

APPENDIX E

ELEPHANT AND CASTLE TOWN CENTRE - COMPULSORY PURCHASE ORDER

Planning Policy

Background

1. A Development Plan sets out a local authority's policies and proposals for land use in their area. The Development Plan for Southwark consists of the Southwark Plan 2022 and the London Plan 2021. The Southwark Plan 2022 replaced the Elephant and Castle Supplementary Planning Document (SPD) 2012. The National Planning Policy Framework, the London Plan and Southwark Plan contain policies which support town centre, mixed-use developments on previously developed (brownfield) land. In the context of Elephant and Castle town centre, these policies encourage a suitable mix of uses, including commercial and residential uses, through regeneration and the efficient use of land. The proposal is in accordance with these policies.
2. Relevant policies from the Development Plan are listed in the notes at the end of this Appendix.

Site Allocation

3. In the London Plan, the site is located within the Elephant and Castle Opportunity Area, the Central Activities Zone (CAZ) and forms part of an area designated as a Major Town Centre. The site is suitable for Tall Buildings under policy P17 (Tall Buildings) of the Southwark Plan because it is in the CAZ and a Major Town Centre.
4. In the Southwark Plan, the site is the subject of Proposal Site policy NSP48 (Elephant and Castle Shopping Centre and London College of Communication), a large area at the centre of Elephant and Castle identified as being suitable for comprehensive mixed-use redevelopment. In terms of housing policy, the site is in an area where a minimum of 35% affordable housing is required.
5. The allocation requires redevelopment to enhance connectivity to the existing cycle network and walking routes, improving the accessibility to the bus, tube and station interchange and enable the Low Line walking route along the railway viaduct.
6. The site sits within Zone 1 and has a Public Transport Accessibility Level (PTAL) of 6b - which is the best.
7. The London View Management Framework 2012 provides that Elephant and Castle sits in the background of townscape view 23A1 looking from the Serpentine Bridge in Hyde Park to Westminster.

National Planning Policy Framework (NPPF), July 2021

8. The NPPF sets out the Government's strong commitment to delivering sustainable development. It advises that there are three elements to sustainable development; economic, social and environmental. Sustainable development is the principal theme underpinning both

London-wide and Southwark policies, where the regeneration of areas such as the Elephant and Castle is of high priority.

9. The NPPF acknowledges the important role that town centres play at the heart of local communities. Paragraph 86(a) of the NPPF states that planning policies should define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters.
10. Paragraph 92 of the NPPF provides that planning policies and decisions should aim to achieve healthy, inclusive and safe places which
 - (a) promote social interaction for example through street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;
 - (b) are safe and accessible – for example through the use of attractive, well-designed, clear and legible pedestrian and cycle routes, which encourage the active and continual use of public areas; and
 - (c) enable and support healthy lifestyles – for examples through the provision of safe and accessible green infrastructure and layouts that encourage walking and cycling.
11. With regards to public realm and pedestrian connectivity, NPPF paragraph 112 states that development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas, and create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards.
12. Paragraph 119 of the NPPF states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
13. Paragraph 121 of the NPPF recognises that local planning authorities should take a proactive role in identifying and bringing forward land that may be suitable for development needs, using the full range of powers available to them. This includes identifying opportunities for land assembly, supported where necessary by compulsory purchase powers, where this can help to bring more land forward for meeting development needs and/or secure better development outcomes.
14. Paragraph 187 of the NPPF provides that planning decisions and policies should ensure that new development is integrated effectively with existing businesses and community facilities, which should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or facility could have a significant adverse effect on new development in its vicinity, the applicant (or “agent of change”) should be required to provide suitable mitigation before the development has completed.

15. The London Plan was adopted in March 2021 following extensive consultation and an Examination in Public in 2019.
16. Policy SD1 (Opportunity Areas) of the London Plan states that the designated Opportunity Areas should maximise the delivery of affordable housing and create mixed and inclusive communities.
17. The London Plan allocates Elephant & Castle as an Opportunity Area. In addition, Policy SD6 (Town Centres and High Streets) applies to Elephant and Castle Town Centre and requires the vitality and viability of London's varied town centres to be promoted and enhanced through appropriate town centre development.
18. Table A1.1 - Town Centre Network of the London Plan sets out the vision for the Elephant and Castle Town Centre.
19. Elephant & Castle has a Major centre classification in the Town Centre Network. The London Plan defines Major centres as *"Major centres – typically found in inner and some parts of outer London with a borough-wide catchment. They generally contain over 50,000 sq.m of retail, leisure and service floorspace with a relatively high proportion of comparison goods relative to convenience goods. They may also have significant employment, leisure, service and civic functions."*
20. Elephant and Castle is classified as an NT2 in the night-time economy classification (Policy HC6). The town centre is of regional or sub-regional significance with regard to the night-time economy.
21. Elephant and Castle is classified as Medium under the commercial growth potential. The London Plan defines Medium growth as having "moderate levels of demand for retail, leisure or office floorspace, and with physical and public transport capacity to accommodate it."
22. The London Plan (Policy SD7) provides that town centres are likely to be able to accommodate high or medium levels of residential growth, or incremental residential development and boroughs should be planning proactively to seek opportunities for residential growth in and around town centres. Elephant and Castle is classified in the London Plan as High under residential growth potential.
23. Elephant and Castle is classified as A/B and part CAZ. The CAZ areas have significant potential for an office function. Classification A establishes that the town centre has *"Speculative office potential – These centres have the capacity, demand and viability to accommodate new speculative office development."* Classification B establishes that the town centre has *"Mixed-use office potential – These centres have the capacity, demand and viability to accommodate new office development, generally as part of mixed-use developments including residential use."*
24. The site sits within the CAZ, the strategic priorities and functions for which are set out in policies SD4 and SD5 of the London Plan; this includes enhancing and promoting the roles of the CAZ based on a rich mix of local and strategic uses.
25. The plan states that the Mayor is proposing to extend the Bakerloo Line from Elephant and Castle to Lewisham which will improve the route's connectivity and capacity supporting new

homes in the Old Kent Road and elsewhere in South-East London. The Bakerloo Line Extension has been delayed.

26. Policy GG1 (building strong and inclusive communities) requires those involved in planning and development to: seek to ensure changes to the physical environment to achieve an overall positive contribution to London; provide access to good quality community spaces and infrastructure that accommodate, encourage and strengthen communities, increasing active participation and social integration; ensure that streets and public spaces are consistently planned for people to move around and spend time in comfort and safety; ensure that new buildings and the spaces they create are designed to reinforce or enhance the identity, legibility, permeability and inclusivity of neighbourhoods; and support and promote the creation of a London where all Londoners, including those with protected characteristics, can move around with ease.
27. Policy GG2 (making the best use of land) states that those involved in planning and development must): enable the development of brownfield land, particularly in Opportunity Areas; and plan for good local walking, cycling and public transport connections to support a strategic target of 80% of all journeys using sustainable travel, enabling car free lifestyles that allow an efficient use of land, as well as using new and enhanced public transport links to unlock growth.
28. In relation to Corsica Studios and the night-time economy, Policy HC6 states that the night-time economy should be promoted, where appropriate, particularly in the CAZ, strategic areas of night-time activity, and town centres where public transport such as the Night Tube and Night Buses are available. It states that boroughs should improve access, inclusion and safety, and make the public realm welcoming for all night-time economy users and workers. The policy seeks to protect and support evening and night-time cultural venues such as pubs, night clubs, theatres, cinemas, music and other arts venues.
29. Also relevant in this context is Policy D13 (The Agent of Change). This places the responsibility for mitigating impacts from existing noise emitting activities or uses on the proposed new noise-sensitive development. This means that the responsibility for mitigating the impact of noise is on the proposer of e.g. the new residential development. As a consequence, the developer of residential units close to a noise emitting activity (such as a music venue like Corsica Studios) may need to design them in a more sensitive way to protect the new occupiers from noise impacts and/or to pay for soundproofing of the existing music venue.
30. Regarding public realm and pedestrian connectivity, Policy D8 states that development should ensure that public realm is well-designed, safe, accessible, inclusive, attractive, well-connected, related to the local and historic context, and easy to understand, service and maintain. Proposals should maximise the contribution that the public realm makes to encourage active travel and ensure its design discourages travel by car. In particular, they should demonstrate an understanding of how people use the public realm, and the types, location and relationship between public spaces in an area, identifying where there are deficits for certain activities, or barriers to movement that create severance for pedestrians and cyclists. Desire lines for people walking and cycling should be a particular focus, including the placement of street crossings, which should be regular, convenient and accessible.
31. Policy T1 (Strategic approach to transport) requires Development Plans to support, and development proposals to facilitate the delivery of the Mayor's strategic target of 80% of all trips in London to be made by foot, cycle or public transport by 2041, requiring all

development to make the most effective use of land, reflecting its connectivity and accessibility by existing and future public transport, walking and cycling routes, and ensure that any impacts on London's transport networks and supporting infrastructure are mitigated.

32. In accordance with the Mayor's Healthy Streets initiative, Policy T2 states that development proposals should deliver patterns of land use that facilitate residents making shorter, regular trips by walking or cycling. Part D of the policy states that development proposals should be permeable by foot and cycle and connect to local walking and cycling networks as well as public transport.

Elephant & Castle Opportunity Area

33. The site is located within the Elephant and Castle Opportunity Area. The London Plan considers Opportunity Areas to be *"significant locations with development capacity to accommodate new housing, commercial development and infrastructure (of all types), linked to existing or potential improvements in public transport connectivity and capacity. Opportunity Areas typically contain capacity for at least 5,000 net additional jobs or 2,500 net additional homes or a combination of the two. When developing policies for Development Plans, allocations and frameworks, boroughs should use the indicative capacity figures as a starting point, to be tested through the assessment process"* (Paragraph 2.1.1).
34. Table 2.1 (Opportunity Area Indicative capacity for new homes and jobs) of the London Plan provides that Elephant and Castle has an indicative capacity of 5,000 homes and 10,000 jobs based on the 2017 SHLAA capacity from 2019-2041.

Southwark Plan 2022

AV.09 Elephant and Castle Area Vision

35. Policy AV.09 sets out the vision for Elephant and Castle Area, which is to provide an attractive destination for visitors with a strong daytime and night-time economy which provides cultural and entertainment spaces alongside a diverse retail environment for local residents. The vision also sets out to support the area's function as a major town centre for all Southwark residents and a central London location that attracts global business, research, teaching, shopping, flexible business spaces and cultural activities. The site allocations in Elephant and Castle and the remaining development coming forward on the Elephant Park site is expected to deliver around 135,000 sq.m (gross) offices and employment workspaces, 37,000 sq.m (gross) retail, community and leisure floorspace and around 2,200 homes. The wider area will deliver around 1ha new open space including a new Elephant Park.
36. The policy requires that development in Elephant and Castle should provide as many homes as possible at different tenures. Development should also provide opportunities for existing small businesses, particularly those from minority ethnic groups, to relocate and continue trading; and should provide safe and accessible walking, cycling and public transport routes including step-free access and a new ticket hall for the Northern line and BLE. Development is also expected to contribute towards developing the Low Line.

Site Allocation NSP48

37. The adopted site designation NSP48 (Elephant and Castle Shopping Centre and London College of Communication) in the Southwark Plan encompasses the East Site, all of the railway arches along Elephant Road and the LCC site. The site vision requires employment uses

including new offices (E(g)(i) use class), retail, cafes and bars to at least the existing level of provision, at least the same amount of education space as is currently on the site, new homes, civic space, public realm enhancements including along the railway viaduct, a new tube station entrance, and high quality active frontages.

38. The site designation also advises that a new community health hub may be provided. The site designation plan shows two improved pedestrian connectivity routes: one linking the Elephant and Castle peninsula and underground station with the railway station and out onto Elephant Road, and the other providing a link from Elephant Road through arches to the south of the railway station into the East Site and beyond, towards the open space of St Mary's Churchyard Newington.
39. Design and accessibility guidance in NSP48 provides that it is anticipated that the existing shopping centre will be demolished to facilitate a restructuring of the area's layout, walking and cycle routes should be enhanced and a comprehensive mixed-use redevelopment of the site can include taller buildings, subject to consideration of impacts on existing character, heritage and townscape.

Strategic policies

40. Policy ST1 of the Southwark Plan provides the targets for the distribution of jobs, which for the Elephant and Castle Opportunity Area is 10,000. Policy ST2 sets out the development targets:

Table A: Delivery in Vision Areas

Site Area		Employment floorspace (sqm)		Retail, leisure and community uses floorspace* (sqm)		Approximate housing capacity within the borough through site allocations by area (net, units)	Net open space provision within site allocations in GIA (sqm)
		Proposed provision (gross)	Uplift (net)	Proposed provision (gross)	Uplift (net)		
Elephant and Castle	Site Allocations	27,309	-2,884	30,946	2,261	1,686	1,640
	Elephant Park	60,000	60,000	6,014	6,014	683	8,000
	Planning applications	47,792	27,542	0	0	0	0
	Total	135,101	84,658	36,960	8,275	2,369	9,640

41. Policy SP4 (Green and Inclusive Economy) sets out town centre employment and jobs targets. For Elephant and Castle Opportunity Area the target for jobs is 10,000. The policy also sets targets for the distribution of the retail floorspace, which for the Elephant and Castle Major Town Centre is 10,000 sq.m.

Other Southwark Plan policies

42. Policy P33 provides that where small or independent businesses or small shops may be displaced by development, a business relocation strategy, written in consultation with affected businesses, must be provided. The strategy must set out viable relocation options.
43. Policy P34 supports the use of railway arches within the borough for commercial or community uses.

44. Policy P35 notes that town centres should be the main focus for new developments providing new shops, education, healthcare and community facilities, offices and workspaces, leisure facilities and entertainment venues. This includes encouraging a diverse night-time economy with a range of appropriate activities throughout the evening and night-time.
45. With regards to pedestrian connectivity, Policy P51 states that development must enhance the borough's walking networks by providing footways, routes and public realm that enable access through development sites and adjoining areas. Similarly, Policy P49 requires development to improve accessibility to public transport by creating and improving walking and cycling connections to public transport stops or stations.

Conclusion

46. In conclusion, the development plan and national policy framework confirms strong support for a high density, mixed-use development on this brownfield site. Across both East and West Sites there will be an increase in retail floorspace in accordance with the London Plan and the Southwark Plan. The proposed development will fully accord with the principle of accommodating large-scale development within Opportunity Areas and will deliver many of the key objectives set out in the development plan for the central character area, including extensive public realm improvements and significant enhancement to pedestrian experience and connectivity. The permeability of development sites for pedestrians is a key aspect of development plan policy, and the proposed development would create such permeability. The development will also include improvements to the nightclub on Elephant Road, in line with policy to protect the night time economy; and relocation opportunities for the displaced occupiers of 6 and 7 Farrell Court, in accordance with policy to offer opportunities to displaced small businesses to relocate and continue trading.

Notes

The London Plan 2021 – relevant policies

Policy GG1 - Building strong and inclusive communities

Policy GG2 - Making the best use of land

Policy SD1 - Opportunity Areas

Policy SD4 - The Central Activities Zone (CAZ)

Policy SD5 - Offices, other strategic functions and residential development in the CAZ

Policy SD6 - Town centres and high streets

Policy SD7 - Town centres: development principles and Development Plan Documents

Policy SD8 - Town centre network

Policy SD9 - Town centres: Local partnerships and implementation

Policy SD10 - Strategic and local regeneration

Policy D1 - London's form, character and capacity for growth

Policy D2 - Infrastructure requirements for sustainable densities

Policy D3 - Optimising site capacity through the design-led approach

Policy D4 - Delivering good design

Policy D5 - Inclusive design

Policy D6 - Housing quality and standards

Policy D7 - Accessible housing

Policy D8 - Public realm

Policy D9 - Tall buildings

Policy D10 - Basement development

Policy D11 - Safety, security and resilience to emergency

Policy D12 - Fire safety
Policy D13 - Agent of Change
Policy D14 - Noise
Policy H1 - Increasing housing supply
Policy H4 - Delivering affordable housing
Policy H5 - Threshold approach to applications
Policy H6 - Affordable housing tenure
Policy H7 - Monitoring of affordable housing
Policy H9 - Ensuring the best use of stock
Policy H10 - Housing size mix
Policy H11 - Build to Rent
Policy S1 - Developing London's social infrastructure
Policy S2 - Health and social care facilities
Policy S3 - Education and childcare facilities
Policy S4 - Play and informal recreation
Policy S5 - Sports and recreation facilities
Policy E1 - Offices
Policy E2 - Providing suitable business space
Policy E3 - Affordable workspace
Policy E8 - Sector growth opportunities and clusters
Policy E9 - Retail, markets and hot food takeaways
Policy E11 - Skills and opportunities for all
Policy HC1 - Heritage conservation and growth
Policy HC3 - Strategic and Local Views
Policy HC4 - London View Management Framework
Policy HC5 - Supporting London's culture and creative industries
Policy HC6 - Supporting the night-time economy
Policy HC7 - Protecting public houses
Policy G1 - Green infrastructure
Policy G4 - Open space
Policy G5 - Urban greening
Policy G6 - Biodiversity and access to nature
Policy G7 - Trees and woodlands
Policy G8 - Food growing
Policy G9 - Geodiversity
Policy SI 1 - Improving air quality
Policy SI 2 - Minimising greenhouse gas emissions
Policy SI 3 - Energy infrastructure
Policy SI 4 - Managing heat risk
Policy SI 5 - Water infrastructure
Policy SI 6 - Digital connectivity infrastructure
Policy SI 7 - Reducing waste and supporting the circular economy
Policy SI 12 - Flood risk management
Policy SI 13 - Sustainable drainage
Policy T1 - Strategic approach to transport
Policy T2 - Healthy Streets
Policy T3 - Transport capacity, connectivity and safeguarding
Policy T4 - Assessing and mitigating transport impacts
Policy T5 - Cycling
Policy T6 - Car parking
Policy T6.1 - Residential parking

Policy T6.2 - Office Parking
Policy T6.3 - Retail parking
Policy T6.4 - Hotel and leisure uses parking
Policy T6.5 - Non-residential disabled persons parking
Policy T7 - Deliveries, servicing and construction
Policy T9 - Funding transport infrastructure through planning

Relevant GLA Supplementary Planning Guidance/London Planning Guidance (SPG/LPG)

Character and Context SPG (June 2014)
Fire safety LPG (draft – February 2022)
Characterisation and Growth Strategy LPG (June 2023)
Housing Design Standards LPG (June 2023)
Optimising Site Capacity: A Design-led Approach LPG (June 2023)
Small Site Design Codes LPG (June 2023)
Housing SPG (August 2017)
Large scale purpose built shared living LPG (draft –January 2022)
Play and Informal Recreation SPG (September 2012)
Social Infrastructure SPG (May 2015)
London View Management Framework SPG (March 2012)
Urban Greening Factor SPG (September 2021)
Be Seen Energy Monitoring SPG (October 2021)
Circular Economy Statement SPG (March 2022)
Whole Lifecycle Carbon Assessment SPG (March 2022)
Energy Assessment Guidance (June 2020)
Control of Dust and Emissions (July 2014)
Air Quality Neutral LPG (AQN) (February 2023)
Air Quality Positive LPG (February 2023)
Sustainable Transport, Walking and Cycling LPG November 2022)
Affordable Housing and Viability Supplementary Planning Guidance (August 2017)
Affordable Housing LPG (draft – May 2023)
Development Viability LPG (draft – May 2023)

Relevant Southwark Plan Policies 2022

ST1 - Southwark's Development Targets
ST2 - Southwark's Places
SP1 - Homes for all
SP2 - Southwark Together
SP3 - Great start in life
SP4 - Green and inclusive economy
SP5 - Thriving neighbourhoods and tackling health inequalities
SP6 - Climate Emergency
AV.09 - Elephant and Castle Area Vision
P1 - Social rented and intermediate housing
P2 - New family homes
P3 - Protection of existing homes
P4 - Private rented homes
P8 - Wheelchair accessible and adaptable housing
P13 - Design of places
P14 - Design quality
P15 - Residential design
P16 - Designing out crime

P17 - Tall buildings
P18 - Efficient use of land
P19 - Listed buildings and structures
P20 - Conservation areas
P21 - Conservation of the historic environment and natural heritage
P22 - Borough views
P23 - Archaeology
P26 - Local list
P27 - Education places
P28 - Access to employment and training
P30 - Office and business development
P31 - Affordable workspace
P32 - Small shops
P33 - Business relocation
P34 - Railway arches
P35 - Town and local centres
P36 - Development outside town centres
P37 - Protected shopping frontages
P38 - Shops outside protected shopping frontages, town and local centres
P39 - Shop fronts
P42 - Pubs
P43 - Outdoor advertisements and signage
P44 - Broadband and digital infrastructure
P45 - Healthy developments
P46 - Leisure, arts and culture
P47 - Community uses
P48 - Hot food takeaways
P49 - Public transport
P50 - Highways impacts
P51 - Walking
P53 - Cycling
P54 - Car Parking
P55 - Parking standards for disabled people and the physically impaired
P56 - Protection of amenity
P57 - Open space
P58 - Open water space
P59 - Green infrastructure
P60 - Biodiversity
P61 - Trees
P62 - Reducing waste
P64 - Contaminated land and hazardous substances
P65 - Improving air quality
P66 - Reducing noise pollution and enhancing soundscapes
P67 - Reducing water use
P68 - Reducing food risk
P69 - Sustainability standards
P70 - Energy
NSP48 - Elephant and Castle Shopping Centre and London College of Communication

Relevant Supplementary Planning Documents (SPDs)

Heritage SPD (2021)

Development Viability SPD (2016)

Technical Update to the Residential Design Standards SPD (2015)

Section 106 Planning Obligations/CIL SPD (2015) and technical update (2020)

Affordable Housing SPD (2008 - Adopted and 2011 - Draft)

Residential Design Standards SPD (2011) Sustainable Transport SPD (2010)

Statement of Community Involvement and Development Consultation Charter (2022)

APPENDIX F

ELEPHANT AND CASTLE TOWN CENTRE - COMPULSORY PURCHASE ORDER

STATUS UPDATE AS AT END OF SEPTEMBER 2023

SUMMARY ON DISCUSSIONS WITH THIRD PARTIES

(PROVIDED BY DEVELOPER)

1. This document provides an update summary, as from December 2022, on the current status of agreements with the key third parties whose land interests need to be acquired or over whose land new rights are sought to facilitate the redevelopment. Appendix F to the December 2022 Cabinet report contained the status of these discussions as at December 2022.

Transport for London (as regards crane oversail rights on the West Site)

2. TfL and LUL's land interests generally are brought into the Scheme by way of the December 2021 agreement with EC; crane oversail licences were also granted in May 2022 to facilitate works on part of the East Site. In respect of West Site crane oversail, after the making of the February 2023 CPO, the Council and TfL agreed upon an arrangement whereby, although the rights were included in the CPO, TfL will grant licences for oversail on certain terms in the future once EC is ready to proceed on the West Site and as long as they do so then the Council agreed not to use confirmed CPO powers against TfL. On this basis there was no need for TfL to object to the February 2023 CPO and the arrangement is to the satisfaction of all three parties. The same approach is intended again in respect of the new CPO and so, although the crane oversail rights will still be included in the new CPO (to cover the unlikely event that TfL departs from the arrangement) there should be no need to implement confirmed CPO powers against TfL, nor for TfL to object to the new CPO.

Network Rail - new rights to be granted

3. Station change proposals and asset protection agreements are already in place. EC has sought additional new rights to be granted by Network Rail to facilitate the Scheme. These are considered to be minor in nature. Network Rail owns the viaduct structure. EC's intention is to reach agreement with Network Rail by private treaty as soon as practicable and the detailed negotiation of the agreement requested by Network Rail in their objection to the February 2023 CPO is ongoing. EC has already made clear to Network Rail that in principle the items on which NR has sought protection/clarification are acceptable to EC. The rights are important and necessary and so they are included in the new CPO as there is no guarantee that they will be granted, in time or at all.

The Arch Company

4. The nature of the various offers and proposals which were put to Arch Co prior to the February 2023 CPO, in a bid to avoid the need for the compulsory acquisition of their long leasehold title, was explained in the December 2022 Cabinet report. These included offers for the entire run of arch units at Elephant & Castle due to Arch Co's desire to deal with all of the arch units at Elephant & Castle.
5. Since the making of the February 2023 CPO the negotiations have focused on just those interests and rights included within the CPO. Negotiations have been conducted on a

without prejudice basis both via Arch Co's agent, Gerald Eve, and directly with Arch Co. Gerald Eve's fees have been reimbursed by EC throughout the process. Negotiations have been conducted through a combination of emails and regular meetings. There is a fortnightly meeting between EC and Arch Co to review progress on the negotiations.

6. EC put forward an improved offer in April 2023 and a further improved offer in July 2023 with a detailed set of Heads of Terms setting out the proposed structure of the offer. EC is currently awaiting a response to the most recent offer.

Occupational tenancies in some of the railway arches on Elephant Road

7. 6 Farrell Court (DistriAndina) – at the time of the December 2022 Cabinet report DistriAndina were being advised by Ardent Management who had been instructed since February 2020, and whose fees were being reimbursed by EC. Negotiations progressed on the basis of a proposed relocation into Elephant Park and Heads of Terms were agreed and reached the stage of preparation of legal contracts, however, DistriAndina ultimately decided not to proceed with agreement. Accordingly, an alternative proposal was put to DistriAndina on the basis of a relocation into a unit within the Scheme, fronting Walworth Road. The offer was on the basis that DistriAndina would not be required to vacate their existing premises until they had relocated into their new premises, ensuring no loss of trading.
8. In January 2023 DistriAndina decided to change advisors and instructed Winbourne Martin French. EC provided an undertaking to pay their new advisors fees. Negotiations subsequently progressed on the basis of the proposed relocation. During these negotiations DistriAndina has expressed an interest in relocating to the Walworth Road unit. In March 2023 Heads of Terms were issued to DistriAndina's agent setting out proposed lease terms on the proposed relocation unit providing greater security of tenure than their existing lease and on affordable rent terms. The Heads of Terms included an agreement to pay compensation at a sum to be agreed or determined in accordance with the 'compensation code'.
9. By July 2023 it became increasingly likely that a solution could be devised which would enable Corsica Studios to remain in 4/5 Farrell Court, meaning that arches 113A/120 and 113B/121 would now be available on the basis that they would not be required for Corsica Studios. Accordingly, a relocation to 113A/120 has been offered to DistriAndina as an alternative to the unit on Walworth Road, although that unit also remains on offer to DistriAndina.
10. Negotiations are progressing with DistriAndina's agent on the basis of the proposed relocation into one of these two properties.
11. 7 Farrell Court (Beset International) – at the time of the December 2022 Cabinet report Beset were being advised by Keith Murray Consultants, who had been instructed since March 2020 and whose fees were being reimbursed by EC. Negotiations had been progressed on the basis of a potential relocation to other premises outside the Scheme but there was difficulty in finding an opportunity which met Beset's requirements. Accordingly, in 2022 an alternative proposal was put to Beset on the basis of a relocation into 4 and 5 Farrell Court as at that time it was envisaged that Corsica Studios would relocate from that property to other arches 113A/120 and 113B/121. The offer was on the basis that Beset would not be required to vacate their existing premises until they had relocated into their new premises, ensuring no loss of trading.

12. In January 2023 Beset decided to change advisors and instructed Winbourne Martin French. EC provided an undertaking to pay their new advisor's fees. Negotiations subsequently progressed on the basis of a relocation to 4 and 5 Farrell Court. During these negotiations Beset has expressed a willingness to relocate to 4 and 5 Farrell Court. In March 2023 Heads of Terms were issued to Beset's agent setting out proposed lease terms on the proposed relocation unit providing greater security of tenure than their existing lease and based on a rent to be capped in line with their existing unit. The Heads of Terms included an agreement to pay compensation at a sum to be agreed or determined in accordance with the 'compensation code'.
13. A requirement of the relocation offer was that Beset would offer relocation accommodation within the relocation arches to all of their existing occupiers who wished to relocate with Beset and that such offer would be made on reasonable terms. Beset agreed to this request. As with Beset, the Beset occupiers would not be required to vacate their existing premises until they had relocated to the new premises to ensure no loss of trading.
14. By July 2023 it became increasingly likely that a solution could be devised which would enable Corsica Studios to remain in 4/5 Farrell Court, meaning that it would no longer be available as a relocation opportunity for Beset. However, this would mean that arch 113B/121 would now be available on the basis that they would not be required for Corsica Studios. Accordingly, a relocation to 113B/121 was proposed to Beset. It is considered that a relocation to this arch is actually preferable as the increased size and headroom is sufficient to enable Beset to relocate into a single arch which is more comparable to their existing operation. Beset have confirmed they are interested in relocating to this arch.
15. All other terms of the offer are the same as was previously offered in respect of 4 and 5 Farrell Court including the compensation provisions, continuity of trade and the requirement to offer comparable accommodation on comparable terms to the existing subtenants. Negotiations are progressing with Beset's agent on this basis.
16. 7 Farrell Court occupiers – the Council's and EC's intention is to recreate for the 7 Farrell Court occupiers a trading unit on a like for like basis in arch 113B/121 and that Beset will continue to be their immediate landlord in the new unit on comparable terms and with comparable floorspace to which they have now. Positive meetings have been held between EC, the Council and the occupiers in September to address their concerns. If for any reason Beset did not take up the offer of a lease in one of those arches then (assuming the CPO was confirmed to enable the Council and thus EC to acquire the units) EC is content to offer floorspace in the new unit to the other occupiers on the basis that EC would become their direct landlord.
17. 4-5 Farrell Court (Corsica Studios) – at the time of the December 2022 Cabinet report an offer had been put to Corsica Studios based on a relocation to arches 113A/120 and 113B/121. Discussions progressed with Corsica on the basis of the proposed relocation and Heads of Terms were issued to Corsica's agent in February 2023 setting out proposed lease terms on the proposed relocation arches providing greater security of tenure than their existing lease and based on a rent to be capped in line with their existing arches. The Heads of Terms included an agreement to pay compensation at a sum to be agreed or determined in accordance with the 'compensation code'. The offer was on the basis that Corsica would not be required to vacate their existing premises until they had relocated into their new premises, ensuring no loss of trading.

18. However, after further consideration by Corsica, it became clear that Corsica's preference was to find a solution that would enable them to remain in their existing arches. Corsica assembled a professional team including a surveyor, solicitor, licencing specialist and acoustician whose fees are all being reimbursed by EC. Corsica's professional team have been working with EC's professional team and together a workable solution has been devised that will enable Corsica to operate from their existing arches. This will require the construction of the sound mitigation lobby together with internal reconfiguration works.
19. Corsica will need to vacate the arches whilst the works are undertaken (envisaged to be around 9 months), but they are aware of this and that it will facilitate the solution of a long term future for them in these arches. Negotiations are being conducted on a without prejudice basis but based on a compensation agreement for the acquisition of the existing interest in conjunction with an option to return under a new lease, with greater security of tenure than their existing lease, on completion of the works. Negotiations are at an advanced stage and Heads of Terms have been issued.
20. Discussions are ongoing with all of these tenants and occupiers.
London Power Networks (surrender of electricity substations)
21. The leases of the current substations on the LCC Site will need to be surrendered and the substations relocated in due course. Discussions are ongoing with the electricity undertaker and it is hoped that this will be done by private agreement but the CPO is necessary as a backstop should this fail.
Metropolitan Tabernacle (new rights to be acquired)
22. The Tabernacle has appointed a surveyor to act on its behalf and the parties are in discussion to address various practical aspects that the Tabernacle has raised in respect of EC's request to obtain some relatively minor new rights to facilitate the demolition of the adjacent LCC building and crane oversail. Negotiations are progressing with the Tabernacle's agent and Heads of Terms were issued in June 2023. Whilst it is hoped that these discussions will result in an agreement by private treaty, and EC is working towards that objective, the CPO is required in case agreement cannot be reached.
Other crane oversail (West Site)
23. Crane oversail rights over some highway areas and to a small extent over The Castle Centre and Perronet House. The highway areas are unregistered but some of them are presumed to be owned by the Council. Perronet House and the Castle Centre are owned by the Council.

ELEPHANT AND CASTLE TOWN CENTRE – COMPULSORY PURCHASE ORDER

APPENDIX G

SUMMARY OF OBJECTIONS LODGED TO FEBRUARY 2023 CPO

	Party	Summary of grounds of objection
01	Network Rail Infrastructure Limited ("NR")	<ol style="list-style-type: none">1. Does not object to the Scheme, but objects to the exercise of compulsory acquisition powers over NR's operational land which NR relies upon for the purposes of carrying out its statutory undertaking.2. Principal issues identified as acquisition of parcel 37 (the tiny fragment); compulsory acquisition of rights in operational land and extinguishment of rights that NR relies upon for its statutory undertaking; and the works proposed may impede NR's ability to ensure the safe, efficient and economical operation of the railway.3. However, the objection sets out a request for the entry into an agreement to satisfy NR's concerns and that if such an agreement is completed the Council should not exercise CPO powers otherwise than in accordance with such agreement. <p>In addition, NR sent a section 16 Acquisition of Land Act 1981 representation letter to the DfT, albeit it says it is envisaged that negotiations are likely to take place with a view to securing a resolution.</p>
02	The Castle Shop Unit 8 within 7 Farrell Court (Nanci Estella Cardona Grajales)	<ol style="list-style-type: none">1. Not recognised as a business impacted by the Order or by the Acquiring Authority.2. Will lose trade and business without compensation.3. Unwarranted assumption that impacted traders in this arch will simply relocate with their landlord.4. No concrete alternative to ensure they can continue to trade without being financially disadvantaged or losing the benefits they currently enjoy from their occupancy.5. Why not knock through 4 and 5 Farrell Court (Corsica) instead? Only one business then displaced.6. Failure of equalities, racial justice, human rights, and well being tests.

	Party	Summary of grounds of objection
		7. English is not first language. Order documentation is all in English, which could be financially disadvantageous, no financial support for translation services.
03	Castle Café Bakery Ltd Unit 7 within 7 Farrell Court (Nanci Estella Cardona Grajales)	The same arguments as for objection 2 above except: <ul style="list-style-type: none"> (a) does not allege on this occasion that the Council have failed to take into account the impact on this business or identify the business. (b) also refers to the northern arches access which could be used for the walk-through instead of 6 and 7 Farrell Court. (c) as regards the first language point, goes further and alleges that the failure to provide financial support means the Council failed to make reasonable adjustments and take into account the public sector equality duty. The CPO is therefore procedurally defective.
04	Giros Don Pedro Unit 5 within 7 Farrell Court	Exactly the same arguments and format as in objection 3.
05	Beset International Limited 7 Farrell Court	<ol style="list-style-type: none"> 1. The revival and enhancement of Walworth Road existing shops should be the priority. 2. New housing should not be to the detriment of the existing community. 3. Replacement of old shopping centre with a new shopping centre would be a backward step when so many shopping centres are under pressure for occupiers. 4. The existing, northern arches is adequate for the Park Route – no need to move Beset, DistriAndina or Corsica. 5. This proposal runs a very serious risk of diluting the Elephant Park, Castle Square and Elephant Central retail offer. 6. As a fallback argument to their objection, Beset are concerned that the relocation should take place quickly if it is to take place so that EC can become their landlord immediately. Beset feel they are subject to uncertainty, before the CPO, by virtue of Arch Co being their current landlord. Their concern is that Arch Co may have no interest in safeguarding the proposed relocations.

	Party	Summary of grounds of objection
		<p>7. If the order is confirmed, the acquisition of the arches should be directed to vest on confirmation so that the proposed relocation as set out in the Scheme and as proposed by developer and the Council can be realised.</p> <p>8. Serious reservations as to the benefits of a significant retail and leisure hub at Elephant & Castle.</p>
06	DistriAndina 6 Farrell Court	Almost identical to objection 5, but with reference to this tenant being a vital resource for the Latin American community.
07	CDR Nomineeco 1 Limited and CDR Nomineeco 2 Limited (Arch Co)	<p>1. The arches form a small part of the Scheme Land and are not integral to the wider piece of land required for the Scheme.</p> <p>2. No planning permission for certain elements – an impediment.</p> <p>3. The arches are being acquired to "address some of the deficiencies of the original Scheme which failed to cater for the full implications of accommodating some existing uses and occupiers, which are now considered to be inappropriately located... a desire to gentrify the Scheme".</p> <p>4. Corsica relocation to arches 113A/120 and 113B/121 – Agent of Change policy is against it.</p> <p>5. It remains the case that sound mitigation comprising glazing and at source soundproofing would allow compliance with condition 28 of the planning permission.</p> <p>6. No evidence given of claims that practically cannot be done.</p> <p>7. Failure to consider alternative locations for Corsica relocation.</p> <p>8. Impediments to relocation of Corsica – no planning permission, potential for onerous conditions to be imposed, whether Corsica would want to move.</p> <p>9. Where discussions about relocation of affected businesses have not concluded, the use of CPO powers cannot be said to be a matter of last resort.</p> <p>10. Absence of "reasonable certainty" that Corsica will relocate.</p>

	Party	Summary of grounds of objection
		<p>11. Entirely unclear why alternative of retail/café units in arches 113A/120 and 113B/121 is necessary.</p> <p>12. 6 and 7 Farrell Court acquisitions – there is an alternative route for the walk through available via northern arches as set out in s106. Neither s106 nor planning condition make it an absolute requirement and therefore it cannot be necessary to acquire.</p> <p>13. A licence would suffice for 6 & 7 Farrell Court and the Council has not considered that alternative.</p> <p>14. Acquisition of 4 and 5 Farrell Court for Beset – queries whether Beset are a retailer and if not why not; and why occupiers do not qualify for s106?</p> <p>15. Onus is on EC to find suitable relocation premises – and to demonstrate that new premises cannot be provided within the Scheme or elsewhere.</p> <p>16. Even if s106 does not provide for relocation of Beset and the occupiers, this does not discharge EC's responsibility to find suitable relocation premises for them.</p> <p>17. No evidence of Council/EC exploring alternative locations for Beset/their occupiers.</p> <p>18. Impediments to relocation of Beset.</p> <p>19. If s106 does not provide for relocation of Beset/their occupiers, then no planning requirement for their relocation exists and it follows that CPO is unnecessary.</p> <p>20. The corridor of land adjacent to the railway viaduct – accepts requirement for delivery of the public realm but this could be done by licence.</p> <p>21. Conclusions – no compelling case, not a matter of last resort, and unjustified and disproportionate interference with Arch Co's rights under Article 1 of First Protocol of ECHR.</p>
08	Patricia Moreta Services Ltd Unit 7 Farrell Court (Mrs Patricia Moreta)	Almost identical to objection 3 above.
09	The Elders & Deacons of the Metropolitan Tabernacle	<p>1. Accepted that crane oversailing would not cause disruption to them - assuming all Health & Safety considerations are achieved.</p> <p>2. However, entry onto the land and erection and use of scaffolding may cause severe disruption to the</p>

	Party	Summary of grounds of objection
		<p>Tabernacle's activities and the safety and functioning of the property. Significant numbers of children and mobility impaired people attend.</p> <ol style="list-style-type: none"> 3. Scaffolding will severely undermine and constrain pedestrian access and will entirely prevent vehicular access and impact fire access/egress from the property. 4. Pastor Street needs to remain open and available to vehicles. 5. Offer of a working agreement and collaborative approach. 6. The rights would effectively be permanent even though expressed as being for the benefit of this scheme.
10	Mr & Mrs Roberts Occupiers of The Flat Metropolitan Tabernacle	Nearly identical to the objection at 9. They are the occupiers of the flat within the Tabernacle, being the caretakers of the building.
11	Adriana Hoyos Rojas Hoyos Legal, Unit 2 within 7 Farrell Court	Similar to objections 3 and 8.
12	Bola 8 Limited c/o Mrs Rodriguez-Osorio and Mr Garson-Medina 122 Elephant Road	<ol style="list-style-type: none"> 1. Objection stated to be on behalf of Bola 8 Limited but also Pool Lounge Limited and Bola Ocho Limited, plus their shareholders and directors and "the Latin American communities in and around the Elephant and Castle area". 2. Confirmation of the CPO would cause material detriment and/or further seriously affect the (i) amenity, (ii) convenience, (iii) property (including leases, tenancies, licences and occupations), (iv) livelihoods and (v) cultural expression of the objectors. 3. The Latin American community have not been consulted fully, properly or at all. 4. The closure of the companies would bring cultural and financial losses. <p>N.B. This objection was withdrawn after Council officers corresponded with the objectors and explained that the February 2023 CPO did not seek the acquisition of their interests nor would it result in the closure of their businesses.</p>

APPENDIX H

ELEPHANT AND CASTLE TOWN CENTRE - COMPULSORY PURCHASE ORDER

ADVERSE EFFECTS ARISING FROM PROPOSED NEW CPO

1. The use of CPO powers in relation to the two railway arches to the north of the railway station to which EC already has long leasehold title, so that control can be achieved to turn one arch into a relocation premises for Beset and their occupiers, and another for DistriAndina (if that is their preference), and otherwise for retail/café uses including retail kiosk units, will deprive Arch Co of its long leasehold title to those arches. Similarly the acquisition by the Council under the new CPO of 4 and 5 Farrell Court, and 6 and 7 Farrell Court, and the corridor of land to the immediate west of the railway viaduct, will deprive Arch Co of its long leasehold title to those premises. Arch Co is a large commercial concern with many railway arch units across the country. It is not considered that the acquisition of these areas will cause serious detriment to it. In Arch Co's objection to the February 2023 CPO, there was no suggestion that it would suffer any material detriment from the loss of their interest in these arches.
2. The occupiers of 6 and 7 Farrell Court will be displaced if their interests were compulsorily acquired to facilitate the creation of the Park Route. In a worst case scenario, they might cease trading as a result of an acquisition through the new CPO. However, the Council's and EC's intention is that arch 113B/121 will be acquired and developed as a relocation opportunity within the Scheme for the tenant and occupiers of 7 Farrell Court, thus mitigating adverse impacts on them. The tenant of 6 Farrell Court, DistriAndina, is also being offered the opportunity to relocate within the Scheme, to a new unit on the East Site or to arch 113A/120 (whichever is their preference). Again, it is envisaged this would mitigate the adverse impact of the new CPO on them. In their objections to the February 2023 CPO, whilst Beset and DistriAndina explain why they should be allowed to remain, they do not suggest that they would suffer significant adverse effects if they had to move to the relocation premises.
3. The tenant of 4 and 5 Farrell Court, Corsica Studios, would be displaced if its interest was simply compulsorily acquired in a worst case scenario and might cease trading as a result of that. However, the Council and EC's intention is that they should be offered the opportunity to occupy 4-5 Farrell Court on a long term basis under a new lease once the sound mitigation lobby has been constructed to the immediate rear of those units, with the unified and enlarged floorspace (i.e. inclusive of the sound mitigation lobby) being the subject of the new lease, thus safeguarding the future of this venue. The proposed works to 4 and 5 Farrell Court would potentially take around 9 months to complete and in that time the venue would cease trading to enable the works to take place. This would result in some short term loss of trade to the nightclub but this is understood by Corsica and it would facilitate the longer term future of the venue and Corsica's preferred solution.
4. Any party that has their interest acquired pursuant to the new CPO will be entitled to statutory compensation for the loss of their interest. Where only part of the land is taken, there is the opportunity to claim compensation for severance or injurious affection in respect of the retained part. Furthermore, and independent of statutory compensation, the section 106 agreement has a relocation fund for eligible local independent traders on the East Site.

5. The new CPO would also see new rights created over the land shown shaded blue on the plan at Appendix A. The new rights to carry out works to the sides and undersides of the viaduct in connection with the creation of the walk-through in what is currently 6 and 7 Farrell Court (including removing the existing shopfronts) would apply against Network Rail, as would the additional new right to affix the sound mitigation lobby to the viaduct (to the rear of 4-5 Farrell Court), but these are considered to be relatively minor in nature. No works would be carried out which would affect the operation of the railway. The same is true of the new rights that are sought in respect of (i) a right of way to/from the East Site over Network Rail's adjacent land to the railway station (and related right to pave and maintain that area), and (ii) the sides and undersides of the viaduct arches 113A/120 and 113B/121 currently owned long leasehold by EC, so that they can be brought into beneficial use for the relocation premises for Beset and their occupiers, and potentially for DistriAndina if they wish to relocate there, and otherwise for retail/café uses (including the right to install frontage and rear elevations). A right is also sought to pave under an external staircase adjacent to the railway station and to maintain such paving.
6. The rights being sought over the Tabernacle will result in some minor inconvenience to the Tabernacle for a relatively short period, as explained in the December 2022 report but the Tabernacle will remain open to its congregation throughout the duration of any such works and disabled access will be maintained at all times whilst the Tabernacle is being used. It is considered that such an adverse effect (if mitigation cannot fully remove it) is minor. The Tabernacle's objection to the February 2023 CPO suggests that their concerns could be overcome by the registration and completion of a working agreement, and EC is seeking to agree matters with the Tabernacle.
7. The acquisition of crane oversail rights over various pieces of land is considered to be relatively minor in effect.
8. The owner of any land interest affected by the new rights will be entitled to statutory compensation in respect of those new rights.
9. As explained in Appendix D of the December 2022 report, within Appendix K to this report, in accordance with the Cabinet resolution of April 2020, the Council has already conducted a process which overrides rights of light and other rights held by third parties in respect of all areas of the East and West Site on which new buildings will be erected. This removes the ability of eg rights of light holders to obtain an injunction or to hold the developer to ransom, with the rights holders entitled to compensation on a diminution in value basis. It is not considered that there are any such rights in respect of the areas that will now be subject to acquisition under the new CPO which would be problematic, but any such rights as exist will be overridden by way of the implementation of the new CPO in any event.
10. The tall buildings proposed as part of the Scheme will result in adverse day light and sunlight effects on a number of nearby properties, including residential properties, particularly those in Oswin Street, Hayles Buildings and Metro Central Heights. The tall buildings on the East Site can be constructed without the new CPO but the new CPO is required to build those on the West Site. Cabinet is referred to the Planning Committee report in the background papers – the Planning Committee considered light amenity and overshadowing in detail as part of the planning application process and it was considered that those adverse effects were outweighed by the benefits of the Scheme.
11. As set out in the Planning Committee report, there would be harm to the setting of the Metropolitan Tabernacle. Cabinet will note, though, that notwithstanding the substantial

weight given to that harm, the Planning Committee concluded that such harm would be outweighed by the significant public benefits accruing from the Scheme.

12. Without mitigation, there are likely to be some adverse equality impacts as discussed in detail in Appendix I of this report in respect of the tenants and occupiers of the affected railway arches and the Tabernacle. However, as explained in Appendix I, mitigation is proposed by way of the proposed relocations for the affected arch tenants, plus the construction of the sound mitigation lobby to benefit Corsica Studios's premises, and measures will be taken to mitigate the effects of construction on the Tabernacle, including maintenance of disabled access. It is considered all that can reasonably expected to be done to mitigate impacts on these parties has been and is continuing to be done.

APPENDIX I

Equalities Impact Assessment (EqIA)

1. Background

The Public Sector Equality Duty (PSED) created by the Equality Act 2010 imposes a continuing duty on the Council to consider equalities impacts to inform its decision making. Previous EqIAs were produced by AECOM in June 2016 prior to approval of the planning application for the development of the Elephant & Castle Shopping Centre and Town Centre area. Additional analysis was carried out by AECOM in March and August 2017 relating to the potential redevelopment of the Bingo Hall and Bowling Alley within the Shopping Centre and which helped to formulate the business relocation strategy and compensation package for affected businesses, which was put in place under the section 106 agreement. The developer (EC) has also carried out its own analysis as part of the planning application process.

A further report was commissioned by the Council in August 2019 with a detailed report being provided by AECOM in January 2020, to inform the Council's decision-making as to a Compulsory Purchase Order (CPO) at that time.

Prior to resolving to make a CPO in December 2022, the Council undertook a further EqIA in respect of that CPO. The Council updated its EqIA in this respect in January 2023 before making the London Borough of Southwark (Elephant and Castle Town Centre) Compulsory Purchase Order 2023 on 2 February 2023.

It is now proposed that the February 2023 CPO be withdrawn and a new CPO be made by the Council (the new CPO) to reflect changes to the proposals for the occupants of Elephant Road.

In line with the continuing duty, this report addresses the equalities impacts that may arise in the context of the new CPO. It does not seek to duplicate the work done in connection with earlier reports. Rather, it addresses the potential equalities impacts on those businesses and stakeholders likely to be affected by the making and implementation of the new CPO so as to inform the Council's decision-making as to whether to make the new CPO.

2. Legislative background

The Equality Act 2010, section 149 (Public Sector Equality Duty) sets out that a public authority must, in the exercise of its functions, have due regard to the need to –

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics for the purposes of the Act are –

- Age

- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation.

The EqIA aims to consider the effects of the Council's decision making (in this case to make the new CPO) and whether these effects are likely to have a disproportionate or differential impact. A disproportionate impact will arise if an impact has a proportionately greater effect on groups who share a protected characteristic than on other members of the general population in a location. A differential impact will arise where members of a group sharing a protected characteristic are affected differently from the rest of the population because of specific needs, or a recognised sensitivity or vulnerability associated with their protected characteristic.

3. Current decision

As referred to in the Cabinet Report, the Council is proposing to make the new CPO in order to acquire the remaining title and new rights required to facilitate the town centre redevelopment scheme. The compulsory acquisition of these properties and new rights will directly impact the owners of the businesses and organisations thereby affected, their employees and their customers and clients. Mitigation measures will seek to reduce these impacts as far as possible.

The businesses and organisations that will be directly affected by the making and implementation of the new CPO are those that currently occupy parts of the proposed order land who will either need to relocate in order to enable redevelopment to take place or whose businesses may otherwise be affected, or, in the case of the Metropolitan Tabernacle, whose land will be the subject of new rights to facilitate the redevelopment. These have been identified as follows:

Units 4 & 5 Farrell Court – Corsica Studios

The business currently carried out in units 4 & 5 is that of a cultural venue hosting electronic and other genres of music and club nights and creative events, including techno and live alternative rock and art installations.¹ The business has a well-articulated inclusivity, equality and diversity policy whereby it aims to promote a positive environment where differences are respected and valued. It also aims to redress the gender, racial and sexuality balance within the industry. The venue welcomes disabled customers and aims to be accessible and inclusive.

As explained in the December 2022 Cabinet papers and the January 2023 EqIA, the Council and Developer at that time proposed to relocate the business to the railway arches to the north of the station, a short distance up Elephant Road, which would have been fitted out and soundproofed prior to the relocation taking place. However, Corsica expressed a wish not to relocate to these arches and instead to seek a solution which would enable them to occupy 4 & 5 Farrell Court harmoniously with the new, adjacent residential use. As explained in the Cabinet report, a satisfactory noise solution has

¹ Source : www.corsicastudios.com accessed 20 September 2023.

now been arrived at – a sound mitigation lobby is proposed for the rear of the units which would reduce external sound levels.

In an unlikely worst case scenario of the business closing and/or the use ceasing it is not considered that any one group with protected characteristics would be disproportionately affected.

Given the terms of the noise condition imposed on the residential development, another worst case scenario, if the confirmed CPO does not allow for the construction of the sound mitigation lobby and the acquisition of the requisite interests in 4 & 5 Farrell Court, is that the nightclub use continues but a significant number of the new residential units (including affordable units) could not be occupied, in compliance with the condition, unless the sound levels of the music played were greatly reduced. The effective loss of occupation of residential units would be detrimental and, as particular groups with significant housing need which are strongly represented in the local population include ethnic minority groups, women, families with children and young people, that has the potential to impact negatively on those with protected characteristics.

If the music levels were reduced to a great degree, to enable compliance with the condition in the absence of the sound mitigation lobby, this would avoid the detrimental effect of leaving residential units vacant but would change the activities of the music venue. It is not considered that any one group with protected characteristics would be disproportionately affected in terms of such a change in the music venue's activities.

The clear intention is that the sound mitigation lobby is provided and the lobby is leased to Corsica along with the units and the fire escape in one new leasehold demise as envisaged. The proposal, if implemented, would mean that the business would need to temporarily cease trading for around 9 months to facilitate the construction of the sound mitigation lobby and other works. It is considered that the likely equalities impact of the proposed sound mitigation lobby would be neutral as, although the changes would help secure the future of Corsica Studios and overcome the uncertainties in relation to the extent of their current demise and the use of the fire escape, the continuation or not of the operation of Corsica Studios (or a replacement similar use) should not disproportionately affect any one group with protected characteristics.

If Corsica decided not to take up the option of a new lease of the units complete with the sound mitigation lobby, it is envisaged that the developer would then offer the amended units (complete with the sound mitigation lobby) to other music venue operators so that the use would continue.

It should also be noted that compensation is available under the CPO legislation for costs/losses of needing to temporarily cease trading (if that became necessary), so that the effect with the proposed mitigation would not affect Corsica Studios financially.

It is not considered that adverse equalities impacts from the CPO as proposed would be likely to arise in relation to Corsica Studios. To the extent that any adverse equalities impacts could arise, the proposed mitigation is the sound mitigation lobby as proposed above. As to the prospects of that proposed mitigation occurring, discussions are well advanced with Corsica and it is considered that there are good prospects that the proposed sound mitigation lobby will take place.

Unit 6 Farrell Court – DistriAndina

Unit 6 Farrell Court is occupied by DistriAndina which operates as a café, delicatessen and a Latin American supermarket which sells groceries both retail and wholesale and also delivers around England, Scotland and Wales. They describe themselves as "Serving the UK's Latin American

Community"² which previous EqlAs have identified as being a section of the population likely to be disproportionately affected by redevelopment at the Elephant & Castle, as there are several Latin American businesses in the area serving a large local population. DistriAndina themselves are part of that Latin American community, and therefore the protected characteristic of race is relevant. Redevelopment may potentially impact disproportionately and differentially on groups who benefit from the provision of specialist goods and services.

The worst case scenario is the closure and loss of this Latin American business. However, the developer's proposal and clear intention is to relocate DistriAndina into one of the affordable retail units being constructed as part of the redevelopment and fronting Walworth Road or (at DistriAndina's choice) arch 113A/120 to the north of the railway station. The new unit envisaged for the relocation fronting Walworth Road would be of a similar size to their existing unit and would benefit from a large shopfront onto Walworth Road, where there is high footfall and a large number of bus stops, thereby enabling the unit to be easily accessed both on foot and by public transport. Although not in Elephant Road itself, such a replacement unit is within the scheme and would be located only a short distance away from the current unit, in an area with other Latin American businesses nearby. It is considered that this would provide adequate mitigation from the closure of unit 6. If DistriAndina chose to relocate to arch 113A/120 instead, this is considered to be a like for like replacement and again would provide adequate mitigation. Relocation of the business would be organised such that the business did not have to close and there would be continuity of operation.

Compensation is available under the CPO legislation for costs/losses of needing to relocate, so that the effect with mitigation would not affect DistriAndina financially.

Accordingly, the proposed mitigation is relocation as proposed above. As to the prospects of that proposed mitigation occurring, discussions are well advanced with DistriAndina and it is considered that there are good prospects that the proposed relocation will take place. It is considered that the likely equalities impacts would be neutral with that mitigation (i.e. relocation) taken into account.

Unit 7 Farrell Court – Beset International Limited and their occupiers

Beset International Limited occupies unit 7 and operates a shipping and air freighting business as well as providing business space for a number of small businesses of varying types which occupy areas within the railway arch. These include hairdressing, international money transfer, assorted retail and a café. In the survey undertaken on behalf of the Council, the proprietor of Beset identified as being of Black African ethnic minority. The other business owners within the arch identified as being Latin American. The worst case scenario of a closure of this unit and the loss of the businesses would be likely to disproportionately affect these BAME groups.

However, again, the developer's proposal is to relocate these businesses into arch 113B/121 on Elephant Road. This would enable the businesses to continue to trade in the same immediate locality as currently, in very similar premises, as part of the scheme, but in a newly fitted-out unit. As with the other proposals for relocation, the intention is to ensure continuity of provision so that no interruption to the businesses would occur.

As referred to above, compensation is available under the CPO legislation for costs/losses of needing to relocate, so that the effect with mitigation would not affect Beset financially.

Accordingly, the proposed mitigation is relocation as proposed above. As to the prospects of that proposed mitigation occurring, Beset have expressed an in principle acceptance of it if their interest is to be acquired and discussions are underway with their occupiers. In addition, Beset accept the

² www.distriandina.co.uk accessed 20 September 2023.

principle of an obligation to offer comparable floorspace and terms to their occupiers and so it is considered that there are good prospects that the proposed relocation will take place. It is considered that the likely equalities impacts would be neutral with that mitigation (i.e. relocation) taken into account.

Some of the occupiers of Unit 7 objected to the February 2023 CPO. One of the objection points was that their first language was not English, but Spanish, and they were disadvantaged by the fact that the CPO documents were in English and no assistance with translation into Spanish had been provided to them. Some of those raising this point alleged a breach of the PSED. The Council officers considered this point and, whilst no breach of the PSED had arisen, the Council has agreed to the principle of translation of key CPO documents provided by the Council into Spanish (in a reasonable and proportionate way). This decision was communicated to these affected parties in July and the Council will take a similar approach in respect of the new CPO, thus mitigating any disadvantage to these Spanish speakers.

Metropolitan Tabernacle

The Metropolitan Tabernacle is an independent reformed Baptist church which occupies the Grade II listed Tabernacle building on the west side of Elephant & Castle. It holds services on Sunday mornings and evenings, prayer meetings on Monday evenings, bible study on Wednesday evenings, and a Sunday School on Sunday afternoons for children and teenagers, as well as hosting a bookshop. That the Tabernacle serves a wide group of people and nationalities is evidenced by the fact that simultaneous translations of its Sunday services are available via headsets into Spanish, French, Portuguese, Chinese and Farsi³. The numbers of people using the building vary according to the time of day and the events taking place but can be as many as 1,000 including typically circa 500 children (sometimes as many as 600 children) attending the Sunday school.

The building has disabled access to the front (in one of the side arches) which can be accessed either from the Elephant & Castle highway to the front or from the rear parking area along the north flank of the building. Some of the members of the church's congregation are mobility impaired.

Information about the congregation and staff was requested, in order that any groups sharing protected characteristics can be identified and their needs met as far as practicable. In their objection to the February 2023 CPO, the Tabernacle raised concerns about access for mobility impaired people and children. Effects of the new CPO on the congregation and staff of the Tabernacle could potentially disproportionately affect groups sharing the protected characteristics of religion, age, race, pregnancy and maternity, and disability.

However, the effect of the new CPO on the Tabernacle and its congregation is limited to the need to carry out demolition works to the adjoining London College of Communication building, and the Tabernacle is only included in the CPO in order to secure rights to carry out that work, to erect scaffolding on part of the Tabernacle site and to oversail a crane. Any effects of the new CPO will be temporary and works will be carried out in such a way that the Tabernacle can remain open at all operational times.

Some disruption will be caused by the erection of scaffolding which is necessary to carry out the works to de-couple the LCC building from the Tabernacle and to demolish the LCC building, which is immediately adjacent to the Tabernacle. This may need to stay in place for up to three months. However, it will be erected in such a way as to ensure that access to the front side entrance of the building (which contains the disabled entrance) is still available, with access to the disabled entrance being maintained during operational hours. It is possible that persons with mobility impairments or

³ www.metropolitantabernacle.org accessed 20 September 2023.

parents pushing pushchairs may not be able to use the side accessway under the scaffolding to reach the disabled entrance at the front side entrance if they approach from Pastor Street, and instead would need to go round the other side of the Tabernacle to reach it from Elephant & Castle highway. This would cause inconvenience to disabled persons, the elderly and families with young children. It might also hinder, and cause inconvenience to, pregnant women. As to the scale of such inconvenience, it is considered that this would be minor. EC's project team have been working with the building contractor, Keltbray, on a method of working so as to minimise any adverse effects on the Tabernacle and are confident that the side passage will be available for pedestrian use.

It is that the scaffolding will also have an impact on vehicular parking to the rear and side of the building, within the Tabernacle grounds. It is understood that the vehicles parking there include minibuses which are used to facilitate travel to the venue for (among others) those with mobility impairments, whether through disability or age. Therefore the loss of those spaces, though temporary and for a relatively short period, may give rise to inconvenience, particularly to disabled persons, the elderly, families with young children and possibly to pregnant women. The developer is content to pay for alternative parking provision within the locality for the duration that spaces are not available due to the scaffolding. It may be that the minibuses would still be able to drop off visitors to the rear of the Tabernacle, without parking there, before then moving to the alternative parking provision, with drivers then returning to pick up later, in that way ensuring that those with mobility impairments would not need to move from the alternative parking to the Tabernacle. The movement of visitors dropped off at the rear of the Tabernacle to the disabled entrance in the front side arch would be as discussed above. The scale of inconvenience arising is considered to be minor. Again, EC's project team have been undertaking further work on this and are confident that demolition protection measures can be designed to ensure minibuses and emergency vehicles can still access the Tabernacle entrance from Pastor Street and use the existing parking area identified by the Tabernacle.

In terms of mitigation, the developer will need to submit a demolition management plan for the West Site in due course and so the Council will be able to assess and approve the detailed demolition methodology at that time. The Council will be seeking to ensure that disruption to the Tabernacle is kept to a minimum as part of that plan. Moreover, the developer agrees in the CPO indemnity agreement (as will be varied) to procure that (a) the disabled entrance in the front side arch is available at all times when the Tabernacle is in operation and (b) measures are taken to keep open the side accessway route from the rear of the Tabernacle to that disabled entrance in the front side arch, under the scaffolding, for persons with (and without) mobility impairments if it is safe and practicable to do so and that (c) safe access/egress from the Tabernacle is ensured at all times.

The Council and the developer will continue to take steps to ensure that the adverse effects of the works on the Tabernacle building and its users are kept to a minimum. If it proves not practicable and safe to keep open the side accessway for those with (and without) mobility impairments during the period when the scaffolding will be in place, the residual equalities impacts of the temporary works are considered to be minor adverse. It is considered that, if the mitigation referred to above is put in place with the side accessway kept open, residual equalities impacts are unlikely to arise.

In their objection to the February 2023 CPO, the Tabernacle suggests their concerns could be overcome by the negotiation and completion of a working agreement with the developer. The developer is seeking to put in place an agreement with the Tabernacle as mitigation against any impacts that may arise and to address all of its concerns.

4. Other impacts arising from the new CPO

East Site

There will be benefits to all users of the East Site from the creation of surface level public access to create the Station Route, the Park Route and further public realm adjacent to the railway viaduct. This is likely to be particularly beneficial to the elderly, disabled persons, pregnant women and families with young children. It will also ensure the permeability of the site for visitors to all parts of the East Site, including the replacement affordable retail floorspace and proposed replacement bingo facility, both of which are included in the East Site at least in part to address adverse equality impacts identified at the planning permission stage.

West Site

The title and new rights being sought in relation to the West Site are all necessary for the West Site redevelopment to proceed, so the new CPO will unlock the ability to develop the West Site, including the public realm areas, affordable retail floorspace, new dwellings (including affordable housing units, and 10% wheelchair accessible units) and job opportunities associated with that phase of the Scheme, all of which are considered to have positive equality impacts. The public realm and improved accessibility on the West Site is likely to benefit older people (i.e. the protected characteristic of age), plus disabled persons, pregnant women and families with young children. Particular groups with significant housing need are strongly represented in the local population including ethnic minority groups, women, families with children and young people. Increased access to affordable housing, due to the affordable housing provided as part of the West Site redevelopment, may benefit these groups. The employment opportunities may benefit in particular young people and others seeking entry level employment. Increased retail employment is, on average, expected to provide a disproportionate number of jobs to local ethnic minority residents. The wheelchair accessible housing will be of benefit to disabled persons.

It is not considered that the daylight and sunlight impacts which could arise from the construction of tall buildings on the West Site would disproportionately affect any one group with protected characteristics.

Consideration has been given to the potential adverse impacts on the local community during the demolition and construction phase on the West Site, particularly to those people with protected characteristics who may be more sensitive to safety, security and accessibility construction impacts, including people with disabilities, children, older people and pregnant women. Similarly, consideration has also been given to the potential noise impacts that the demolition and construction of the West Site may have on groups with protected characteristics, who may be more sensitive to noise increases including people with certain disabilities, children and older people. Whilst the scale of any such impacts is considered to be minor, the Council has already sought to mitigate these impacts through securing demolition management plans and construction environmental management plans in the section 106 agreement.

5. Summary

The making and implementation of the new CPO, following a resolution of Cabinet to do so, will have effects on those directly affected by it, details of which are summarised above. The provisions of the Equality Act are engaged, in that certain groups sharing protected characteristics are potentially disproportionately affected by the proposals.

However, the mitigation measures that are proposed, as detailed above, will play a significant role in minimising the effects of the new CPO on those groups such that any negative impacts on them are

minimised as far as possible. With the proposed mitigation in place, any residual effects would be limited.

Previous EqlAs have concluded that the mitigation measures proposed by the Council and the developer were likely to prove effective in minimising residual negative effects, and pointed out that the scheme facilitated by the new CPO will enable affected businesses to share in the benefits to be delivered, in particular the creation of jobs, new retail space, improved transport links, the new campus for the London College of Communication and the provision of affordable housing.

The Council will need to ensure that the developer commits to and implements the mitigation measures outlined above and that these are monitored in order to help minimise the adverse effects and realise the positive benefits of the redevelopment proposals.

2 October 2023

APPENDIX J

ELEPHANT AND CASTLE TOWN CENTRE - COMPULSORY PURCHASE ORDER

WHETHER THE USE OF THE COUNCIL'S POWERS IS JUSTIFIED – THE NEW CPO

1. Firstly, sections 226(1)(a) and 226(1A) of the 1990 Act are considered.
2. Section 226(1)(a) gives the Council power to acquire compulsorily any land in their area if the Council thinks that the acquisition will "facilitate the carrying out of development, re-development, or improvement on, or in relation to, the land". The making of the new CPO will facilitate the carrying out of development, re-development, or improvement on, or in relation to, the land covered by the new CPO. The Scheme has already begun on part of the East Site, adjacent to the new CPO land, and EC has shown through all of its progress its continued intention to proceed with the Scheme so as to complete the East Site redevelopment and then carry out the West redevelopment if CPO powers are utilised. Without the use of the new CPO powers, it will not be possible to deliver key areas of public realm on the East Site, nor to complete the East Site redevelopment of the Scheme. Moreover, the title and new rights sought in respect of the West Site are necessary to enable demolition and construction in respect of the West Site. Also, the acquisition of title to certain railway arch premises and related new rights over the viaduct structure is required to deliver the relocation opportunity for the tenant and occupiers of 7 Farrell Court in arch113B/121, and 113A/120 potentially for DistriAndina if they wish to move there, and otherwise to bring those units into retail/café use. The new CPO will also enable the construction of the sound mitigation lobby to the rear of 4-5 Farrell Court and associated works in 4-5 Farrell Court, and leasehold title to the unified floorspace of 4-5 Farrell Court and the sound mitigation lobby to be acquired by the Council, thus allowing for the offer of a new long term lease to Corsica and if they do not wish to take up that option to another operator. So the new CPO will facilitate the carrying out of redevelopment on, or in relation to, the land included in the new CPO and thus the test in section 226(1)(a) is satisfied.
3. In addition to section 226(1)(a), section 226(1A) applies, so the Council must not exercise the power under section 226(1)(a) unless it thinks that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects: (a) the promotion or improvement of the economic well-being of their area; (b) the promotion or improvement of the social well-being of their area; and (c) the promotion or improvement of the environmental well-being of their area. In this case, the Council thinks the development, re-development or improvement is likely to contribute to the improvement of all three well-being objects.
4. The Scheme is likely to result in *economic* well-being improvements, including a material increase in the quantity and quality of town centre uses, including providing additional and better quality retail, leisure, education and office provision, consistent with the long term strategy to regenerate the Town Centre and enhance its vitality and viability. The Scheme will create enhanced linkages, and assist in the regeneration of the wider centre. The Scheme includes the provision of affordable retail and office floorspace. The education facility will secure LCC's long-term future in the area.
5. The Scheme will create around 1,300 construction jobs per year during peak times over the 10 year build programme. The completed Scheme will generate up to 2,085 gross new full time equivalent jobs, depending on the exact nature of the commercial uses which will ultimately come forward, an increase of over 600 when compared with the estimated 1,418

full time equivalent jobs on the East and West Sites before the development commenced. Measures to secure jobs for unemployed borough residents are contained in the section 106 agreement and will deliver significant economic benefits to the local population.

6. The Scheme will secure key new transport infrastructure, including a new station entrance, create enhanced linkages between existing transport provision, and provide a comprehensive package of measures to enhance the connectivity of the new town centre. These measures will make the town centre more competitive, better able to retain and attract trade from within its catchment, including meeting the needs of the additional local residents, workers and students, and encourage the use of sustainable means of transport.
7. As regards the fitting out and opening of the underground station box, the amendments made to the section 106 agreement due to TfL's funding position means that there is an increased chance (as compared to the position in April 2020) that the new station box will not be fitted out and come into operation, but the likelihood of the new station being fitted out and becoming operational at a reasonable point in the future is still high. Even if reduced weight was given to the new station box due to the TfL funding uncertainty, the new CPO would still be justified for all the other economic, social and environmental well-being improvements that the Scheme would bring.
8. The new residential population (up to 1,880 people) is expected to have a total household expenditure in excess of £28 million per annum, some of which would be spent locally on goods and services, thereby contributing to the local economy and supporting new jobs locally. It is estimated that Council Tax revenue could be up to £2.1 million per annum, based on 2020-21 Council Tax bands and assuming all units are fully occupied and no rebates or discounts are offered. The Scheme will generate estimated CIL payments (assuming social housing relief is applied) of £4,278,679 Mayoral CIL and £11,230,308 Southwark CIL.
9. The Scheme will deliver significant *social* well-being improvements. These include the creation of a more balanced mix of uses, creating quality homes, offices, education and community facilities, including the provision of affordable retail, workspace and homes. The Scheme includes the provision of cultural and community facilities, including new and enhanced public realm and public toilets which will benefit all sections of the community. It will include the opportunity for Corsica Studios to take up a new lease of 4-5 Farrell Court, with the sound mitigation lobby incorporated, thus giving the opportunity to safeguard the longer term future of this cultural venue on Elephant Road whilst also ensuring that there will be no adverse noise effects on the new residential population. The noise mitigation will also help protect the venue against future noise complaints which might otherwise arise from other sources (e.g. future new uses or development) and therefore helps secure the future of the venue in that sense also. It will also include relocation premises for the small, local businesses which will be displaced by the creation of the Park Route.
10. The Scheme will also deliver significant *environmental* well-being improvements. In addition to providing well designed buildings and well connected spaces, the Scheme will contribute to securing more sustainable travel patterns, by better serving the needs of current and future residents, workers and students. The Scheme includes improved pedestrian permeability, increased site wide cycle facilities and public realm improvements, including additional landscaping and tree planting. The Scheme will also provide a sound mitigation lobby on the rear of 4-5 Farrell Court, thus alleviating noise amenity concerns.

11. Notwithstanding that there will be some negative effects to those affected by the new CPO, as referred to in this report, and having taken those negative effects into account, the development, re-development or improvement is likely to contribute to the achievement of all of the well-being objects in accordance with section 226(1A) of the 1990 Act.
12. The specific economic, social and environmental well-being improvements that the new CPO will deliver directly are in themselves sufficient to satisfy section 226(1A) of the 1990 Act. Firstly, without the new CPO, the Park Route as shown in the planning permission approved drawings cannot be delivered. It has been a key aspect of the Council's planning vision for a long time that the redeveloped Shopping Centre site should be opened up for pedestrians to what is now Elephant Park, thus facilitating the connection of these two key sites. EC is under an obligation in the section 106 agreement to use reasonable endeavours to open the Park Route prior to the East Site opening. Although the section 106 agreement allows for an alternative route for the Park Route through one of the arches that EC has some long leasehold to, or such other alternative route that the Council may approve, the July 2021 planning permission only shows the route through 6 and 7 Farrell Court, so that is the approved route under the permission. That route was chosen for the planning application, after analysis of likely pedestrian footfalls, and what would be the optimum route through the East Site because it forms a natural pedestrian "desire line", as it aligns with a boulevard from Elephant Park and so represents the optimum connection to Elephant Park and Lendlease's new redevelopment around it. From the chosen Park Route, pedestrians will be able to continue west through the new town centre to Elephant & Castle highway with its bus services (and Brook Drive beyond), or to move northwest to the new Underground station. This route is also close to Castle Square and Walworth Road. By contrast the arch EC has some long leasehold title to is situated further away from Walworth Road and Elephant Park and so would be inferior as a direct pedestrian link to those areas. In addition, it is located close to (and opposite) the proposed new building for the LCC, Building E1, and for pedestrians to emerge opposite Building E1 and close to the railway station, when considered along with users of the rail station, risked creating a pinchpoint. Building E1 would likely have had to have been smaller to accommodate additional pedestrian circulation space, losing mass from its south eastern corner. Reduced footprint of that building would be problematic, due to UAL's requirements for the new educational facility to achieve critical mass in order to retain the LCC at Elephant & Castle. Shifting Building E1 to the west would have impacted on the Station Route, making it too narrow and affecting the clear and permeable route through the East Site to the Elephant & Castle peninsula.
13. Secondly, areas of new public realm (and the pedestrian connectivity they bring) adjacent to the railway viaduct are also at risk of not being delivered without the new CPO, including the ability to complete the Station Route from the new Underground station box to the railway station for pedestrians, via the new right sought in that respect. Again, this is a key aspect of the East Site.
14. Thirdly, the use of the new CPO powers will facilitate a practical solution for the retention of the nightclub use in this location, as explained in more detail in the main body of the report.
15. Fourthly, the use of the new CPO powers will facilitate the redevelopment of arch 113B/121 to provide a suitable and immediately adjacent relocation opportunity for the tenant and occupiers of 7 Farrell Court, and arch 113A/120 potentially for DistriAndina too if they wish to move there, thus mitigating adverse impacts on them.

16. Fifthly, the new CPO elements being sought in relation to the West Site itself are all necessary for the West Site redevelopment to proceed, thus the new CPO unlocks all the benefits associated with the West Site, including 498 residential units (165 of which are to be affordable), new retail floorspace (including affordable retail) and a new cultural venue.
17. The new CPO is therefore essential to the successful implementation and completion of the Scheme and many of the well-being improvements it will bring.
18. Accordingly the statutory test in 226(1A) is met.
19. The key paragraphs from the Guidance are now considered.

Acquiring authorities should use compulsory purchase powers where it is expedient to do so

20. Given the conclusions in relation to the tests under section 226(1)(a) and section 226(1A) above, it is clearly expedient to make the new CPO to facilitate this very important redevelopment. For the reasons explained above, the new CPO is essential to the successful implementation and completion of the Scheme. The only change as to expediency (as compared to December 2022) is the fact that the redevelopment has progressed further, which makes it even more expedient than was previously the case that the Council supports the Scheme through CPO powers so that the Scheme can continue and be completed.

However, a CPO should only be made where there is a compelling case in the public interest

21. The Scheme will transform the town centre. Although there are some adverse effects, as referred to elsewhere in this report, it is considered that these are relatively minor and in any event need to be weighed against the very significant and numerous public benefits that will accrue from the Scheme. This is considered to be the case even in relation to the specific benefits that would be directly delivered through the use of the new CPO powers (as detailed above). The new CPO is necessary to unlock these benefits of the Scheme. The public benefits arising from the use of the new CPO powers amount to sufficiently compelling reasons for powers to be sought and outweigh the loss and any overriding of property interests to individuals and businesses arising from the new CPO. As vacant possession of most of the East Site was obtained by agreement, confirming the new CPO will not have many of the potentially adverse impacts it could have caused as originally envisaged in April 2020, so there is now less private loss to be outweighed by the public benefits. There is an increased need for the redevelopment to proceed and be completed given that the East Site has been demolished and cleared and the construction is well underway. So, the case for a CPO is now more compelling than ever.

The acquiring authority will be expected to demonstrate that it has made reasonable offers to acquire land and rights by agreement

22. It is considered that this part of the Guidance has been satisfied to date and will continue to be so. EC, acting in collaboration with Council officers, has been making reasonable efforts to acquire outstanding land interests and new rights by agreement over a significant period of time. Council officers have been kept regularly appraised of, and have been consulted in respect of, the ongoing negotiations. The Council's officers have also been directly involved with discussions with Arch Co, seeking agreement. This approach has generally worked well, as evidenced by the fact that EC has concluded various acquisitions and agreements with third parties already, thus avoiding the compulsory acquisition of various interests, but the new CPO is now required to give impetus to negotiations with the

remaining affected parties. EC is continuing its attempts to acquire by agreement and is obliged to continue to do so under the CPO indemnity agreement. The Council is taking an active role, in collaboration with EC, to take those negotiations forward and in making offers to the remaining parties. The discussions with Corsica, the Council and EC are an example of how the Council and EC have been putting very considerable effort into attempting to resolve matters by agreement to the greatest extent possible.

Compulsory purchase is intended as a last resort; but it may be sensible for the acquiring authority to plan a compulsory purchase timetable as a contingency measure and initiate formal proceedings to mitigate loss of valuable time and to encourage those whose land is affected to enter into meaningful negotiations

23. The making of the new CPO will assist in the remaining negotiations as it will make all parties aware of the continued seriousness of the Council's intentions, as is recognised in the Guidance. It is fair to say the making of the February 2023 CPO gave added impetus to negotiations. The new CPO is being used as a genuine last resort to ensure the land assembly needed to continue and complete the Scheme. The new CPO will underpin the remaining negotiations that need to be concluded to enable the Scheme. The use of the new CPO as a last resort is evidenced by the considerable reduction in land that has been included in the CPO as compared to that in April 2020 (because much of the necessary land has been acquired by agreement). The fact that development has commenced makes it all the more important to have the new CPO to complete the development. Delaying the new CPO risks being unable to complete the Scheme in accordance with the development programme, or at all.

When making ... [a CPO] acquiring authorities ... should be sure that the purposes for which the CPO is made justify interfering with the human rights of those with an interest in the land affected.

24. The Council's purpose in making the new CPO is to facilitate the development, redevelopment or improvement on or in relation to the new CPO land, namely the Scheme. The Scheme represents a vital, comprehensive redevelopment of the town centre. The very considerable benefits that will arise from the Scheme have been summarised elsewhere in this report. These public benefits outweigh, and justify interference with, human rights, and such interference is proportionate to the large level of public benefits that would arise from the Scheme. The purpose to be achieved by the new CPO would justify interference with human rights even if the interference was a lot wider or more severe than considered in this report, given the benefits of the Scheme. The public benefits of the Scheme outweigh the private losses. This is the case even if the specific benefits that would be directly delivered by the new CPO are considered in isolation and weighed against the interference with the human rights of the affected parties.

In order to reach early settlements, public sector organisations should make reasonable initial offers, and be prepared to engage constructively with claimants about relocation issues and mitigation and accommodation works where relevant.

25. Please refer to paragraph 22 above as to offers to date and the intention for the Council and EC to actively pursue further negotiation. The Council has sought to engage constructively with those affected, as evidenced by Council officers addressing affected traders as to the proposals, the appointment of Tree Shepherd to assist affected parties with relocation advice and the other measures in the agreed relocation strategy under the section 106 agreement. The Council and EC are also seeking to constructively work towards

arch 113B/121 being redeveloped as a relocation opportunity for displaced occupiers of 7 Farrell Court as part of the Scheme, and arch 113A/120 potentially for DistriAndina too if they wish to move there, and to allow for the long term future of Corsica Studios at 4-5 Farrell Court. The proposed new arrangements for Corsica demonstrate the lengths to which the Council and EC are going to engage constructively about mitigation and relocation issues, as does the ability to offer relocation opportunities with the Scheme to Beset and its occupiers and to DistriAndina.

The acquiring authority must be able to demonstrate that there are sufficiently compelling reasons for the powers to be sought at this time... [the acquiring authority should] have a clear idea of how it intends to use the land which it is proposing to acquire and [should be able to] show that all necessary resources are likely to be available to achieve that end within a reasonable time-scale.

26. The Council plans to use the new CPO acquisitions and new rights to facilitate the carrying out of the Scheme, to enable the Scheme to continue and be completed. The powers need to be sought now, otherwise the East Site will not be able to be completed in accordance with the development programme, or at all. Title to certain areas and new rights are also required for the West Site redevelopment. The Council and EC, with the best of intentions, have sought to be patient in allowing time for private treaty negotiations to bear fruit but the new CPO is needed to ensure the Scheme can continue and be completed. Resources are dealt with below.

The acquiring authority should address (a) sources of funding ... available for both acquiring the land and implementing [the Scheme] ... and (b) the timing of that funding - funding should generally be available now or early in the process ... evidence should be ... provided to show that sufficient funding could be made available immediately to cope with any acquisition resulting from a blight notice.

27. The Council now has the benefit of the CPO indemnity agreement with EC (backed by a guarantee from Get Living Plc). Some minor variations to this will be required but importantly these will not affect the position that the Council will receive a complete indemnity in respect of all compensation to be paid pursuant to the new CPO and/or through blight notices under section 137 of the 1990 Act. All other costs associated with the new CPO will be borne by EC too (again, guaranteed by Get Living Plc). The Council is satisfied that Get Living Plc has good covenant strength to meet its obligations in the unlikely event that EC defaulted. As a minor update to paragraph 17 of the December 2022 report, one of the three "Triangle Partnership" shareholders in Get Living, QD UK Holdings Limited Partnership, has sold its 22% stake in the Triangle Partnership to the Australian pension fund Aware Super. This is considered to have no effect on the ability of Get Living to meet any liabilities under the CPO indemnity agreement.

28. In addition, further details of funding have been provided by EC which has been reviewed and officers are satisfied that the funding is either already available, for East Site, or is likely to be available in good time to commence the West Site redevelopment as envisaged. It is anticipated that around 40% of the West Site redevelopment cost (including land acquisition) will be financed by equity payments from the Triangle partners and a further affordable housing grant in respect of the West Site, with around 60% being provided through debt funding. Understandably, the developer will not seek that debt funding for the West Site until closer to the time that the West Site redevelopment is begun, otherwise it would incur significant and unnecessary interest charges in the interim period. (By way of example, the East Site debt funding for the construction of new buildings on East Site

was put in place in December 2021, and piling began in March 2022). As to whether the West Site debt funding is likely to be obtainable on reasonable commercial terms to the developer, it is considered that this is likely to be the case given: the identity of EC's backers; the central London location and prestige of the redevelopment, with which lenders are likely to wish to be associated; that Delancey, who advise EC, are experienced in and have obtained significant debt funding on other large scale redevelopment projects for their clients; and the fact that EC was able to procure debt funding to fully fund the East Site redevelopment. These details have been re-confirmed by EC to officers in the run up to this Cabinet meeting.

29. As regards non-financial resources, EC has procured a professional team from all disciplines to advise in respect of the Scheme. It is advised by Delancey, an experienced property development and asset management company. The Triangle partners (EC's backers) have developed large schemes before, as referred to in the April 2020 Cabinet report. Officers are satisfied the developer has the expertise and the ability to attract the funding to deliver the West Site. It has already demonstrated its commitment by at considerable expense securing a planning consent, acquiring much of the land needed to deliver the Scheme, securing funding for the construction phase of the East Site and commencing on the East Site. This is therefore not an impediment. There are no known external factors that may frustrate delivery of the Scheme. Further comfort can be taken from the progress made with the development of the East Site to date.

Acquiring authorities will need to demonstrate that the scheme is unlikely to be blocked by any physical or legal impediments. These include:

- (a) the programming of any infrastructure accommodation works or remedial work which may be required*
30. It is considered there are no such impediments. LUL has planning permission for its connecting tunnel works for the new station box and the revised planning permission allows for the new station box to be larger, thus accommodating the Northern and potentially the Bakerloo Line too.
- (b) any need for planning permission for the scheme or other consent or licence.*
31. The vast majority of the Scheme has been granted planning permission. The conversion of arch 113B/121 as a relocation premises for Beset and their occupiers (commercial, business and services use), and arch 113A/120 potentially for DistriAndina if they wish to move there, and otherwise for retail/café use, including kiosks, will require planning permission (for change in use and physical works). Subject to the imposition of suitable conditions, there is no reason why such planning permission would not be granted, as this would be in keeping with the current uses on Elephant Road and the policies applicable to the Opportunity Area. The proposed sound mitigation lobby to be constructed to the immediate rear of 4-5 Farrell Court and associated works and internal alterations will also require planning permission. There is no reason why such planning permission would not be granted given that it would help to meet the Agent of Change planning policy requirements and produce overall environmental improvements. In each case, EC has advised that it has instructed its planning consultants to prepare the necessary planning applications, in the case of 4-5 Farrell Court once the final form has been agreed with Corsica.

32. The Government intends to bring into operation revised building regulations to require second staircases in new, tall residential buildings. EC's representatives are of the view that even if the West Site tall buildings are not caught by the proposed regulations (because they form part of a permission which has already been begun), they may well choose to put second staircases in the West Site tall buildings. Similarly, they are also considering whether the energy strategy for the West Site could be enhanced by changing the currently consented gas based system to an all-electric supply. These positive changes, if pursued, would require some form of planning approval from the Council, because pursuant to the planning permission the Scheme is to be built in accordance with the approved planning drawings and they do not currently show such second staircases or an all-electric based energy supply. The form of such planning approval would depend on the level of materiality of any change to the West Site buildings and could potentially be dealt with by way of non-material amendment approval, or through a minor material amendment section 73 planning permission or possibly even another permission, depending on the materiality of the changes. The Council would at that point need to assess what changes were proposed and whether they were acceptable from a planning perspective. Given the development plan allocations for the site and the fact that tall buildings are already considered acceptable on the site and have been granted planning permission, and any changes would be necessitated by positive improvements to the scheme, it is considered likely that any such planning approval (if required) would be granted and this is unlikely to represent any impediment to the Scheme.
33. The April 2020 Cabinet report stated that the listed building consent for the minor works to the façade of the Tabernacle only had a 3 year period in which to begin works. This was an error. The consent has, in fact, a 10 year implementation period and so there is no need to seek a longer consent as was envisaged in that report. This is beneficial.
34. Planning permission was also obtained by EC on 10 June 2022 in respect of a heating network pipe which will run from 50 New Kent Road (owned by EC's group company) under Elephant Road into the East Site. An easement has been completed with Network Rail to facilitate this.
35. Highway stopping-up orders in respect of both East and West Sites have already come into operation and so there are no further stopping-up orders required in respect of the Scheme.
36. One or more agreements under the Highways Act 1980 with TfL and the Council, as highway authorities, will be required for highway works. Agreement will very likely be reached on these, as they are, routinely, on many different types of development. The section 106 agreement imposes restrictions on certain milestones in the development programme until the highways agreements, and their respective works, are completed. The Council's consent, as highway authority, would also be required if the highway layer is to be disturbed to facilitate the heating pipe network works referred to above. Again, there is no reason why that consent should not be forthcoming.
37. Licences will be required under the Highways Act 1980 for oversailing the highway, any scaffolding over the highway or hoarding affecting the highway. Again, though, such licences are routinely granted in all manner of developments. Such licences are already in place in respect of the works to date on East Site.
38. There are no physical impediments which are known which will prevent the Scheme from proceeding.

39. The CPO legislation affords special protection to statutory undertakers' operational land. Statutory undertakers can make representations to their appropriate minister (i.e. the minister who is responsible for that undertaker) against the inclusion of their operational land, as well as objecting to the Secretary of State in the normal manner. If such a representation is made and not withdrawn, generally the Secretary of State will not confirm a CPO as regards that interest in land unless the appropriate minister gives a certificate that the land can be taken without serious detriment to the statutory undertaker.
40. There is some operational land of statutory undertakers within the new CPO area, notably the railway viaduct and the area of land immediately to the west of the railway station over which a new pedestrian right of way (and related right to pave and maintain that area) is sought. Network Rail have made a representation to the Department for Transport against the inclusion of their land in the February 2023 CPO. However, in doing so, they also made clear that their representation and objection could be withdrawn if an agreement was reached between EC and Network Rail, and specified what their requirements for such an agreement would be. EC is content in principle with those requirements and is seeking to progress the agreement with Network Rail. It is not the intention of EC or the Council to interfere with the operational running of the railway. Discussions are progressing between EC and Network Rail in these respects and EC is confident that agreement shall be reached on all matters. EC has been keeping the Council apprised of progress and given confidence that agreement can be reached, thereby bringing Network Rail into the Scheme by agreement. Nevertheless, the new CPO is needed as a backstop. Although crane oversail will take place over some highway areas administered by TfL and the Council, there should be no operational impact on TfL and the Council as highway authorities.
41. There are also electricity sub-stations within the new CPO area, held leasehold by London Power Networks. Again, this is operational land and EC will work towards procuring their agreement to bring the leases to an end but the new CPO is needed as a backstop.
42. The new CPO land also includes statutory undertaker and telecommunications operator apparatus and EC is already in discussions with the utility companies and the telecommunications operators to reach agreement with them.
43. There are no areas of land which attract special protection under section 19 Acquisition of Land Act 1981 (common land, open space or allotments).
44. Therefore, there are unlikely to be any impediments to the Scheme if the new CPO is made.
- Acquiring authorities are expected to evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted.*
45. This is addressed above at paragraph 22 and in Appendix F.
- Whether the purpose for which the land is being acquired fits with the adopted Local Plan for the area or, where such no up to date Local Plan exists, with the draft Local Plan and the National Planning Policy Framework.*
46. The Council's purpose in making the new CPO is stated above. It fits with the adopted development plan, which supports the regeneration envisaged by the Scheme. The new CPO is necessary to implement the Council's and the Mayor's objectives as specified in the Southwark Plan 2022 and the London Plan 2021. Both of these documents had been

envisaged by the Cabinet report in April 2020 and the policies in both were considered by the Council at Planning Committee for the revised planning application on 6 July 2021.

The extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area.

47. This is addressed at paragraphs 3 -18 above.

Whether the purpose for which the acquiring authority is proposing to acquire the land would be achieved by any other means. This may include considering the appropriateness of any alternative proposals put forward by the owners of the land or any other persons, for its reuse. It may also involve examining the suitability of any alternative locations for the purpose of which the land is being acquired.

48. The prospects of acquiring all the relevant land interests by agreement to enable the comprehensive redevelopment within a reasonable timescale are unlikely. The Council has already, with the best intentions, allowed ample time for negotiations to reach fruition. If the Council does not act now then the completion of the East Site, and the West Site redevelopment, will be entirely dependent on the owners and occupiers of the outstanding land interests. Although Arch Co have raised the possibility (in their objection to the February 2023 CPO) that they would be willing to grant a licence, on appropriate terms, in respect of some of the aspects sought by the Council and EC under the February 2023 CPO, such a licence (if agreed) would not for example, enable the Council to secure vacant possession of 6 and 7 Farrell Court for the purposes of creating the Park Route, nor would it secure the Park Route fully and permanently or give any long term control of the site to the Council or EC.
49. Consideration has been given to whether the Council's objectives might be achieved by individual landowners within the land separately carrying out development of their land. This would be likely to result in poorly co-ordinated redevelopment of parts of the new CPO land, in a piecemeal fashion, which will contrast badly with the comprehensive vision of the Scheme. Any proper redevelopment needs the interests/rights covered by the new CPO and certainly any redevelopment in line with planning policy does. The Scheme, as per planning policy, is an holistic concept which cannot be delivered on a piecemeal basis and any attempt by third parties to redevelop parts of the land on a piecemeal basis without the use of CPO powers would destroy the additional benefits that come from a co-ordinated, holistic regeneration in line with planning policy.
50. The Council has considered whether there are alternative proposals for this land and whether such proposals would be appropriate. There are no known alternative proposals that the Council is aware of, and even if there were, such alternatives would not (1) meet the objectives of planning policy for a comprehensive redevelopment of the Scheme Land and (2) provide the benefits of the Scheme.
51. Consideration has been given to whether the Council's objectives in making the new CPO can be achieved at a different location. The scope for any alternative location in the context of the particular objectives here is absent. The Scheme is to regenerate this area of land, which cannot be achieved on another area of land.
52. Consideration has also been given to whether an alternative alignment for the Park Route, through Arches 113A/120 and 113B/121, to the north of the railway station, would have avoided the need to acquire the leasehold title to 6 and 7 Farrell Court and associated new

rights. For the reasons given at paragraph 12, that alternative alignment would have been significantly inferior to the chosen route, such that 6 and 7 Farrell Court do need to be acquired. Consideration has also been given to whether it is necessary to acquire arch 113B/121 as a relocation premises for Beset and their occupiers, and 113A/120 potentially for DistriAndina if they wish to move there, and otherwise for retail/café use, and whether there are any alternatives to doing so. No suitable alternative off site relocation opportunity which meets Beset's requirements has been found. Recent decisions on CPOs have highlighted the importance of seeking where possible to provide relocation opportunities for occupiers within the scheme area. Beset have expressed a preference to take one railway arch unit which can accommodate a mezzanine floor, thereby recreating their arrangements in 7 Farrell Court. Although 4-5 Farrell Court had previously been envisaged for their relocation, those units do not possess the height to include a mezzanine floor across them which would be big enough and compliant with building regulations. Arch 113B/121 does have sufficient height. In addition, it is now proposed to retain the nightclub use within 4-5 Farrell Court and in particular to give Corsica Studios the option to have a longer term occupation of 4-5 Farrell Court. It would be preferable to retain the nightclub use in situ, which means 4-5 Farrell Court would not be available for the relocation of Beset and its occupiers (or DistriAndina). EC does not have the necessary title to bring about the beneficial use and works in arches 113A/120 and 113B/121, so the acquisition of greater leasehold title and associated new rights is necessary to achieve this. Consideration has also been given to whether it is necessary to acquire the leasehold title to 4 and 5 Farrell Court and the land to the immediate rear of those units where the sound mitigation lobby is to be sited, and associated new rights against the viaduct. The leasehold title to the rear area is required to build the lobby and then offer the new longer term lease of it to Corsica along with 4 and 5 Farrell Court as a unified space; new rights are required to affix the lobby to the viaduct and for associated physical works. The leasehold title to 4 and 5 Farrell Court and the bisecting fire escape accessway is required to facilitate these works and to obtain control of the unit so as to offer a longer term lease of the unified space (i.e. with the sound mitigation lobby) to Corsica. If Corsica choose not to take up that option then the leasehold title is still required to ensure that a longer term lease of the unified floorspace (i.e. with the sound mitigation lobby) can be offered to other operators to seek to retain the use.

The potential financial viability of the scheme for which the land is being acquired. A general indication of funding intentions, and of any commitment from third parties, will usually suffice to reassure the Secretary of State that there is a reasonable prospect that the scheme will proceed. The greater the uncertainty about the financial viability of the scheme, however, the more compelling the other grounds for undertaking the compulsory purchase will need to be.

53. Funding intentions are dealt with above. The potential viability of the Scheme has been examined as part of the planning application process in the context of the maximum level of affordable housing the Scheme can provide. Discussion took place during the original planning application process as to what the appropriate level of developer profit should be to reflect the risk and complexity of the Scheme. The relevant expression of profit level for a developer for a build to rent housing scheme is the internal rate of return ("IRR"). EC's target rate of return is 11%. Viability assessment work was carried out during the planning application process in the context of the maximum amount of affordable housing that can reasonably be supported by the Scheme. The viability experts appointed by EC concluded that the then current IRR was 7.51% but both they and the experts appointed by the Council nevertheless both agreed, as part of the viability work for the planning application, that a full target return of 11% is achievable over the lifetime of the development, having regard to market forecasts which have been adopted from residential and commercial agents, as

well as costs advice from cost advisors. The advice from GVA (now Avison Young), advising the Council, was that all current forecasts at that time suggested that this growth in IRR over the construction period is achievable and possibly conservative.

54. In June 2021, as part of consideration of the revised planning application, DS2 (advising EC) concluded that there had been a notional increase in viability so that the ungeared IRR had risen to 10.23% but pointed out this was derived only from the fact that the East Site value had reduced due to the demolition of buildings, and that in real terms there was a reduction in retail values due to the COVID-19 pandemic, and the general decline in high street retailing, increased construction costs and the pandemic's effect meant that development economics were extremely challenging. Avison Young concurred that the target level of profit was not predicted to be met with the requisite level of affordable housing.
55. Prior to the December 2022 Cabinet, the viability position was the subject of further expert work by Avison Young for the Council. They carried out a high level review of the viability of the Scheme. The exercise took the form of a review of the updated proposed Scheme appraisals and commentary upon whether the inputs are reasonable at this point in time. This high-level review was undertaken on a desktop basis to inform the Council's decision making. Avison Young advised that this exercise would likely have to be reviewed again in the run up to a CPO inquiry. The review also included a sensitivity analysis of the IRR, commercial rents and yields.
56. On the basis of their high level analysis, Avison Young concluded that the Scheme is viable. They advised that the following points further reinforce their conclusion that the Scheme is viable: the East Site works have been procured under a fixed price Design and Build Contract with a major building contractor, Multiplex; full funding for the East Site has been secured; the existence of the contractual agreement with UAL/LCC; the Scheme has commenced and is proceeding; whilst the current macro-economic situation is challenging, there nevertheless remains underlying demand for high quality professionally managed residential stock, and rental forecasts remain positive.
57. In the run up to this Cabinet meeting, Avison Young have provided further high level analysis for the Council which is to the effect that the position remains much as it was in December 2022, and that the scheme is viable.
58. Viability is a moot point in respect of the East Site because EC has chosen to proceed, has funded it and has a contractor appointed and on site to build it (subject in the case of the CPO areas to being able to do so). As regards the West Site, the reality is that once the new university campus building has been completed on the East Site for UAL, the completion of the sale of the LCC site is triggered, albeit UAL will have some time in which to move across to the East Site. So, having paid a very considerable sum to acquire the West Site at that point, it is highly likely that EC's group company, Elephant Three Properties Limited, would then proceed with the West Site redevelopment (subject to the new CPO enabling it to do so), to recoup a return on its investment. The Guidance points out that a CPO can still be confirmed if there is uncertainty over financial viability if the case for it is very compelling. In this case, though it is noted the target rate of return is not currently forecast to be met, officers do not consider there is any real uncertainty that the West Site will proceed given the factors above but, even if there was such uncertainty, the confirmation of the new CPO will still be justified because the case for the new CPO is so very compelling.
59. In terms of the CPO indemnity agreement, all interests to be acquired by the Council, whether by agreement or by CPO, will be acquired for planning purposes. Under section

233(3) of the 1990 Act, the Council needs to achieve best consideration when disposing of land under this provision. This however needs to be judged in the context of the totality of the arrangements for the transfer of interests pursuant to the CPO indemnity agreement. The Council will only be acquiring interests from third parties or creating rights over their land on the basis that funding for the initial acquisitions or rights (at market value) is coming from EC and on the basis that it will thereafter dispose of any acquired land to EC or EC's group company. As such, there is no realistic prospect of the Council obtaining consideration in respect of the disposals to EC (or its group company) under the CPO indemnity agreement beyond the indemnity arrangements, such that these arrangements are still the best consideration that can reasonably be obtained in the circumstances.

60. The Council is required to exercise its power under section 233 in a manner which, so far as practicable, secures that relevant occupiers of that land are provided with a suitable opportunity to obtain accommodation on the land in question (section 233(5)). Relevant occupiers for these purposes means residents and those carrying on business on the land that wish to obtain accommodation. The Council and EC's intention is to offer relocation opportunities to the affected occupiers. Corsica Studios (4-5 Farrell Court) are being offered the opportunity to take a new lease of those premises, unified with the sound mitigation box once it is built. Beset and its occupiers (7 Farrell Court) are being offered the opportunity to relocate within arch 113B/121. DistriAndina (6 Farrell Court) are being offered the opportunity to relocate into the Scheme, either within a new unit on the East Site or arch 113A/120 (whichever is their preference). It is envisaged that Beset (and its occupiers) and DistriAndina will not need to cease trading nor suffer any material delays in re-opening. Corsica will have some short term cessation of trading (potentially around 9 months) whilst the works to their unit take place but they fully understand that situation and the works would facilitate the solution which they have sought, with an offer to take up a longer lease of the new unit complete with the sound mitigation lobby. The indemnity agreement between the Council and EC requires EC to offer relocation opportunities in accordance with section 233 in respect of any land that is acquired by the Council and disposed of to EC pursuant to the CPO arrangements. Accordingly it is concluded that the duty under section 233(5) will be satisfied.
61. In addition, the section 106 agreement relocation strategy requires that 10% of the new retail floorspace pursuant to the July 2021 planning permission will be affordable retail floorspace and will be offered in the first instance to eligible businesses displaced from the East Site. Similarly, 10% of the commercial floorspace pursuant to the July 2021 permission will be provided as affordable workspace, again offered in the first instance to eligible businesses from the East Site displaced by the redevelopment.
62. In respect of the statutory duty under section 66(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have regard to the desirability of preserving features of special architectural or historic interest, and in particular listed buildings, in the exercise of the powers of disposal under section 233, the Metropolitan Tabernacle is a listed building and some minor works to that building are required and have received listed building consent. The Council will acquire new rights over the land under the new CPO and EC will be able to utilise those new rights. Cabinet will note that notwithstanding the substantial weight given to harm to the setting of the Tabernacle, the Planning Committee concluded that such harm would be outweighed by the significant public benefits accruing from the Scheme. Any effects the Scheme may have on the other designated heritage assets in the locality, including the Faraday Memorial and Metro Central Heights listed buildings, listed buildings at West Square and the West Square and Elliott Row Conservation Areas, and any undesignated heritage assets, were fully considered by the Planning Committee. Officers

consider that there is no breach of this statutory duty by reason of the proposals set out in this report.

That the correct statutory procedures have been correctly followed

63. It is considered that the relevant statutory procedures have been correctly followed to date. It will be necessary for the Council to follow the correct statutory procedures in making the new CPO and publicising the same and serving notice of it on the affected parties, and to follow the Guidance policy on (among other things) providing a Statement of Reasons to affected parties. Thereafter the Council will need to adhere to the statutory procedures as regards the proposed confirmation of the new CPO, including adhering to the inquiry rules.