

## Overview & Scrutiny Committee

Wednesday 1 June 2011

7.00 pm

Town Hall, Peckham Road, London SE5 8UB

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### Membership

All members of the council.

(Annual Council Assembly on Tuesday 24 May 2011 will agree the size, composition and terms of reference of the committee and appoint the chair and vice-chair. Following the Annual Council Assembly meeting the political groups will formally nominate to places on the committee.)

**For reasons of urgency this meeting has been summonsed without 5 days notice**

### Education representatives

Reverend Nicholas Elder  
Colin Elliott, Parent Governor  
Leticia Ojeda, Parent Governor

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### Contact

Peter Roberts on 020 7525 4350 or email: [peter.roberts@southwark.gov.uk](mailto:peter.roberts@southwark.gov.uk)

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Members of the committee are summonsed to attend this meeting

**Annie Shepperd**

Chief Executive

Date: 24 May 2011



# Overview & Scrutiny Committee

Wednesday 1 June 2011  
7.00 pm  
Town Hall, Peckham Road, London SE5 8UB

## Order of Business

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<b>PART A - OPEN BUSINESS</b>		
1.	<b>APOLOGIES</b>	
2.	<b>NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT</b>	
	In special circumstances, an item of business may be added to an agenda within five clear working days of the meeting.	
3.	<b>DISCLOSURE OF INTERESTS AND DISPENSATIONS</b>	
	Members to declare any personal interests and dispensation in respect of any item of business to be considered at this meeting.	
4.	<b>MINUTES</b>	1 - 12
	To approve as a correct record the Minutes of the open sections of the meetings held on 21 March and 18 April 2011.	
5.	<b>CALL-IN: ELEPHANT &amp; CASTLE REGENERATION - SHOPPING CENTRE (CABINET DECISION 17 MAY 2011)</b>	13 - 25
6.	<b>SCRUTINY ARRANGEMENTS FOR 2011/12</b>	26 - 28
	<b>DISCUSSION OF ANY OTHER OPEN ITEMS AS NOTIFIED AT THE START OF THE MEETING.</b>	
<b>PART B - CLOSED BUSINESS</b>		
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## OVERVIEW & SCRUTINY COMMITTEE

MINUTES of the Overview & Scrutiny Committee held on Monday 21 March 2011 at 7.00 pm at Town Hall, Peckham Road, London SE5 8UB

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**PRESENT:** Councillor Lisa Rajan (Chair)  
Councillor Andy Simmons (Vice-Chair)  
Councillor Neil Coyle  
Councillor Toby Eckersley  
Councillor Gavin Edwards  
Councillor David Hubber  
Councillor Tim McNally  
Councillor Helen Morrissey  
Councillor Paul Noblet  
Councillor the Right Revd Emmanuel Oyewole

**EDUCATION REPRESENTATIVES:** Leticia Ojeda, Parent Governor

**OTHER MEMBERS PRESENT:** Councillor Fiona Colley, Cabinet Member, Regeneration & Corporate Strategy

**OFFICER SUPPORT:** Simon Bevan, Interim Head of Planning and Transport  
Doreen Forrester-Brown, Legal Services  
Eleanor Kelly, Deputy Chief Executive  
Karen O'Keeffe, Head of Economic Development & Strategic Partnerships  
Steve Platts, Head of Property  
Peter Roberts, Scrutiny Project Manager

### 1. APOLOGIES

1.1 There were no apologies for absence.

### 2. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

2.1 There were none.

### 3. DISCLOSURE OF INTERESTS AND DISPENSATIONS

3.1 There were no disclosures of interests or dispensations at this point in the meeting.

### 4. MINUTES

4.1 The committee agreed that questions to the leader for which an answer was outstanding, and which were still relevant, be re-submitted to the leader for his attention.

#### **RESOLVED:**

1. That, subject to the following amendment, the minutes of the meeting held on 10 January 2011 be agreed as a correct record:

Paragraph 5.3 – add, “The leader agreed to provide written answers within ten days”.

2. That, subject to Councillor David Hubber’s name being removed from the list of those who gave apologies for absence, the minutes of the meeting held on 31 January 2011 be agreed as a correct record.

### 5. CABINET MEMBER INTERVIEW: COUNCILLOR FIONA COLLEY, REGENERATION & CORPORATE STRATEGY

#### **Future of town centres regeneration and the Improving Local Retail Environment (ILRE) programme**

5.1 Members asked what was happening to the library and shops in the Albion Street area. Councillor Colley responded that the challenges were not unusual in the borough. There were different views about the library and reinvigorating the street. Something was needed to draw people into the area and bring in private investment. Councillor Colley welcomed suggestions. Members offered to provide feedback from the community council meeting and suggested that consideration be given to using the area around the Norwegian Church and to rent levels of council-owned shops.

5.2 Members highlighted that the core strategy included expanding Canada Water as a town centre but that traffic and transport were a problem. Councillor Colley stated that it was necessary to identify the resources to look at transport issues. Lewisham’s and Tower Hamlets’ commitment to this was not yet clear. Steve Platts, head of property, commented that the pedestrian routes around Surrey Quays tube station were not straightforward and that this was being looked into. In response to a question Councillor Colley indicated that she had not heard anything from TfL about Lower Road and a possible one-way system.

5.3 In respect of Canada Water, a member asked whether the Strategic Landowners Group still existed and stressed the need for cohesive development. Steve Platts responded that the Group had not met for some time. The council was having

conversations with landowners to ensure that development was co-ordinated. He reported the current position on Harmsworth Quays where the occupiers were consulting staff on relocation. This would be a great opportunity for redevelopment and the views of local people would be invited. Councillor Colley emphasised that if the Daily Mail offices went then this would unlock a huge area but that it would be essential to talk to residents and ward councillors. She was keen to ensure that there continued to be employment opportunities on the site.

- 5.4 Members asked for an update on the ILRE programme and whether any schemes were ahead of schedule. Councillor Colley explained that the schemes had been due to be completed by the end of this financial year but, because business engagement had taken longer than anticipated, this had moved to the end of the Summer. Karen O’Keeffe, head of economic development & strategic partnerships, confirmed that all schemes were on budget and would be on site by the end of May and completed by June. Members asked whether there would be any fresh capital allocation. Councillor Colley replied that it was unlikely that the ILRE programme would receive further allocation. The priority was bigger town centres like Camberwell and Rye Lane.
- 5.5 A member asked how the lack of Section 106 money in the south of the borough could be addressed. Councillor Colley stated that Herne Hill had one of the bigger allocations but agreed that it would be useful to review the situation.
- 5.6 Members drew attention to parts of the borough where the number of empty shops was increasing rapidly and wondered what could be done. Councillor Colley stated that this was variable, for instance Rye Lane had a low vacancy rate. There was some planning protection for shop units but the impact of the economy was not good. Steve Platts added that less than 4% of shops were in the council’s ownership.
- 5.7 In response to questions about future capital bids on Rye Lane, Councillor Colley stated that the Peckham and Nunhead Area Action Plan was a starting point. A clear idea needed to be developed of what was wanted before any capital bids were put in. Rye Lane had been resurfaced and the pavements were being done. It had to be kept clean and trade waste picked up. Peckham town centre needed an anchor store and discussions needed to take place in respect of the multi-storey car-park and the cinema.
- 5.8 Members asked how the council could engage bigger businesses to work together in support of regeneration. Councillor Colley stated that it was crucial to bring in private investment. In the past, regeneration in Peckham had been paid for by public sector funding but there was no prospect of this in the immediate future. A conference last year had promoted Southwark as a central London borough. A seminar at the beginning of May would provide the launch event for the Peckham and Nunhead Area Action Plan and include contributions from developers who had already worked in the borough.

#### **Strategic planning issues in Borough and Bankside**

- 5.9 A member was disappointed about the halting of the area action plan pending agreement of the local plan. The area action might have provided some protection

against schemes such as The Quill going ahead. Councillor Colley stated that as a priority the council needed to be clear how neighbourhood planning worked.

- 5.10 Another member asked how the council could protect the Crossbones Graveyard. Councillor Colley stated that the council was working with TfL, the Mayor of London and Friends of Crossbones to protect the site. She added that it was unfortunate that the planning inspector had decided that open spaces could not be included in the Core Strategy but that the council would include them in area plans where this was possible. She was talking with officers about the possibility of an open spaces development plan document.
- 5.11 Members asked whether all supplementary planning documents were being abandoned. Councillor Colley explained that this was not the case but that the council was reviewing the order of its priorities. In response to further questions, Simon Bevan, interim head of planning and transport, stated that the Dulwich SPD remained in draft and would need to be updated in line with the Core Strategy. He also explained in reference to the Dulwich Hospital site that the draft SPD set out local aspiration for the site.
- 5.12 The chair suggested that it would be helpful if the Regeneration & Leisure Scrutiny Sub-Committee was provided with priorities of timing in respect of the different action plans.

**Elephant & Castle – including demolition of the Heygate estate, HCA and the Aylesbury and Elephant and Castle regeneration schemes and new leisure centre at the Elephant and Castle**

- 5.13 Councillor Colley provided an update on demolition of the Heygate estate. Demolition had started on the Rodney Road site a month ago in preparation for the blocks to be pulled down. Concrete was being crushed on site and a lot would be recycled when the estate was re-built. Steve Platts stated that the council was working with Lend Lease on the next phase, south of Heygate Street, and that the final phase would be north of Heygate Street where currently a number of leaseholders were still in occupation. The council was negotiating to acquire all leaseholds as soon as possible with any compulsory purchase orders to be initiated once planning consent was acquired.
- 5.14 Members were concerned about plans for the shopping centre. The desire of local residents was for a new centre but there were rumours of a much more limited redevelopment. Councillor Colley reported that the owners of the centre were now showing an interest in doing something. There were pros and cons to various options which ranged from knocking down the centre to using the inner core without complete demolition. One advantage to retaining the core would be that transformation would come sooner and be technically quicker to achieve. Shops could continue trading and there would be environmental benefits. However it could be questioned whether this would be a sufficient redevelopment, it was important to get the right result for the area. A member sought assurance that any improvements would have regard to the Elephant & Castle development framework. Eleanor Kelly reported that positive negotiations were under way between Lend Lease, St Modwen Properties and the council. Proposals would be put out to public consultation in May.

- 5.15 A member asked whether the aim was to generate a sufficient Section 106 payment to finance the gap in funding for the transport infrastructure. Councillor Colley made it clear that it was important that every development around the Elephant & Castle paid towards transport improvements, but equally that it was important that TfL did not charge more for the improvements than was needed. Eleanor Kelly added that joint discussions between TfL, the GLA and the council had improved and had been broadened out to include Lend Lease and St Modwen. The council had maintained its position that discussions needed to include everyone who would be making a contribution and address a proper solution and any funding gap.
- 5.16 Members asked whether the new leisure centre would contain squash courts, bearing in mind that the existing courts were the only ones in this part of the borough. Councillor Colley replied that this was still being looked at and would depend on what could be fitted into the smaller footprint of the new centre. It was possible that squash courts could be provided as part of the redevelopment around Millwall. Steve Platts stressed that the centre needed to be kept affordable and within budget, including the capital allocation. The final design had not yet been agreed and was out to consultation. Provision of a cafe was important in terms of commercial viability but it was debatable whether this had to be within the building itself. All options were being considered.
- 5.17 Members asked how revenue costs of running the leisure centre would be kept down. Councillor Colley stated that both revenue and capital costs needed to be monitored. Steve Platts suggested that the key was the anticipated visitor numbers. Fusion was expecting this to be Southwark's most used centre and the key money maker would be the gym.
- 5.18 A member reported that the view had been expressed by local groups at a community council meeting that there was not an overarching body they could attend as groups with an interest in the regeneration. Councillor Colley indicated that a regeneration forum was to be funded by Lend Lease and was expected to launch in May. A lot of people were keen to be involved and meetings of the forum would need to be appropriately themed. Lend Lease was visiting a wide range of community groups, talking to ward councillors and would be maintaining a website and circulating newsletters.
- 5.19 Members asked for an update on proposals for a MUSCo. Eleanor Kelly explained that Lend Lease was looking at the options for ensuring that the development met the requirements of legislation and of the regeneration agreement in terms of being carbon neutral. Steve Platts added that Lend Lease's proposals around energy would come forward with the master plan application.
- 5.20 Members thanked Councillor Colley and officers for their work with residents of the Aylesbury Estate since the decision on the private finance initiative (PFI) and asked for an update on negotiations with the Homes and Communities Agency (HCA). Councillor Colley responded that it was not only that the PFI had been cancelled but that there were substantial cuts to the HCA's funding. The available subsidy per unit at affordable rent had reduced from £120,000 to £30,000. Councillor Colley also explained that other schemes in the borough suggested that

73% of new build properties had been let to council tenants, putting into question the 80% target for the Aylesbury. Grant was only available at higher rental levels but the government required that tenants should have their rents protected. Councillor Colley stated that there were substantial challenges to finding the necessary funding and that ultimately this might compromise what was possible. A solution had to be found for a huge and long-term scheme.

- 5.21 Members raised the uncertain position of leaseholders, the value of whose properties was in flux, and asked whether anything could be done to support them. Councillor Colley indicated that it was difficult to provide certainty but that communication was being maintained. Members also questioned whether the balance between affordable housing and private rentals could be revisited and whether, when tenants returned to the estate, the policy of need plus one bedroom would be continued. Councillor Colley was reluctant to reduce the percentage of affordable housing. She also confirmed the right of return to need plus one bedroom but commented that the demand might alter in response to changes in housing benefit rules. In response to further questions, Councillor Colley indicated that the capital programme refresh would include the Aylesbury.
- 5.22 Members asked whether changes in the government's approach to social housing grant effected the Elephant & Castle regeneration. Councillor Colley stated that there was less of an impact as land values were better. Eleanor Kelly added that assumptions around housing grant had been included in the financial model but that this had a guaranteed level of affordable housing irrespective of grant. Some members were concerned at any decrease in the profit payable to the council.
- 5.23 At 8.30pm the committee went into closed session and discussed the possible impact on profits of a drop in social housing grant. Officers indicated that profit was influenced by a range of factors including TfL, land values and the amount of development that the site could take. They confirmed that Lend Lease was contractually obliged to develop out 25% of affordable housing but that the council's planning policy retained its target of 35%. Members of the committee stressed the importance of making affordable new housing available to tenants being re-housed at the Elephant & Castle. The committee returned to open session at 8.40pm.

## **6. SCRUTINY SUB-COMMITTEES: CHAIRS' UPDATES**

- 6.1 Councillor David Hubber, chair of the education & children's services scrutiny sub-committee, reported on the sub-committee's review of schools admissions and the intention to submit its final report to the committee in April. At its April meeting the sub-committee would consider an interim report on childhood obesity and sports provision for primary and secondary school children. The sub-committee had also considered adult education provision and would be considering the children and young people's plan. In the next municipal year the sub-committee hoped to continue looking at safeguarding.
- 6.2 Councillor Neil Coyle, chair of health & adult social care scrutiny sub-committee, stated that the sub-committee was due to meet on Wednesday and would be looking at equality impact assessments. He commented on the massive changes

in government health funding and that the sub-committee on Wednesday would also be receiving an update on proposed savings in Southwark. Councillor Hubber commented that the education & children's services scrutiny sub-committee was considering reviewing the impact of GP commissioning on children's health services and possibly holding a joint meeting with the health & adult social care sub-committee.

- 6.3 Councillor Coyle was concerned about the budget for overview and scrutiny in 2012 and the impact on the work of scrutiny. The chair stated that the committee would need a discussion in the new municipal year about the future structure of the overview and scrutiny function.
- 6.4 Councillor Gavin Edwards, chair of the housing & community safety scrutiny sub-committee, informed the committee that the sub-committee's report on key performance indicators of the housing repairs service was going to cabinet the following day and had already received the support of Tenants' Council. At its meeting in April the sub-committee would be agreeing its final report on unfinished security works on the Four Squares estate. A further report was in preparation on CCTV. Councillor Edwards also reported that the sub-committee was looking at fire safety works on Canada Estate and would be receiving a report from Tenants' Council on the Housing Revenue Account.
- 6.5 Councillor Tim McNally, chair of the environment, transport, communities & citizenship scrutiny sub-committee, briefed the committee on the reviews of recycling and the edge of the borough. Many of the sub-committee's recommendations on recycling had been implemented during the review. The edge of the borough review had revealed that many issues were the responsibility of Lewisham and officers were taking this up. Councillor McNally also reported on the cabinet member interview with Councillor Mohamed and that the sub-committee was waiting for written answers to some of the questions put to the cabinet member.
- 6.6 Councillor Paul Noblet, vice-chair, and Councillor Dan Garfield, member, of the regeneration & leisure scrutiny sub-committee, reported on the work of the sub-committee. The sub-committee had monitored the development at Canada Water, would be exploring the economic benefits of The Shard on Borough High Street and would be looking at the Peckham and Nunhead Area Action Plan. The sub-committee had also received a useful update from Councillor Veronica Ward, cabinet member, on the community games and the Olympics.

The meeting ended at 9.15pm.



## OVERVIEW & SCRUTINY COMMITTEE

MINUTES of the Overview & Scrutiny Committee held on Monday 18 April 2011 at 7.00 pm at Town Hall, Peckham Road, London SE5 8UB

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**PRESENT:** Councillor Lisa Rajan (Chair)  
Councillor Andy Simmons (Vice-Chair)  
Councillor Toby Eckersley  
Councillor Gavin Edwards  
Councillor Mark Glover  
Councillor David Hubber  
Councillor Tim McNally  
Councillor Helen Morrissey  
Councillor Paul Noblet  
Councillor the Right Revd Emmanuel Oyewole

**OFFICER** Norman Coombe, Legal Services  
**SUPPORT:** Peter Roberts, Scrutiny Project Manager

### 1. APOLOGIES

1.1 Apologies for absence were received from Leticia Ojeda, Parent Governor.

### 2. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

2.1 The Chair indicated that there would be time at the end of the meeting for a brief discussion about the structure and chairs and vice-chairs of the following year's sub-committees.

### 3. DISCLOSURE OF INTERESTS AND DISPENSATIONS

3.1 There were no disclosures of interests or dispensations.

#### 4. MINUTES

In considering the minutes of the call-in meeting, Councillor Toby Eckersley requested that legal services be asked to review their advice on the participation of former cabinet members.

##### **RESOLVED:**

That, subject to the amendments below, the minutes of the open sections of the ordinary and call-in meetings held on 7 February 2011 be agreed as a correct record:

Ordinary meeting – First name of Mr Farsky of Southwark Pensioners' Action Group be amended to "Tony"

Call-in meeting – Councillor Toby Eckersley be added to the list of those present and Councillor Tim McNally's apologies be included

#### 5. FINAL SCRUTINY REPORTS

##### **Unfinished Security Works on the Four Squares Estate (Housing & Community Safety Scrutiny Sub-Committee)**

- 5.1 Councillor Gavin Edwards, chair of the housing & community safety scrutiny sub-committee, introduced the report. The committee welcomed the report as an important and useful piece of work.
- 5.2 Some members were of the view that the emails attached as an appendix to the report gave a misleading view as the ward members knew before the election that funding was no longer there. Councillor Edwards clarified that the sub-committee had looked at the period up to 2010 and that the question raised by ward members was whether or not the then cabinet member for housing should have informed them about the lack of funding.
- 5.3 Members queried whether the amount of £50,000 specified in recommendation 2 was appropriate. Councillor Edwards stated that this was a significant amount and that the priority was to introduce a defined threshold. Members suggested that figures were already set out within contract standing orders.
- 5.4 Some members raised whether recommendation 6 should specify the size of scheme. Councillor Edwards responded that the sub-committee was looking for a common sense understanding on the size of the project. He reported that the new Strategic Director of Housing had seen recommendation 6 as being helpful.
- 5.5 Councillor Edwards also stressed the importance of decisions being publicly accessible (recommendation 7). Members wondered whether the lack of transparency in this case was a failing of members or officers. Councillor Edwards stated that the sub-committee's view was that there had been faults by both.

- 5.6 Members recommended that it would be beneficial if projects at a certain level were itemised within the capital monitoring report.

**RESOLVED:**

That, subject to the following amendments, the report be referred to cabinet for consideration:

Recommendation 1 - All additional spending on contractor works (over and above the original budget) in excess of £50,000 must be signed off by the Cabinet Member. *Every Cabinet member should be encouraged to set up early warning systems to alert him/her to the likelihood of the formal threshold being reached.*

New recommendation 3 - *All major works in excess of £50,000 which have reached Gateway 2 status should be itemised in the Quarterly Capital Monitoring Report and should be subject to Contract Standing Orders in relation to capital virements.*

Recommendation 5 - Any Cabinet Member who becomes aware of a significant overspend on a major works contract which will impact on the council's ability to deliver on the scheme should take immediate and decisive action to deal with the situation. Either the Cabinet Member should take steps to *secure the allocation* of the required additional funds or *ensure that* ambitions for delivery should be scaled down

Recommendation 8 - The programme of works to be funded through the Capital Investment in Housing should be *a member level decision, be it council assembly, cabinet or cabinet member* and no longer be the subject of delegated officer powers

**Schools Admissions (Education & Children's Services Scrutiny Sub-Committee)**

- 5.7 At this point in the meeting, Councillor Andy Simmons declared a personal and non-prejudicial interest as the parent of a child soon to be entering the admissions process. Councillor Toby Eckersley declared a personal and non-prejudicial interest as a governor of a charter school.
- 5.8 Councillor David Hubber, chair of the education & children's services scrutiny sub-committee, introduced the report. The committee welcomed the report.
- 5.9 A member suggested that recommendation 6 also make reference to hospital nurseries.
- 5.10 Members queried the reference to the Tooley Street Offices in recommendations 6 and 16. Councillor Hubber clarified that this was seen as an additional facility and not replacing the use of one-stop shops and other council premises. Members suggested that the reference be changed to include all the council's principle offices.

- 5.11 Members questioned whether the council could enforce recommendation 11 and whether this should apply only to schools currently using a test. Councillor Hubber acknowledged that this might be difficult to achieve. The sub-committee had seen this as trying to introduce a common basic test but with schools able to add on another test if required.
- 5.12 In respect of recommendation 13, Councillor Hubber explained that this had risen in response to issues raised by a parent at a meeting.
- 5.13 Some members were of the view that parents might need most help at the beginning of the process and also if an appeal became necessary. Councillor Hubber reported that the sub-committee felt that there could be more use made of voluntary mentors and that the Parents' Forum could be expanded. Some members considered that in order to help constituents it would be useful for all members to be circulated with information about the admissions process close to the allocation of places.

**RESOLVED:**

That, subject to the following amendments, the report be referred to cabinet for consideration:

Recommendation 6 - Hold open days at schools, *the council's principle offices* and in the community; particularly focus these on the needs of parents whose first language is not English, and parents of SEN children.

Recommendation 7 - Contact university *and hospital* nurseries as well as Private, Voluntary and Independent ["PVI"] early years managers.

Recommendation 11 - *Cabinet do everything within its power to introduce a common test for secondary school entry where this is required by schools.*

New recommendation 16 - *Before the date when allocations are announced, a briefing note be circulated to all members giving information about the process.*

Recommendation 17 - Make meeting space available in *the council's principle offices, in addition to one-stop shops*, for staff to take appointments with parents.

**6. SCRUTINY STRUCTURE 2011/12**

- 6.1 The committee briefly discussed the structure of sub-committees and whether a return to "taxi-rank" rather than themed sub-committees might be useful. The general view was that themed sub-committees were more beneficial, allowing members to build up ownership, knowledge and expertise. Some chairs reported that work existed in this year's work programmes which should be carried over into 2011/12. Members wondered whether the committee might pick up on areas which had not been included in the work plans of individual sub-committees.
- 6.2 Members considered the different practices in respect of cabinet member interviews. The view was expressed that the number of interviews undertaken by

the committee might have restricted its ability to carry out other work. It was widely agreed that a large number of questions did not necessarily generate the best interview, for instance members felt that the recent interview of Councillor Fiona Colley, where a number of themes had been outlined, had produced a better idea of the cabinet member's vision. It had also led to a more free-ranging discussion between committee members and the cabinet member.

- 6.3 The chair felt that cabinet member interviews were a valuable use of the committee's time. While taking the view that it would be inappropriate to try and restrict the number of questions, she considered that it would be helpful to have further discussions about how best to explore a cabinet member's views and vision rather than simply ask for facts and strategies which were accessible by other means.
- 6.4 A member questioned whether the size of the committee's membership limited its effectiveness as a scrutiny body. Other members felt that reducing the membership would result in a loss of experience and impact on the opposition's ability to call-in decisions. Some members took the view that scrutiny should be looking at outside bodies while other members felt that, especially in view of upcoming cuts in resources, the role of scrutiny should remain focussed on the cabinet and the council.
- 6.5 The chair reminded members that early in the next municipal year the committee would have the opportunity to review the scrutiny function in the light of the cuts. The head of overview & scrutiny would be bringing an initial paper to the committee. The chair felt that it was important for any members appointed to the committee in May to be able to take a full part in discussions.
- 6.6 Some members asked whether any changes could be made to the allocation of chairs of sub-committees to particular political groups. In respect of housing & community safety, the vice-chair commented that in his view the sub-committee had produced two excellent pieces of scrutiny work and that this had been in line with the priority given to this area by the majority group. Other members stressed that it would be important to know the allocation of chairs across groups in advance of the group AGMs in order to best reflect the interests and expertise of potential chairs.

The meeting ended at 9.05pm.

<b>Item No:</b>	<b>Classification:</b> OPEN	<b>Date:</b> 1 June 2011	<b>Meeting Name:</b> Overview & Scrutiny Committee
<b>Report Title:</b>		Call-in: Elephant & Castle Regeneration – Shopping Centre (Cabinet decision 17 May 2011)	
<b>Ward(s) or Group affected:</b>		All	
<b>From:</b>		Head of Overview & Scrutiny	

### **BACKGROUND INFORMATION**

1. On 17 May 2011 the cabinet considered a report on the Elephant & Castle Regeneration – Shopping Centre (included as appendix).
2. The cabinet agreed:
  1. That in principle agreement be given to enter into a Co-operation Agreement with KPI III SARL and Lend Lease (Elephant and Castle) Ltd, the initial structure of which is set out in paragraph 9 of the report.
  2. That in principle agreement be given to enter into an Agreement with KPI III SARL for the regeneration of the shopping centre, the principal terms of which are set out in paragraphs 10 -13 of the report.
  3. That in principle agreement be given to vary the Regeneration Agreement dated between the council and Lend Lease (Elephant and Castle) Ltd to reflect the amended approach described in the report.
  4. That the head of property be instructed to negotiate the detailed terms of the Agreements referred to at 1-3 above, and report back to cabinet on the conclusion of those negotiations.
  5. That the head of property be instructed to ensure that the communication and consultation elements of the Co-operation Agreement outlined in paragraph 8 of the report are fully compliant with the Regeneration Agreement consultation strategy as outlined in paragraph 18 of the report. This includes the clear expectation that initial, indicative computer generated images of the shopping centre will be issued to the Regeneration Forum on the 26 May 2011.

### **REASONS FOR CALL-IN**

3. On 20 May 2011 the Chair of Overview & Scrutiny Committee - Councillor Lisa Rajan - and three members of the committee (Councillors David Hubber, Tim McNally and Paul Noblet) requested a call-in of the decisions on the following grounds:

“The decision was not taken in accordance with the following principles of decision making as set out in the constitution:

1. The link between strategy and implementation has not been maintained:

- a) The masterplan for the Elephant & Castle envisaged a coherently planned town centre, not a piecemeal approach to development, including the Heygate, Rodney Road and Shopping Centre footprints - this decision contradicts para 32 of the Regeneration Agreement, which states that 'The shopping centre is included in the RA and the agreed strategy for bringing forward the development of the shopping centre within the RA is that: the Shopping centre will form part of the outline planning application along with the Heygate'.
  - b) Previous Cabinet discussions have highlighted the importance of including transport funding considerations in any developer deal at the E&C. Officer advice should have been obtained on the feasibility of configuring the transport interchange without stipulating any funding for TfL or Network Rail in the deal.
2. Due consultation and taking of professional advice from officers: the Council is opening itself up to possible challenge by abandoning the original town centre vision as in the masterplan and failing to go back to the market on what is now essentially two separate development plans - the report gives no indication that advice was taken as to whether the Council needs to reprocur.

#### **CALL-IN MEETING**

- 4. The committee will consider the call-in request and in particular whether or not the decision might be contrary to the policy framework or not wholly in accordance with the budget.
- 5. If, having considered the decision and all relevant advice, the committee is still concerned about it then it may either:
  - a) refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or
  - b) refer the matter to council assembly if the decision is deemed to be outside the policy and budget framework.
- 6. If the committee does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the scrutiny meeting.

#### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held at</b>	<b>Contact</b>
Report to Cabinet Member May 2011	160 Tooley Street London SE1 2TZ	Everton Roberts Constitutional Team 020 7525 7221

<b>APPENDICES</b>
Cabinet member report

**Audit Trail**

<b>Lead Officer</b>	Shelley Burke, Head of Overview & Scrutiny	
<b>Report Author</b>	Peter Roberts, Scrutiny Project Manager	
<b>Version</b>	Final	
<b>Dated</b>	May 2011	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Communities, Law & Governance	No	-
Cabinet Member	No	-

<b>Item No.</b> 8.	<b>Classification:</b> Open	<b>Date:</b> 17 May 2011	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Elephant and Castle Regeneration – Shopping Centre	
<b>Ward(s) or groups affected:</b>		Cathedrals, Chaucer, East Walworth & Newington	
<b>Cabinet Member:</b>		Councillor Fiona Colley, Regeneration and Corporate Strategy	

## **FOREWORD – COUNCILLOR FIONA COLLEY, CABINET MEMBER FOR REGENERATION AND CORPORATE STRATEGY**

There can be no doubt that the regeneration of the Elephant & Castle shopping centre is absolutely central to the transformation needed in the area. That's why the regeneration agreement we signed last year with Lend Lease covered both the Heygate Estate area and the shopping centre. However, neither Southwark Council nor Lend Lease own the shopping centre and so this agreement was always dependent on either reaching agreement with the owners of the centre or, as a fall back, a long and costly Compulsory Purchase process.

I am delighted to announce that we have now reached in principle agreement with St Modwen and I recommend that cabinet takes the in principle decisions below to enter into an agreement between ourselves and St Modwen and also a cooperation agreement between ourselves, St Modwen and our regeneration partner Lend Lease. These agreements will enable us as principle land owners to move the regeneration of Elephant & Castle forward in partnership.

This agreement is a major step to accelerate the transformation of the shopping centre, which could now happen within the next few years, rather than towards the end of the 15 year regeneration process which could otherwise have been the case.

The current preferred approach involves retaining the core of the existing structure, but extending the buildings to provide additional high quality retail and residential space. The rebuilt centre would be unrecognisable compared to the current, much derided, buildings.

The agreement will also bring St Modwen into the overall consultation plans for the regeneration and to ensure that their proposals can be presented to local residents and stakeholders as quickly as possible and so that their views can be taken into account as the plans develop.

## **RECOMMENDATIONS**

That Cabinet agrees in principle:

1. To enter into a Co-operation Agreement with KPI III SARL and Lend Lease (Elephant and Castle) Ltd, the initial structure of which is set out in paragraph 9 of this report.

2. To enter into an Agreement with KPI III SARL for the regeneration of the Shopping Centre, the principal terms of which are set out in paragraphs 10 -13 of this report.
3. To vary the Regeneration Agreement dated between the council and Lend Lease (Elephant and Castle) Ltd to reflect the amended approach described in this report.

That Cabinet instructs

4. The Head of Property to negotiate the detailed terms of the Agreements referred to at 2-4 above, and report back to Cabinet on the conclusion of those negotiations.

### **BACKGROUND INFORMATION**

5. On 7 July 2010 Cabinet approved the terms of a Regeneration Agreement between Lend Lease (Elephant and Castle) Ltd (LL) and the council. The shopping centre is included in the Regeneration Agreement with an agreed strategy for bringing forward the regeneration of the shopping centre. This strategy included negotiating with St Modwen PLC (St M) to enable the delivery of the regenerated Shopping Centre without recourse to acquiring the centre through CPO powers. At the time, it was reported to Cabinet (paragraph 32) that discussions were ongoing with St M, (the joint owners of the shopping centre, together with Salhia KSC, a Kuwaiti property company, and held in the name of KPI III SARL). For the avoidance of doubt all references in the report to St M apply equally to KPI III SARL. In order not to delay the completion of the Regeneration Agreement it was agreed that provision be made for LL to acquire the shopping centre and to regenerate it with the council exercising compulsory purchase powers if necessary to enable this to happen.
6. This report is the culmination of the positive discussions that have taken place with St M and LL. The joint intention now is for St M to take forward regeneration of the shopping centre. This will enable St M to invest in and retain ownership of their investment and allow LL to concentrate on the regeneration of the Heygate Estate. This will also accelerate the timeframe for the transformation of the shopping centre from that envisaged in the July report. This revised approach is agreed by LL, St M and council officers and this report is therefore seeking the in principle approval of the Cabinet to allow this new strategy to proceed.
7. It should be noted that the current preferred approach to the regeneration of the shopping centre is based on its transformation through a significant extension of the existing building not only onto adjacent land (the majority of which is owned by both St M and the council) which will create opportunity to substantially improve the nature and quality of the retail accommodation, but also into the air space immediately above to create modern residential units within a number of new buildings. This is undoubtedly an extensive development exercise which will create an exciting opportunity to deliver significant and positive change with compelling designs and materials that will finally consign the much maligned existing pink shopping centre to history. More significantly the scheme will provide much needed modern shopping and leisure facilities and additional residential buildings that will dramatically enhance the local skyline. There are major economic, environmental, regeneration and timing advantages in adopting

this approach whilst delivering all of the objectives of the council's regeneration vision and the Core Strategy.

## **MECHANICS OF REVISED DELIVERY APPROACH**

### **Co-operation agreement**

8. The parties LL, St M and the council will enter into an agreement that will provide for the following:

- *Development objectives*

The parties will state their objectives to work together to deliver the overall vision for the regeneration of the wider E & C area .

- *Duration of Agreement*

The agreement will set milestones and will have a finite duration to encourage the parties to progress the regeneration diligently. However milestones must be flexible to respond to market circumstances, strategic issues around transport solutions and any unforeseen problems that may arise.

- *Consultation strategy*

This will set out how the parties will work together on consultation with stakeholders that will be affected by the regeneration.

- *Communications plan*

This will set out how the parties will work together on who communicates details of the regeneration.

- *Planning agreement*

This will set out the joined up approach that St M and LL will follow in securing planning consents for their respective parts of the regeneration.

- *Statutory undertakers' strategy*

The regeneration will require working with and reaching agreements with a range of undertakers including Transport for London, Network Rail, EDF, Thames Water and BT. The strategy will set out the responsibility/joint working arrangements of the parties in this connection to achieve a comprehensive approach.

### **Agreement with St Modwen**

9. This Agreement will set out the principal terms upon which the council will grant an option to St M to acquire adjacent council owned land shown edged red on the plan at Appendix One of this report. This land or parts of it will be sold where it is needed by St M for the regeneration of the shopping centre, ensuring that the best consideration that can reasonably be achieved is obtained in accordance with section 123 of the Local Government Act 1972. In the unlikely event that the consideration for the land or parts of it will exceed £500,000 a

report will be taken to Cabinet for a decision to dispose, otherwise the decision will be taken by the Head of Property under his delegated authority

10. The Agreement will also include provision for the council to instigate compulsory purchase proceedings in the event that this is deemed absolutely necessary by the council to enable St M to acquire any of the adjacent land ownerships or any other occupational interests in the Centre to deliver the regeneration. This is essential for a timely and certain regeneration. St M will underwrite all the council's reasonable costs in this connection. A report will be taken to cabinet for a decision to make a Compulsory Purchase Order if this is considered necessary.
11. St M and the Council will initially agree the scheme concept and principles. Then, prior to submitting a planning application for the regeneration of the Centre, St M will be obliged to have the scheme submission agreed by the council in line with the development objectives in the Agreement in its capacity as regeneration promoter rather than as planning authority; the submitted application will then be considered by the Planning Committee in the normal way.
12. Like the proposed co-operation agreement, the agreement with St M will have target planning dates and a long stop date. In the event of the long stop date not being met the agreement will terminate and the strategy for the shopping centre will have to be revised.

#### **Variation of Regeneration Agreement**

13. The change of approach from LL carrying out the Shopping Centre regeneration to St M will require the existing Regeneration Agreement to be varied whilst the agreement between the council and St M is effective.

#### **KEY ISSUES FOR CONSIDERATION**

14. The proposed approach is a tri-partite partnership and is considered to be more likely to deliver a successfully regenerated shopping centre, and deliver it earlier than previously anticipated, than would have been the case without St M's direct participation. Target dates and a long stop date will mitigate risk of delay. The fall back position whereby LL take forward the Centre's regeneration underpins the ultimate delivery of this facet of Elephant and Castle regeneration.
15. The land referred to in paragraph 8 is currently access land (1,900m<sup>2</sup> or thereabouts) and all or parts may be needed by St M to facilitate their regeneration proposals. The regeneration will provide for full means of access into the new Elephant as failure to do so will adversely affect the flow of custom to the Centre and thereby undermine its trading potential. Where adopted highway is to be taken for the regeneration it will need to be stopped up in accordance with statutory provisions the cost and risk of which will be met by St M.
16. The framework set out in this report provides the means of taking forward this key aspect of the wider regeneration in a timely manner that mitigates risk to all parties.

### **Policy implications**

17. The regeneration of the Elephant and Castle shopping centre was a commitment within the Administration's 2010 election manifesto. It forms a key aspect of the wider Regeneration Agreement that was approved by Cabinet in July 2010. It is also a specific policy (4.27) in the adopted Core Strategy.

### **Community impact statement**

18. The Elephant and Castle regeneration has been the subject of extensive consultation and the recommendations in this report will result in additional consultation taking place, within the overall Regeneration Agreement consultation strategy framework, as will the planning application process for the regeneration of the whole area. A full Equalities Impact Assessment for the overall regeneration has previously been carried out and will be reviewed at the time of planning applications.

### **Resource implications**

19. Effecting the recommendations will not result in the need for any additional resources over and above those already identified for the Elephant and Castle regeneration project.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Communities, Law & Governance**

20. The regeneration of the shopping centre will require planning permission and the planning application for the regeneration of the shopping centre will be determined by Planning Committee Members in accordance with Part 3F of the Southwark Constitution 2010/11.
21. It is noted that it is proposed that areas of public highway will be sold to St M to facilitate their regeneration; however, for the highway status to be removed a stopping up order will be necessary. There are two methods of doing this either under the Town and Country Planning Act or the Highways Act.
22. Section 247 of the Town and Country Planning Act 1990 is used where the stopping up or diversion of the highway is necessary to enable development (that has already been approved by Planning Committee) to be carried out. This procedure involves the council preparing and publicising a draft stopping order. If any objector to the order is not willing to withdraw their objection following discussions with the council the Mayor of London will need to be notified of the objections. The Mayor will decide whether or not in the circumstances of the case an Inquiry will be necessary.
23. Section 116 of the Highways Act 1980 contains the power for the highway authority to apply to Justices of the Peace for highways (including footpaths) to be diverted or stopped-up. This is rarely used and where a stopping up relates to a planning application S247 is invariably used.

24. As stated in paragraph 16, although the plan shows a substantial area of public highway, the agreement with St M is for an option to acquire the land and it would follow that only the land that is necessary for the regeneration will be acquired by St M. In determining the planning application for the regeneration Planning Committee will need to satisfy itself that there is sufficient access to and circulation around the shopping centre. The planning application will be accompanied by an assessment of vehicular and pedestrian access to and around the site which will be scrutinised by officers and summarised in the report to planning committee.
25. Should a CPO be necessary for St M to acquire the leasehold interests, it is likely that it will be exercised using the council's powers under S226 of the Town and Country Planning Act. This will be the subject of a separate report to Cabinet if the CPO is deemed necessary. The council will need to ensure that it has the benefit of a back to back agreement with St M prior to exercising its powers indemnifying the council from all costs of the CPO including the potential compensation payable to the leaseholders.
26. The disposal of the land will be the subject of a separate report to cabinet only in the event that the consideration for the land exceeds £500,000; otherwise the disposal can proceed under the authority of the Head of Property's delegated powers. The council has sufficient powers under s123 of the Local Government Act to effect these disposals provided that the best consideration that can reasonably be obtained is achieved. Independent advice on valuation will be sought at the time any disposals take place to ensure this requirement is met.

#### **Finance Director**

27. This report is recommending that the Cabinet agree in principle to enter into a Co-operation Agreement with Key Property Investments (No 5) Limited and Lend Lease (Elephant and Castle) Ltd. to include the principle terms for the regeneration of the Shopping Centre. This requires a variation to the existing Regeneration Agreement between the council and Lend Lease (Elephant and Castle) Ltd
28. The Head of Property will negotiate the detailed terms of the Agreements and report back to Cabinet on the conclusion of those negotiations.
29. The Finance Director notes that there may be a land transfer, which will be done at best consideration to the council, as required. Any costs arising such as staff time, will be met from existing revenue budgets from within the property department.
30. If there is a need for compulsory purchase orders to enable St M to acquire any of the adjacent land ownerships or any other occupational interests in the centre to deliver the regeneration then the council's reasonable costs will be met by St M.
31. If effected, these proposals will remove the need for any compulsory purchase of the whole of the shopping centre, and thus avoid any associated costs of seeking a CPO.

**BACKGROUND DOCUMENTS**

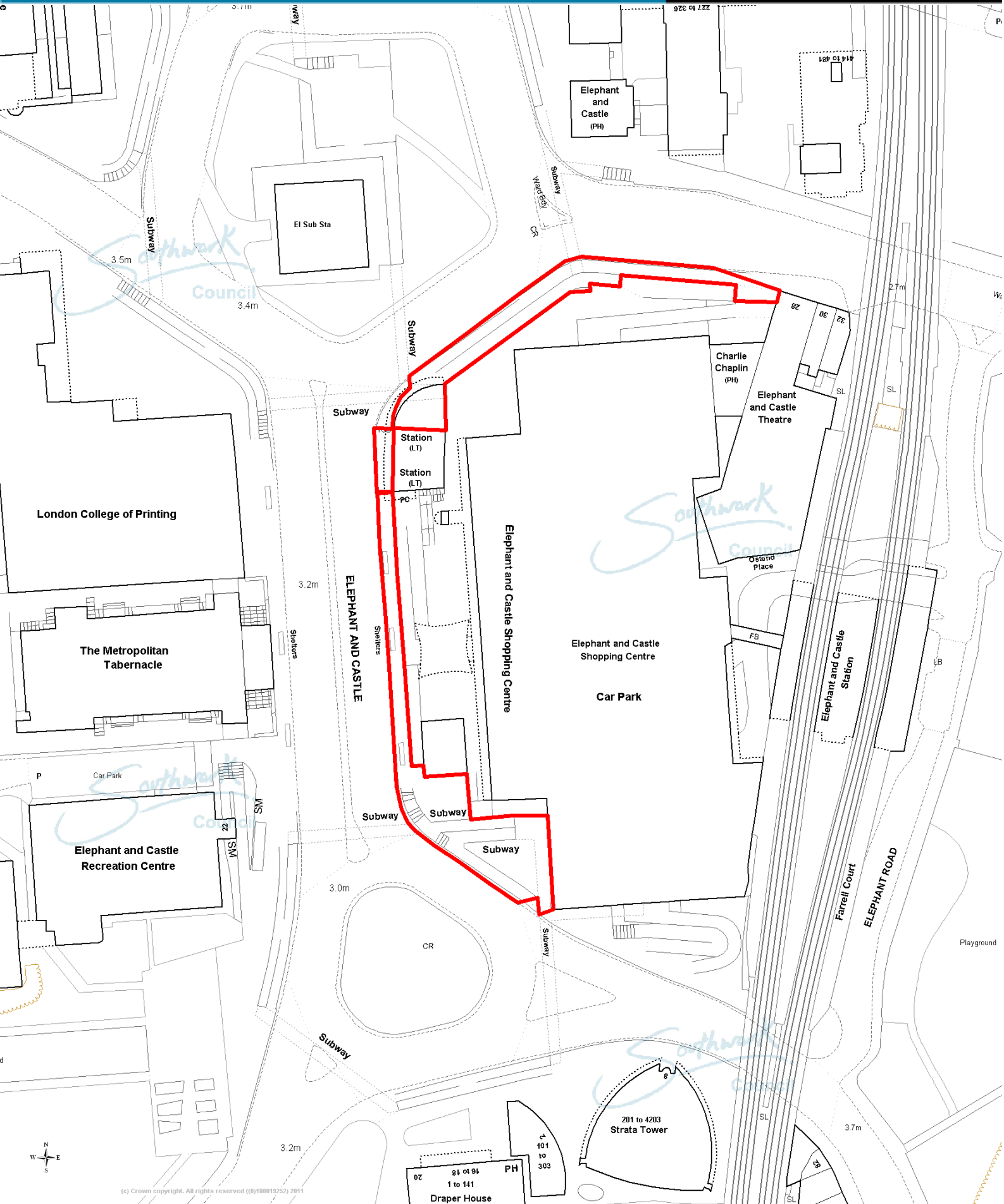
Background Papers	Held At	Contact
Correspondence file	Property Services 160 Tooley Street, London SE1	Patrick McGreal on 020 7525 5626
Cabinet report of 7 July 2010	Council and Democracy web pages at <a href="http://www.southwark.gov.uk">www.southwark.gov.uk</a>	Patrick McGreal on 020 7525 5626
Cabinet minutes of 7 July 2010	Council and Democracy web pages at <a href="http://www.southwark.gov.uk">www.southwark.gov.uk</a>	Patrick McGreal on 020 7525 5626

**APPENDICES**

No.	Title
Appendix 1	Land ownership plan

**AUDIT TRAIL**

<b>Cabinet Member</b>	Councillor Fiona Colley, Cabinet Member for Regeneration and Corporate Strategy	
<b>Lead Officer</b>	Eleanor Kelly, Deputy Chief Executive	
<b>Report Author</b>	Patrick McGreal, Property Services	
<b>Version</b>	Final	
<b>Dated</b>	6 May 2011	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional/Community Council/Scrutiny Team</b>	6 May 2011	



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<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> June 2011	<b>Meeting Name:</b> Overview & Scrutiny Committee
<b>Report title:</b>		Scrutiny arrangements for 2011/12	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Strategic Director of Communities, Law & Governance	

## RECOMMENDATIONS

### Terms of reference

1. To note size, composition and terms of reference of Overview & Scrutiny Committee, as agreed by Annual Council Assembly on 24 May 2011.

### Establishment of scrutiny sub-committees

2. In accordance with Procedure Rules, to appoint five scrutiny sub-committees.

The committee should agree the size, composition and terms of reference of the sub-committees, including establishing a sub-committee with responsibility for crime and disorder within the meaning of Section 19 of the Police and Justice Act 2006.

Political groups are entitled to reserve members on each scrutiny sub-committee; one fewer reserve than the number of seats they have on the sub-committee (subject to a minimum of one).

Size and composition of sub-committees in 2010-11 were:

<b>Scrutiny sub-committee</b>	<b>Lab</b>	<b>Lib Dem</b>	<b>Total</b>	<b>Chair/ Vice chair</b>
Education & Children's Services	4	3	7	Lib Dem / Lab
Environment, Transport, Communities & Citizenship	4	3	7	Lib Dem / Lab
Health & Adult Social Care	4	3	7	Lab / Lib Dem
Housing & Community Safety	4	3	7	Lab / Lib Dem
Regeneration & Leisure	4	3	7	Lab / Lib Dem

Co-opted members were:

Education & Children's Services – Church of England and Roman Catholic Diocese representatives, two parent governor representatives, one head teacher representative

Housing & Community Safety – one representative each from Homeowners' Council and Tenants' Council

## Appointment of Chairs and Vice-Chairs

3. To appoint Chairs and Vice-Chairs of the scrutiny sub-committees.

## KEY ISSUES FOR CONSIDERATION

### Proportionality

#### General Advice

4. Seats on committees and sub-committees must be allocated in accordance with the four principles of proportionality contained in sections 15, 16 and 17 of the Local Government and Housing Act 1989. When making appointments, committees (in appointing sub-committees) have a duty to give effect to the following principles, as far as is reasonably practicable:
  - (i) That not all the seats on a committee or sub-committee are allocated to the same political group;
  - (ii) That the majority group must have the majority of seats on each committee or sub-committee;
  - (iii) Subject to (i) and (ii) above, it must be ensured that the proportion of each political group's seats of the total number of seats on "ordinary committees" reflects as closely as possible their proportion of seats on full council; and
  - (iv) Subject to (i) to (iii) above, the proportion of each political group's seats on each committee and sub-committee reflects as closely as possible their proportion of seats on full council.

*Note: This rule applies to all committees, sub-committees and joint committees, except for licensing committee, standards committee and community councils.*

#### Scrutiny sub-committees

5. Sub-committees are not "ordinary" committees and are each considered individually for the purposes of proportionality. So far as it is reasonably practicable to do so, the allocation of seats on each sub-committee should bear the same proportion to the number of the seats held by that group on the council.
6. The most proportionate allocation will depend on the number of members of the sub-committee. The table below shows the most proportionate arrangement for individual sub-committees:

<b>Committee size</b>	<b>Labour</b>	<b>Lib Dem</b>	<b>Cons</b>
11	6	4	1
9	5	4	0
7	4	3	0
5	3	2	0
3	2	1	0

7. Members can agree an allocation that is disproportionate, provided no Member votes against this. In previous years, the committee has varied the size and numbers on each sub-committee to provide for greater cross-party representation.
8. The constitution specifies that the appointment and composition of scrutiny sub-committees be considered by the first meeting of overview and scrutiny committee.

#### Appointments to seats

9. Section 16(1) of the Local Government and Housing Act 1989 provides that it is the duty of the authority or committee to exercise their power to make appointments to a body as to give effect “to such wishes about who is to be appointed to the seats on that body which are allocated to a particular political group as are expressed by that group”.
10. There is no requirement that a seat allocated to a particular group can only be filled by a member of that group. Therefore groups have the discretion to allocate seats as they wish, including to a member of another group.

<b>Background papers</b>	<b>Held at</b>	<b>Contact</b>
Agenda - Annual Council Assembly, 18 May 2011	160 Tooley Street London SE1 5LX	Ian Millichap Constitutional Manager Tel: 020 7525 7236

#### **Audit Trail**

<b>Lead Officer</b>	Shelley Burke, Head of Overview & Scrutiny	
<b>Contributors</b>	Peter Roberts, Scrutiny Project Manager	
<b>Version</b>	Final	
<b>Dated</b>	May 2011	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Strategic Director of Communities, Law & Governance	Yes	Included in the report
<b>Cabinet Member</b>	N/A	

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