

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 27 April 2016	<b>Meeting Name:</b> Cabinet Member for Finance, Modernisation and Performance
<b>Report title:</b>		Eagle Wharf Development Site Award of Lease and facilities agreement to Mounview Academy of Theatre Arts	
<b>Ward(s) or groups affected:</b>		Peckham	
<b>From:</b>		Neil Kirby, Head of Regeneration South	

### RECOMMENDATION(S)

1. To approve the council entering into the Agreement for Lease with Mountview Academy of Theatre Arts Limited for the Eagle Wharf site.
2. To approve the council entering into a Facilities Agreement with Mountview Academy of Theatre Arts Limited to enable the construction of their new facility at the Eagle Wharf site.

### BACKGROUND INFORMATION

3. The council is committed to delivering the Fairer Future promise to bring the benefits of regeneration to all. Peckham is a key regeneration area and is the focus of investment for new homes, school places, and spaces to support the creative and cultural industries, providing employment opportunities and delivering town centre improvements to enhance the retail and entertainment offer.
4. In November 2014 the council adopted the Peckham and Nunhead Area Action Plan (PNAAP) that sets out the policy framework for development over the next 10-15 years. Peckham has already seen significant investment and the council is committed to the on going regeneration that will help bring jobs and investment, and cultural facilities to the area.
5. Eagle Wharf occupies an important key development site located to the north of Rye Lane, adjacent to Peckham Square and Peckham Library. It has been vacant for a number of years and the council have been seeking a suitable mixed use development that will contribute to the PNAAP vision and act as a catalyst for further regeneration in the area.
6. The civic square is home to Peckham Library and Peckham Pulse. The council's vision for the public space could see improved pedestrian routes, a well defined entrance to Burgess Park, enhanced street lighting and more street markets, performances and events. The Library Square scheme that includes two new buildings to deliver 19 new homes, six of which will be for social rent, an art gallery and co working space will be submitted to planning in May 2016. The scheme will be developed as part of the Southwark Regeneration in Partnership Programme.

7. Helping Mountview to relocate compliments the Library Square development and presents an opportunity to support the growing reputation of Southwark's creative industries and significantly increase the area's focus as a cultural centre. The Mountview development will help fulfil the potential of the Library Square making it a vibrant place to visit.
8. Since spring 2015 the council has been in discussions with Mountview Academy of Theatre arts to develop the site and relocated from their current accommodation which is no longer fit for purpose.
9. On 21 July 2015 Cabinet approved the development proposals for the Eagle Wharf site to work with Mountview and bring them to Peckham. Cabinet resolved to:
  - Approve the proposals to grant a long leasehold interest in the Eagle Wharf site to Mountview as set out in the closed report.
  - Approve the draft Heads of Terms and finance arrangements as set out in the closed report. The figures were not provided in the open report but it is emphasised that the council will be providing an initial loan to Mountview of £500,000 to fund the costs of the planning application and then a main loan of up to £25,000,000 (Twenty Five million pounds) to fund the development costs of the development as well as the refinancing of the initial loan.
  - Delegate to the Director of Regeneration in consultation with the Cabinet Member for Finance powers to negotiate and agree terms relating to the lease and financial arrangements.
10. At the time of the July Cabinet report the assumed ground rent was £175,000 pa, the assumed level of loan funding was up to £18m on an interest only repayment basis at 4.5%
11. Mountview have assembled a professional team to take forward the design and construction of the building. They have had several pre-application meetings with planners to date and taken the scheme to the Design Review Panel. It is anticipated that a planning application will be made in June 2016. Mountview anticipate letting a fixed price build contract in October 2016 and starting on site in November 2016. They would like the building to complete in March 2018 to allow them to take in students from September 2018.
12. Mountview have met with the Arts and Culture team to propose a series of community benefits that may be provided including use of the building to enhance the use of affordable performance space, bursaries and apprenticeships. It is anticipated that this list will form part of the Community Infrastructure Levy Agreement which would be finalised in Autumn 2016.
13. Mountview have started fundraising for the building. Detailed discussions are underway with a number of individuals and trusts as well as grant giving bodies such as the Arts council. The council submitted a bid to the GLA under the London Regeneration Fund on Mountview's behalf which unfortunately was not successful.
14. Mountview have held two local consultation events which have been positive, attended the community council meeting and held an open house at their current premises. Further public meetings are planned during May and June. They are also establishing networks with organisations such as Theatre Peckham.

## KEY ISSUES FOR CONSIDERATION

15. Mountview is one of the leading and most prestigious drama schools in the country with a long-standing and international reputation for providing the highest quality training to actors, musical theatre performance, directors and theatre technicians. They have been operating since 1945 and currently offer courses to achieve BA and MA qualifications to students aged 18 and over as well as foundation courses. Students benefit from intensive practical training with experienced staff and also with current theatre practitioners. Mountview put on 32 productions each year. They work to create significant opportunities for people of all ages and backgrounds. Their performance rate for students gaining employment in the industry is excellent at 90%, and this goes up to 95% for those taking production courses.
16. Mountview Academy is currently located in Haringey. There are over 400 full time students and a further 300 attending the short courses. 120 members of staff are employed.
17. By relocating to Peckham, the Academy will benefit from being in a central town location and operating from a bespoke building that meets all of their requirements. Mountview have the opportunity to make a presence in Peckham and extend their current offer to enhance their respected reputation for providing the highest quality musical theatre, classical acting and theatre production arts training.
18. The move also provides opportunities for Mountview to grow and they are committed to further extending their current arrangements to substantially extend services that will be available for the local community.
19. The Mountview relocation builds on the development of cultural industry in Peckham and Camberwell and contributes to the councils Cultural Strategy 2013-2018. The presence of Mountview will enhance the borough as a cultural destination bringing new business and investment into the borough, creating jobs and opportunities. Local residents will benefit from enhanced learning, cultural, leisure and employment opportunities. The development is expected to contribute to the overall regeneration of the area by:
  - Bringing greater momentum to the regeneration of Peckham and attracting future investment
  - Contributing to the completion of the development of Peckham Square to help it reach its potential
  - Providing an active frontage to Surrey Canal Walk
  - Extending the educational offer in the borough
  - Contributing to the borough's cultural strategy
  - Contributing to the borough's health and well-being agenda
  - Bringing a leading UK and internationally respected school to the borough
  - Bringing wider place-making benefits to the town centre
20. Mountview will complement and strengthen existing organisations that include University of the Arts London and Theatre Peckham.
21. The development complements the investment in Library Square and it brings forward a significant vacant site in the town centre into economic use.

22. The provision of high quality commercial space in the town centre which can be let to small businesses with associated job benefits.
23. The employees and students will add to the economic vibrancy of the town centre.
24. The council are is prepared to recommend allocating monies from the Community Infrastructure Levy fund for this project. Subject to the level of CIL Mountview will deliver a number of community benefits. These include
  - Apprenticeships for local residents and a number of subsidised places at the School
  - BTEC classes
  - A local talent scouting programme
  - Bursaries for Saturday and after schools programme
  - Potential for local job opportunities being created
  - An adult community programme of a range of classes
  - The provision of high quality performance and rehearsal space for use by community groups and discounted places on adult community programmes at the School
  - Discounted and free tickets to performances and public performances in Peckham.
  - Cultural sector partnerships and links with HEI's.
25. Following the Cabinet decision in July 2015 external financial advisors PWC were appointed by the council to
  - Assess the robustness of the Mountview financial modelling
  - Set out the risks to the council
  - Set out the parameters of a funding agreement with Mountview.
26. Mountview produced a 30 year business plan which demonstrated their ability to repay the loan at this interest rate and in addition make payments against the premium on a regular basis. PWC found the business planning to be robust and evidenced. The report is attached as Appendix 3 to this report.
27. Pinsent Mason were appointed by the council to assess the state aid implication of the proposal. Their view was that due to the charitable status of Mountview, the proposed loan was exempt from notification to the European Commission.
28. The Agreement for Lease has been drafted by external solicitors in the context of both state aid and procurement issues. The documents have also taken account of the specific use that Mountview propose to make of the building and the nature of their organisation. The documents and summaries are attached as appendices.
29. The size of the facilities agreement has been extended to £25m. This extension is a result of more detailed design work and costing advice on the proposed building. The estimated cost of construction including fees is currently £23.8m inclusive of VAT. The cost of the building will not be fully known until after planning and the receipt of tenders from building contractors. Mountview are fundraising and are under an obligation to use funds generated against the building in order to reduce the amount that they need to borrow from the council. As the council wants the building to be constructed, it is considered appropriate for the facilities agreement to be up to the total cost of the building. It is anticipated that a preferred contractor

will be selected by July 2016 with a fixed price building contract being let in October 2016. A further report will be drafted in October 2016 for the Cabinet Member of Finance, Modernisation and Performance to approve and to confirm the construction cost and impact on the size of Facility B.

30. The Funding Agreement obliges Mountview to pay off at least 50% of the loan value within 20 years. Repayments of interest are rolled up until the building becomes operational in September 2018. Drawdown of funding will take place in two tranches:
  - Facility A of £0.5m for design fees expenditure in advance of letting the building contract. This Facility is secured against the accounts of Mountview and is match funded by the organisation.
  - Facility B of up to £24.5m for construction costs and design fees. This is triggered by the signing of the building contract and will be mainly drawn down over a two year period from October 2016. This Facility is secured against the new building.
31. The lease allows for a revaluation of the ground rent in 25 years. The lease prohibits a change of use to residential.
32. The report from PWC highlights the key financial risks for the council from the proposed transaction with Mountview. The key actions to mitigate this risk have been taken into account in the drafting of the Facilities Agreement and Lease Agreement. Although a legal framework has been established to mitigate the risk, there is considered to be a significant financial risk from the proposed transaction. This financial risk needs to be balanced against the anticipated regeneration, community and economic benefits from Mountview relocating to Peckham.

### **Community impact statement**

33. A series of community benefits as outlined above are under discussion between the council Arts team and Mountview. This will form the basis of the planning agreements with Mountview.

### **Financial implications**

34. The loan agreement entails a loan of up to £25m repayable over 30 years, with flexible repayment model and half of the loan repayable at the end of year 20.
35. The loan is in respect of construction costs of a new theatre school to be managed by Mountview. The freehold interest on the land is retained by the council. On completion of the construction the land will be leased from the council for 99 years at a rent of £175,000 p.a.
36. It is recognised that this project offers significant benefits, to the general regeneration of the area, education, and opportunities for young people including jobs as outlined in paragraphs 16 – 25 of above.
37. The financial case for the loan agreement has been assessed by PWC as external advisors to the Director of Regeneration. PWC have also performed financial checks on Mountview and have set out the underlying financial risks, including issues that would impact on Mountview's ability to repay the interest/principle such as the take up on student numbers and assumed commercial income, cost of

construction, and overall security of the loan. They have advised with regard to the financial risks of the project as set out in the appendix but identify the non financial benefits to the council of supporting the project and understand the make up of the agreement as appropriate as advised separately by Pinsent Masons.

38. Every attempt has been made within finalising the legal agreements to mitigate against the financial risks involved with this project. The Council will at all times within this agreement retain a charge on both the building and the land that may be recovered in the event of any default by the third party.
39. The programme of work estimated to be completed in advance of September 2018 will be financed from the council's capital programme. Currently £18m is included within the councils capital programme and this sum will be updated and reprofiled as part of the capital programme report to Cabinet once final construction costs and value of the loan have been finally agreed later this year. Funding for the arrangement will be released according to a schedule contained within the loan agreement that reflects the value of work independently verified by a suitably qualified expert as appointed by the Director of Regeneration
40. The development will be procured and managed by Mountview Academy which has produced a business plan over a 30 year period which demonstrates their ability to repay the loan and ultimately the premium. This report was inspected by PWC who found this initial business planning to be robust. Mountview will refresh this plan. Officers from Regeneration South will meet regularly with Mountview's Capital Committee to monitor the project delivery.
41. The anticipated loan drawdown to practical completion is as set out below, and this forms the capital spend forecast.

2015/16	£244,855
2016/17	£7,353,000
2017/18	£17,000,000
2018/19	£402,145

42. As set out in paragraph 30 of this report, this is the maximum loan of £25m covered by the Facilities Agreement and it is anticipated that through a combination of fundraising and competitive tendering this figure will reduce.

### **Legal implications**

43. Cabinet approved in July 2015 the principle of granting a long leasehold interest to Mountview Academy of Theatre Arts. The form of lease which is at a commercial rent for educational purposes has been negotiated and initially the council will enter into an Agreement for Lease with Mountview with the grant of lease conditional upon their securing a satisfactory planning permission for the development of a theatre school and also Mountview agreeing a fixed price building contract.
44. The legal documents have been drafted by Pinsent Masons on the council's behalf with a view to ensuring as far as possible that the contractual arrangements do not constitute a public works contract that has to be procured in accordance with the EU rules.
45. The draft Heads of Terms and the finance arrangements were set out in the closed report to Cabinet on 21 July.

46. The loan is initially secured by a debenture granted by Mountview. After practical completion, Mountview will grant the council a legal first charge over their leasehold interest

### **Consultation**

47. Mountview have held two public consultation events in Peckham and attended the Community Council meeting on 21<sup>st</sup> March 2016. Further meetings will take place in advance of submission of the planning application.
48. Mountview have met the Leader, the Cabinet Members for Regeneration and New Homes and Finance and Resources and ward members.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Director of Law and Democracy**

49. Cabinet approved in July 2015 the principle of granting a long leasehold interest to Mountview Academy of Theatre Arts. The form of lease which is at a commercial rent for educational purposes has been negotiated and initially the council will enter into an Agreement for Lease with Mountview with the grant of lease conditional upon their securing a satisfactory planning permission for the development of a theatre school and also Mountview agreeing a fixed price building contract.
50. The legal documents have been drafted by Pinsent Masons on the council's behalf with a view to ensuring as far as possible that the contractual arrangements do not constitute a public works contract that has to be procured in accordance with the EU rules.
51. The draft Heads of Terms and the finance arrangements were set out in the closed report to Cabinet on 21 July.
52. The loan is initially secured by a debenture granted by Mountview. After practical completion, Mountview will grant the council a legal first charge over their leasehold interest
53. Section 1, Localism Act 2011 provides to the Council a general power of competence whereby a local authority has the power to do anything that individuals generally may do. In this case the Council is proposing to make a loan on terms which have been independently assessed with the monies being secured by way of legal charge once the lease to Mountview has been completed. The decision therefore falls within the authority of the Cabinet Member on behalf of the Council.

#### **Strategic Director of Finance and Governance**

54. The financial arrangements are set out within the body of this report, it is noted that the legal agreement aims to mitigate the financial risks to the council. These proposed financial arrangements are considered in the context of the non financial benefits of Mountview's relocation to Eagle Wharf.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Draft agreement for Lease	Regeneration South, 5 <sup>th</sup> Floor, 160 Tooley Street, SE1	Neil Kirby 0207525 1878
Draft Finance Agreement	Regeneration South, 5 <sup>th</sup> Floor, 160 Tooley Street	Neil Kirby 020 7525 1878

## APPENDICES

No.	Title
Appendix 1	Summary of documents Pinsent Masons 13 April 2016
Appendix 2	Commercial Issues Update PWC 1 March 2016
Appendix 3	Business Plan Risks PWC 29 Sep 2015

## AUDIT TRAIL

<b>Lead Officer</b>	Neil Kirby, Head of Regeneration South	
<b>Report Author</b>	Neil Kirby, Head of Regeneration South	
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<b>Dated</b>	27 April 2016	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
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Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	Yes	No
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