

<b>Item No.</b> 18.	<b>Classification:</b> Open	<b>Date:</b> 29 January 2013	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Relocation of Crossway Church: New Kent Road to Hampton Street	
<b>Wards:</b>		East Walworth and Newington	
<b>Cabinet Member:</b>		Councillor Fiona Colley, Regeneration and Corporate Strategy	

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

Two weeks prior to cabinet today we made a tremendous leap forward towards delivering the regeneration of the Elephant & Castle. The planning consent for the Masterplan for the Heygate Estate area will give renewed confidence that the long awaited regeneration is truly happening.

It's crucial we keep that momentum going and this decision represents two more steps in our journey.

Firstly, the agreement with Crossway United Reformed Church; a freeholder on the Heygate Estate, is essential for us to gain vacant possession of the area for redevelopment.

Secondly I am delighted that rather than simply buying out the Church we will instead relocate this important community facility into a new purpose built church at the heart of Elephant & Castle. Crossways not only provide space for their own congregation to worship, but seek to maximise the use of their premises by local community groups including eight other faith groups: Victory School, an English for Speakers of Other Language Group, a parent mentoring scheme and a family drop in centre.

It has taken time to find the right solution for Crossway and I would like to thank the congregation, the diocese and minister Peter Stevenson for their positive approach to the negotiations and their continued commitment to the community in the Elephant & Castle.

## **RECOMMENDATIONS**

That the cabinet agrees:

1. To meet the cost in full of constructing a replacement church at the former Castle Day Centre Hampton Street and transferring the completed property to the United Reformed Church as compensation for the council's acquisition of the Crossway Church at New Kent Road in accordance with the statutory provisions of the Land Compensation Act 1961
2. To fund the construction of four affordable council house units from the Affordable Housing Fund

3. To delegate to the director of regeneration authority to enter into appropriate contracts to implement the recommendations.

## **BACKGROUND INFORMATION**

4. The regeneration of the Heygate is progressing well, earlier this month the Planning Committee resolved to grant outline planning permission for the regeneration and early next month there is a Public Inquiry into the council's making of a compulsory purchase order to enable regeneration to proceed. The regeneration area includes the Crossway Church and the community organisations e.g. a food bank housed within that the council must acquire and this report addresses that part of the large jigsaw that is the Heygate Regeneration.
5. Crossway Church is situated at the northeast corner of the Heygate Estate. It is shown edged red on the plan at Appendix A. The freehold interest in the property is held by The United Reformed Church (Southern Synod) Trust Ltd. Executive Minute 14 of 9 February 2010 authorised the making of a compulsory purchase order to acquire all properties on the Heygate Estate including Crossway Church. As part of the Regeneration Agreement signed by Lend Lease the council is obliged to use reasonable endeavours to acquire the property including using compulsory purchase powers. As a result it has been included in the Heygate Compulsory Purchase Order land.
6. The Church is primarily used by members of the United Reform Church (URC) religious denomination. In addition, the premises are used by other faiths for worship purposes thus enabling their congregations to come together on a regular basis. As well as the property being used for worship it is also used by voluntary users including the Girls Brigade, community food bank and a homeless shelter for part of the year. It is therefore an important community asset for this part of Walworth.
7. The Church was built as part of the Heygate Estate to replace a church of the same denomination that was situated on the New Kent Road and demolished to facilitate the construction of the Estate.
8. Rule 5 of section 5 of the Land Compensation Act provides:  
  
*Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the Lands Tribunal is satisfied that reinstatement in some other place is bona fide intended, be assessed on the basis of the reasonable cost of equivalent reinstatement.*
9. It is accepted that this rule applies to the council's proposed acquisition of Crossway Church
10. The council and the URC have been in dialogue since the end of 2004 around the regeneration. The URC has aspired for a replacement church in the vicinity. However, this is a densely developed central London area resulting in few potential re-provision opportunities becoming available. The URC and the council investigated the possibility of Walworth Town Hall being used for the replacement Church. However, the URC ultimately decided the risks involved in taking on the building particularly in relation to repairs and running costs made it unsuitable as a replacement church.

11. A former day centre for persons with disabilities known as Castle Day Centre has recently become vacant and this offers potential for demolition and redevelopment with a replacement church. The URC has indicated it is a suitable location for a replacement church. Appendix B shows the location of the former Day Centre and Appendix C provides a location plan showing the location of Crossway and the Castle Day Centre. As the crow flies the distance between the two is 350 metres. Appendix F is a letter of support from the Minister of Crossway.
12. The former day centre is a two storey structure, the day centre itself was provided on the first floor. Lock up garages are provided on the ground floor. The majority of these are let on standard garage tenancies that can be terminated on the giving of at least one week's notice. The proposed re-provision of the Crossway Church will therefore result in the loss of garages and the income they generate at this location.
13. The council and URC have in the past few months been in discussion about the proposed relocation and heads of terms are agreed to enable this to happen.
14. A feasibility scheme has been prepared for the proposed relocated church. This has been the subject of some pre-application discussion and the preliminary view of planning officers is that the principle of a church on the site with some residential development is acceptable but this is of course subject to consultation and the formal consideration of the application when it is received.

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

15. The URC own another property in the vicinity at 61 Great Dover Street some 470 metres as the crow flies from Crossway Church. This property is currently not used by the URC and is let out for voluntary and residential purposes. The URC advise that the property is smaller and combined with its location means it is not able to meet their wider mission and ministry aspirations. The fact that this building exists and is in the URC's ownership does not limit their ability to claim compensation under rule 5 of section of the Land Compensation Act 1961 for an equivalent church somewhere is as that is their bona fide intention.
16. The provisions of the Land Compensation Act 1961 oblige the council to provide the URC with compensation that is based upon *the reasonable cost of equivalent reinstatement* of the current Crossway Church. This is not the cost of cloning the current church in a new location but the cost of providing a modern equivalent in size and facility terms. Changes in planning and building control obligations mean the replacement church will be to a higher standard in access and environmental terms than the current church. Also as it will be in a different location its external appearance will differ to fit in with the new locality. Therefore in appearance terms the replacement church may look very different to the existing Crossway Church but this does not mean an equivalent replacement is not being provided.
17. There are two ways of managing the replacement church; the council could transfer the new site to the URC and then reimburse the URC for the construction works. The other option is that the council manages the construction and on completion transfer to the URC the new church. Following discussions between the parties the latter has been agreed in principle. This is

considered less administratively cumbersome and gives the council greater control over cost management.

18. The Castle Day Centre site is restricted in development terms the proximity of Woolaston Crescent severely limits the height of any potential development because daylighting enjoyed by properties in the Close may be impeded. An indicative layout for the proposed new church has been prepared and this is reproduced at Appendix D. This provides for a three storey development that mitigates the daylighting issue. The northern part will accommodate a church with a three storey block of flats attached to the new church at the southern end of the site.
19. The existing church contains a large four bedroom manse. It has been agreed that this is no longer suitable for the modern needs of the URC and instead two flats (one with two bedrooms and the other with one bedroom) be provided) The block will also contain four other flats (two 1 bedroom units and two 2 bedroom units) that will be constructed for supplementing the council's affordable housing stock.
20. Reproviding Crossway Church will not only satisfy the council's statutory duty to the URC will also result in a modern property asset that will benefit the wider community.

#### **Principal heads of terms**

21. The agreed principal terms are contained at Appendix E, but as time passes and further work takes place it may be necessary to adapt these to reflect changing circumstances and knowledge. It is therefore recommended that authority for this be delegated to the director of regeneration:
22. The principal terms provide for the council managing the construction a new church on the Castle Day Centre (this will be procured in accordance with Council Contract Standard Orders) and when it is completed transferring it to the URC with the two flats that replace the existing manse. The transfer will not take place immediately on completion of the new building in order that the residual part of the construction contract covering defects rectification can be properly managed. On completion of the new church the URC will have a thirty day period to vacate the existing Crossway Church and operate from the new property. After the thirty day period ownership and the right to possession of Crossway Church will pass to the council. The council will manage the demolition contract for the Heygate Estate to ensure the URC have continuity of operations over the relocation period.
23. The terms provide for termination of the contract in the event the Compulsory Purchase Order covering the existing Crossway Church is not confirmed (the URC has objected to the Order) and if the new church on the Castle Day Centre does not receive planning consent. There is also a termination provision in the event that there are construction issues such as adverse ground conditions that cannot reasonably be identified now. That give rise to an unreasonable construction cost burden. This is to protect the council financially. In such circumstances the council would still have to provide an equivalent reinstatement for the URC though and another site would have to be identified which will not be easy in this densely built urban locality.

## **Policy implications**

24. The reprovision of Crossway Church has always been recognised as an element of securing possession of the larger Heygate Estate the regeneration of which is a critical part of the overall Elephant and Castle regeneration policy in accordance with Promise 9 of Southwark's Fairer Future.
25. The construction of the four new flats referred to in paragraph 16 for the council's housing stock furthers the cabinet member for housing management's priority statement in which it is promised to *build new council housing*.

## **Community impact statement**

26. The Elephant and Castle regeneration has been the subject of extensive consultation. As part of the Heygate compulsory purchase order procedure an Equality Analysis was prepared and found that relocating Crossway Church had the potential effect of requiring some of its users to travel a little further and some to travel a lesser distance but overall and provided the relocation is in the locality of the existing church the impact should be broadly neutral. The proposed replacement church location is only some 350 metres from the existing church so the neutral conclusion of the Equality Analysis is considered applicable. The new church will enable all existing usages to be maintained and users will benefit from an improved building for association.

## **Resource implications**

27. These are detailed in the closed version of this report. They cover:
  - Management of the reprovision of the new church both by the council and URC
  - Construction costs of the new church including relocation from the existing Church to the new one
  - The loss of income from the opportunity cost of not re-letting the Day Centre and from the garages below it
  - The transfer in value of the Castle Day Centre site
  - Funding of the recommendations

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Director of Legal Services**

28. It is proposed that the Heads of Terms for the exchange of land between the council and the URC are finalised as soon as possible. At that stage an agreement will be entered into by the parties which will provide that, subject to the termination provisions set out at paragraph 22 of this report, the council will construct the new church on council land and then transfer the freehold of the new church to the URC, as compensation for the compulsory purchase by the council of the existing Crossway Church on the Heygate Estate.
29. The land on which the new church will be built belongs to the council and is held within the housing portfolio. As such, the disposal of the new church can only proceed provided the requirements of section 32 of the Housing Act 1985 are met which involve obtaining the consent of the Secretary of State for the Department of Communities and Local Government.

30. Formal consent from the Secretary of State is not required if the disposal falls within the scope of the various general consents which are contained within the General Housing Consents 2012.
31. Consent A3.1.1 provides that a local authority may, subject to paragraph 3.1.2, dispose of land for a consideration equal to its market value. The Secretary of State has confirmed to the council that "land" includes buildings.
32. The existing church has been valued for the council for compensation purposes by Drivers Jonas Deloitte. However, as explained at paragraph 15 of this report, the obligation on the council by virtue of the provisions of the Land Compensation act 1961 is to be assessed on the basis of the reasonable cost of equivalent reinstatement.
33. When the final terms are available, officers will be able to determine whether the proposed disposal falls within the general consents and, if not, a full application will be made to the Secretary of State.
34. As noted in paragraph 21, the contracts to be entered into for the construction of the replacement church are to be procured in accordance with contract standing orders. Further advice will be given relating to the contracts as the procurement progresses.

#### **Strategic Director of Finance and Corporate Services**

35. The concurrent of the strategic director of finance and corporate services is contained in the closed version of this report.

#### **Strategic Director of Housing and Community Services**

36. The strategic director of housing & community services understands the importance of the relocation of the Crossways Church as a contribution to the wider aims of regenerating the Elephant and Castle area and welcomes the four extra units of accommodation that the proposal will provide, as a contribution to the corporate aim of reducing housing need in Southwark. Having said this, the report highlights that there are 25 lock up garages beneath the Castle Day Centre which are fully let and for which there is a waiting list. There is little other garage parking in the area and no other lock up garages; thus there is little chance of being able to offer current garage licencees similar alternative parking. In addition, it needs to be noted that the access road to the site is a private road over which the council has a right of way, the refurbishment of Draper House has required an agreement to licence part of the road for access/storage.

#### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Executive Report of 9 February 2010	<a href="http://moderngov.southwark.gov.uk/documents/s7807/Heygate%20Estate-%20Compulsory%20Purchase%20orders%20report.pdf">http://moderngov.southwark.gov.uk/documents/s7807/Heygate%20Estate-%20Compulsory%20Purchase%20orders%20report.pdf</a>	Patrick McGreal 020 7525 5626

## APPENDICES

No.	Title
Appendix A	Crossway Church
Appendix B	Former Castle Day Centre
Appendix C	Crossway Church and Former Castle Day Centre
Appendix D	Indicative layout for replacement Crossway Church
Appendix E	Principal Heads of Agreement
Appendix F	Letter from Minister of Crossway Church

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Fiona Colley, Regeneration and Corporate Strategy	
<b>Lead Officer</b>	Eleanor Kelly, Chief Executive	
<b>Report Author</b>	Patrick McGreal, Property Services	
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<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Strategic Director of Housing and Community Services	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
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