVE AGENDA DISTRIBUTION LIST**MUNICIPAL YEAR 2009-10**

NOTE: Original held by Constitutional Team; all amendments/queries to
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