

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

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

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

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

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

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

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

## **RECOMMENDATIONS**

That Cabinet agrees in principle:

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

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

That Cabinet instructs

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

## **BACKGROUND INFORMATION**

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

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

## **MECHANICS OF REVISED DELIVERY APPROACH**

### **Co-operation agreement**

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

- *Development objectives*

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

- *Duration of Agreement*

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

- *Consultation strategy*

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

- *Communications plan*

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

- *Planning agreement*

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

- *Statutory undertakers' strategy*

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

### **Agreement with St Modwen**

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

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

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

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

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

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

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

### **Policy implications**

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

### **Community impact statement**

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

### **Resource implications**

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

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

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

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

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

#### **Finance Director**

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

## BACKGROUND DOCUMENTS

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

## APPENDICES

No.	Title
Appendix 1	Land ownership plan

## AUDIT TRAIL

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