

Item No.	Classification: Open	Date: 17 October 2012	Decision Taker: Leader of the Council
Report title:		Disposal of vacant site at 525-539 Old Kent Road Peckham	
Ward(s) or groups affected:		South Bermondsey	
From:		Chief Executive	

RECOMMENDATIONS

That the Leader of the Council

1. Approves the variation of a decision made by cabinet on 22 March 2011 in respect of the purchaser and consideration to be paid for this site.
2. Approves the acting head of property to dispose of this site shown edged in bold on the plan at Appendix A to Charter Land for the amount stated in the closed report

BACKGROUND INFORMATION

3. The site comprises an area of 1,740m² or thereabouts. It is vacant land fronting the Old Kent Road at its junction with Marlborough Close and is opposite a retail park that includes Comet, Halfords and McDonalds. At the turn of the twentieth century, the site accommodated public baths but these were demolished between the First and Second World Wars. The land remained unused until the early 1960s when a petrol filling station was constructed thereon. This use continued until 2008 when the station was demolished and the land has been vacant since.
4. The council holds the freehold interest of the site. The interest is however subject to a lease in favour of Esso Petroleum. That lease does not expire until 2061 and has no provision for early termination. The rent payable is fixed until expiry.
5. In March 2011 the council's cabinet approved that the site be transferred to The Muslim Association of Nigeria (UK). This was conditional on the site being regenerated for religious worship purposes.
6. Following that decision considerable effort has been made to take forward the proposed regeneration however the Muslim Association have been unable to generate the necessary funding to take forward their aspiration. As a consequence the council and Esso the leaseholder decided that the regeneration opportunity be remarketed. The Muslim Association was advised it could bid again for the site but chose not to.
7. CBRE marketed the site on behalf of the council and Esso. The regeneration opportunity was advertised in the Estates Gazette and the Southwark News.

The latter was used as marketing medium as it was felt the best way of alerting local community and religious groups to the opportunity.

KEY ISSUES FOR CONSIDERATION

8. Three bids were submitted as set out in the closed report.
9. The highest bid is subject to planning consent being granted for a wholly residential scheme. This is unlikely to be consented to because the site is designated in both the Southwark Plan and the Core Strategy for regeneration (the half fronting Old Kent Road) and industrial (the rear half fronting the industrial park). The lowest bid is subject to funding.
10. The bid from Charter Land is not subject to planning or funding so provides the greatest certainty of delivering the receipt. It is the opinion of the acting head of property that the Charter Land bid represents the best consideration that can be reasonably obtained for the site.

Apportioning the capital receipt

11. Esso no longer consider the site a viable trading option and the length and terms of their lease limits the value of the site to them. Likewise, the existence of the lease limits the value of the site to the council. Therefore, for both parties to maximise the value of their interests it was agreed that the site would be marketed on the basis of the sale of the freehold with vacant possession and if a sale results the consideration will be divided equally.

Resource implications

12. The site is held by the corporate property holdings account. Its sale will result in the loss of an annual income that can be absorbed within the budget. Esso is responsible for all outgoings in respect of the site so the only savings to the council from its sale will be in not having to issue and collect rent demands so are de minimis.

Policy implications

13. The proposal will produce a significant capital receipt that will be available to supplement the capital programme.
14. The site is currently overgrown and a visual eyesore; its regeneration will improve the environment and visual appearance of this part of Old Kent Road.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

15. The Leader of the Council is advised that the provisions of Section 123 of the Local Government Act 1972 provide that except with the consent of the Secretary of State, a council shall not dispose of non housing land, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained. It is noted at paragraph 12 of this report that the site is held in the corporate property holding account, so is not held for housing purposes. It is further noted at paragraph 10 of this report that the head of

property is satisfied that the sum that the council will receive for the site is the best consideration that can reasonably be obtained.

16. Section 1 of the Localism Act 2011 grants councils a general power of competence whereby a local authority has power to do anything that individuals generally may do. However, that power does not enable a local authority to do anything which it is unable to do by virtue of a pre-commencement limitation. Section 123 of the Local Government Act is a pre-commencement statute that imposes limitations on the council's power to dispose of land but as noted above, the report confirms that the requirements imposed by that Act have been met.
17. Cabinet minute 16.3 of 22 March 2011 delegated to the head of property authority to agree the detailed terms and appropriate mechanics to effect the transaction. The acting head of property therefore has authority to approve the recommendation set out in paragraph 2 of this report.

Strategic Director of Finance and Corporate Services

18. As per the closed report.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
Appendix A	Site of 525-539 Old Kent Road

AUDIT TRAIL

Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	Jeremy Pilgrim, Acting Head of Property	
Version	Final	
Dated	17 October 2012	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Cabinet Member	Yes	No
Date final report sent to Constitutional Team		17 October 2012