

Item No. 17.	Classification: Open	Date: 28 January 2014	Meeting Name: Cabinet
Report title:		Land at Southampton Way and New Church Road Camberwell	
Ward or groups affected:		Faraday	
Cabinet Member:		Councillor Richard Livingstone, Finance, Resources and Community Safety	

FOREWORD – COUNCILLOR RICHARD LIVINGSTONE, CABINET MEMBER FOR FINANCE, RESOURCES AND COMMUNITY SAFETY

Whilst a combination of GLA, New Deal for Communities and council funding has enabled the transformation of Burgess Park, the state of the southern edge of the park east of Southampton Way still leaves much to be desired.

This report recommends that the council take the necessary steps to exercise a compulsory purchase of land bordering the park that is used for scrap yards and a vehicle depot so that work can be undertaken to create a Southampton Way entrance. This work will dramatically improve the environment at the north end of Southampton Way and for the regenerated Elmington Estate. This proposed sizable increase in green space will also yield benefits for Camberwell as a whole.

RECOMMENDATIONS

1. That the cabinet agrees the council makes a Compulsory Purchase Order under section 226(1)(a) of the Town & Country Planning Act 1990 (as amended by section 99 of the Planning and Compulsory Purchase Act 2004) and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 for the acquisition of the land and new rights within the areas edged black and numbered 1-6 on the plan at Appendix 1 for the purpose of improving and extending Burgess Park in accordance with the provisions of the saved policies of the Southwark Plan 2007 and the Core Strategy 2011.
2. The head of property be authorised to:
 - a) take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Order including the publication and service of all notices and the presentation of the council's case at Public Inquiry should one be called
 - b) acquire all interests in land within the compulsory purchase order areas either by agreement or compulsorily
 - c) approve agreements with land owners setting out the terms for the withdrawal of objections to the Orders, including where appropriate seeking exclusion of land from the Orders and
 - d) amend the boundaries of the Sites shown edged black on the plan at Appendix One should the need arise.

BACKGROUND INFORMATION

3. The community through the consultation for improvements to Burgess Park and the *Revitalise Camberwell* initiative called for the creation of an improved southern entrance to Burgess Park. This will make the Park more welcoming and accessible, connecting to existing routes outside and to Camberwell town centre.
4. The comprehensive consultation exercise was undertaken in 2009/10 as part of the refurbishment of Burgess Park and its findings used to produce a long term vision for the Park that identified the need to improve the southern entrance.
5. Further consultation and community engagement took place from January to March 2013 as part of the *Revitalise Camberwell* programme. This consisted of public exhibitions, community drop in sessions, e-newsletters, mail drops, and information on the council's website. Over 800 responses were received and nearly 600 people attended the various consultation events.
6. An improved southern entrance was supported by the community through these two consultations. The proposed scheme will improve the quality of the pedestrian and cycle links to and from Camberwell town centre, a regenerated Elmington estate and Camberwell Green. A proposed green link is to be established along Lomond Grove and will further strengthen pedestrian and cycle links between Burgess Park and Camberwell town centre. This provides an opportunity to support access to both green space and the town centre to those within improved housing and those new to the area, supporting the regeneration of the area.
7. The land in question is shown edged black on the plan at Appendix 1. It is in three different freehold ownerships and is occupied for a variety of uses as an architectural salvage yard, a vehicle repair yard, a car sales/storage yard and a vehicle storage compound. A schedule setting out ownership details and plot areas is provided at Appendix 2.
8. Before the Second World War the land fronting Southampton Way contained eight houses but these were destroyed as a result of a high explosive bomb that landed in 1940/41. The land fronting New Church Road is the site of two former terraced houses (136 and 138) that also appear to have been destroyed in the Second World War.
9. The area has changed radically in the post war years particularly as a result of the creation of Burgess Park. The current uses are out of keeping with the immediate surroundings and do not sit well with the adjacent Park.
10. The current land uses particularly in respect of the Southampton Way frontage are also visually detrimental to both the immediate locality and Burgess Park.
11. To the opposite side of Southampton Way frontage land the formerly vacant Elmington site is in the process of being constructed.
12. It is unclear why the plots in question were excluded by the Greater London Council when it exercised compulsory purchase powers in the 1970s to assemble the land comprising Burgess Park.
13. The council has attempted in the past to acquire the land fronting Southampton

Way but it has never previously been possible to reach agreement on terms. The freeholders of these plots advise they are not anxious to sell as they receive regular income in the form of rent from the land.

13. In relation to the New Church Road site this is used to store vehicles maintained on behalf of the Metropolitan Police. There does not appear to have been any discussions in recent times regarding the council purchasing this land. Acquisition of this land will enable the council to complete ownership of New Church Road and to apply to have it stopped up as a highway which will remove a physical constraint to this part of Burgess Park.

Planning status of the land

15. Notwithstanding the established current uses, the land is designated as Metropolitan Open Land (MOL) [policy - OS91 Burgess Park]. This designation is set out in Appendix 9 of the saved Southwark Plan policies (2007) (UDP) and is shown on the adopted policies map. In accordance with saved Southwark Plan policy 3.25, there is a presumption against any inappropriate development on the site, this will include a change of use to anything other than those uses identified in policy 3.25 which include:
 - i. Agriculture and forestry
 - ii. Essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of MOL and which do not conflict with the purposes of including land within MOL.
16. As this designation suggests, it is the intention that by safeguarding these sites for use as open space through the saved Southwark Plan, they will eventually be incorporated as part of the land within Burgess Park.
17. Whilst the planning designation for the land is MOL which severely limits its ability to be put to other uses, the current uses are established and immune from enforcement action.

KEY ISSUES FOR CONSIDERATION

18. The making of a compulsory purchase order is essential in these circumstances to enable Burgess Park to be improved and to move towards its full potential in providing an excellent open space for south London. Notwithstanding this, should the recommended resolution be passed it is hoped that the affected owners will enter into serious negotiations with agreement being reached without the need to make the order.
19. If the acquisition is approved, the land will transfer with the present limited structures that are currently on it. These will require removal. In the light of the recent uses of the land it will require de-contamination before it can be incorporated within Burgess Park.
20. The land has an area of 1,339m² which although small in comparison to the overall size of Burgess Park is important frontage land, the acquisition of which will dramatically improve the visual appearance of this section of the Park thus making it more appealing to prospective users.

21. The land has been a source of nuisance to nearby residents. Used tyres have been stored on it and these have been set alight to the detriment of the amenity and safety of the residents.
22. As previously mentioned, regeneration work has commenced on land on the opposite of Southampton Way as part of the Elmington initiative and this provides a compelling stimulus to address the semi-industrial uses on the subject land.
23. The present uses on the subject land do however provide a number of jobs that will be lost as a result of the proposed acquisitions of plots 1-5. It is not known if those businesses will relocate elsewhere or cease trading. The loss of employment is always regrettable, however this needs to be balanced against the wider benefits of an improved park, a visually more attractive locality and the removal of uses that are or perceived to be a nuisance to the neighbourhood.

Underlying information in resolving to make these compulsory purchase orders

24. The compulsory purchase procedure is complex and has regard to a variety of factors. Details of relevant procedural and legal matters are set out at Appendix Three to this Report.

Community impact statement

25. The effect of the negotiated acquisition or Compulsory Purchase Order will be to dispossess persons of their rights in land. This is a necessary process to ensure the improvement of Burgess Park and the Southampton Way/New Church Road neighbourhood can proceed. This is considered acceptable where the proposals are in the public interest and where, as in this case, the advantages of acquisition substantially outweigh the disadvantages to those dispossessed
26. The land acquisition and subsequent enlarged Burgess Park should attract more users to the Park that will benefit from its facilities. The removal of land uses that are not compatible with a primarily residential neighbourhood will increase the amenity of nearby residents.
27. The improvement of Burgess Park will not negate the council's Diversity and Equal Opportunities policies. Indeed in the long term it is anticipated as Burgess Park is further improved the diversity of users will be widened.
28. The council recognises that it has a duty under s149 of the Equalities Act 2010 ("the 2010 Act") to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those who do not. The council has had due regard to its duties under the 2010 Act and if the proposed resolution is passed, will continue to have regard to this throughout the CPO process.

Resource implications

29. These are set out in the closed version of the report.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

30. Cabinet is advised that the council has a power to compulsorily acquire land and property interests under Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended by Section 99 of the Planning and Compulsory Purchase Act 2004) (“the 1990 Act”).
31. Section 226(1)(a) is considered to be the most appropriate power in all the circumstances. Notwithstanding the designation of the land to be acquired as MOL, as this report makes clear, its current use is for various light industrial uses and it is not open to the public for recreation as might be expected in the case of MOL. For this reason, the CPO powers for open spaces are not appropriate in this case since they deal with the compulsory acquisition of land currently being used as open space. It is the use of the land and not its planning designation that is key.
32. 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”. In exercising this power the council must have regard to Section 226(1A) which provides that the council must not exercise the power unless it thinks that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well being of the area.
33. The cabinet will note from paragraph 23 of Appendix 3 to this report that consideration has been given to the wellbeing objectives under section 226(1A) of the 1990 Act in relation to the council’s aspirations for the future of Burgess Park. It is considered that the acquisition of these areas of land will benefit both the immediate neighbours of the land and the wider community as a whole who use Burgess Park and therefore there are adequate powers available to the council to acquire the land and property interests in the Sites either compulsorily or by agreement. The council also has power under section 227 of the 1990 Act or Section 120(1) of the Local Government Act 1972 (“the 1972 Act”) to acquire interests in land by agreement with the owners. Further, by virtue of section 120(2) of the 1972 Act, any property acquired under the 1972 Act which is not required immediately for the purpose for which it has been acquired, can be used in the interim for the purpose of any of the council’s functions.
34. Part 3C of the council’s constitution reserves to the cabinet decisions on acquisition of land and property where the market value exceeds £100,000 and the acquisition of land and property which involves the use of compulsory purchase powers.
35. In the event that it proves possible to acquire the site by agreement, such that compulsory purchase powers are not required, cabinet is advised that Section 120(1) of the Local Government Act 1972 (“the 1972 Act”) authorises the council to acquire any land by agreement for the purposes of (a) any of its statutory functions or (b) for the benefit, improvement or development of its area. The acquisition of the sites would fall within this since the acquisition is to facilitate the improvement of the area.

Strategic Director of Finance and Corporate Services

36. This is set out in the closed version of this report.

Strategic Director of Environment and Leisure

37. As set out in paragraph 4 comprehensive consultation was undertaken in 2009/10 that was used to produce a long term vision for a refurbished Burgess Park. Phase 1 of the revitalisation project successfully delivered the following elements:

- a. New landscaping
- b. New playground
- c. New entrances to Old Kent Road and Camberwell Road
- d. New paths
- e. Increased biodiversity through new planting and trees
- f. Car park improvements
- g. New bins and benches
- h. Lake extension and improvements.

38. The long term vision for the park identifies the need to improve the New Church Road area and the Southampton Way entrance. It is clear this area plays a vital role in linking Camberwell to Walworth and Peckham. A new welcoming entrance here will make a positive contribution to the Park and the local area. The land ownership issues and associated costs means at the time this part of the project cannot be progressed.

39. The long term vision document identifies the following proposals for the southern entrance and New Church Road:

- a. The remnant road layout of New Church Road be converted to a park footpath which can accommodate both pedestrian and cycle use, creating more green and attractive open space.
- b. The wildlife area to the south of New Church Road is recognised as an important habitat and will be incorporated into the Park, improved and made more accessible.
- c. Additional tree planting to create a strong visual boundary to the Park and increased overall tree coverage in this area.
- d. Delivery of a new entrance in the style of those at Camberwell Road and Old Kent Road.

40. The proposals for addressing land ownership issues in this area to enable the delivery of a new welcoming entrance to Burgess Park are widely supported by the community and we can confirm support for these proposals from the Friends of Burgess Park.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
Appendix 1	Plan of land
Appendix 2	Ownership schedule
Appendix 3	Procedural and Legal matters relating to proposed CPO

AUDIT TRAIL

Cabinet Member	Councillor Richard Livingstone, Finance, Resources and Community Safety	
Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	Patrick McGreal, Property Services	
Version	Final	
Dated	16 January 2014	
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	See exempt report
Strategic Director of Environment and Leisure	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	16 January 2014	