

APPENDIX F

ELEPHANT AND CASTLE SHOPPING CENTRE - COMPULSORY PURCHASE ORDER

ADVERSE EFFECTS SPECIFICALLY ARISING FROM PROPOSED CPO

1. The CPO process can be used to remove occupiers of the Shopping Centre with security of tenure under the Landlord and Tenant Act 1954 if they are successful in resisting court proceedings by EC UK to obtain vacant possession on the ground of redevelopment. There are only 11 such occupiers and the majority (seven) of them are national multiple retailers rather than local independent traders. Each of the independent traders have been offered relocation options in Castle Square, Elephant 1 and Elephant Arcade. It is expected that EC UK will be successful in those 1954 Act proceedings but the CPO can be used as a safeguard in this respect. Those occupiers may therefore be relinquished of their leasehold interests in the Shopping Centre against their will. For the national multiple retailers, this is not considered to be a serious detriment to their business as they have many stores. The consequences for the independent traders in that scenario are likely to be more consequential, though, and in a worst case scenario may possibly result in them ceasing trading altogether.
2. The use of CPO powers in relation to the two railway arches to which EC already has long leasehold title, so that control can be achieved to turn those two arches into retail or other A use class units, will deprive Network Rail and Arch Co of their respective freehold and long leasehold title to those arches. Similarly the acquisition by the Council under a CPO of Arches 6 and 127/133 will deprive the same parties of their freehold and long leasehold titles to those premises. Network Rail is a very large national undertaking and it is not considered that such acquisitions will have a serious detriment to it, particularly given the fact that it has in effect disposed of much of its railway arch premises investment portfolio to the Arch Co by virtue of the grant of a long lease. Arch Co is a large, commercial concern with many railway arch units across the country pursuant to that leasehold title. It is not considered that the acquisition of (potentially) 4 arches will cause serious detriment to it.
3. The occupiers of Arches 6 and 127/133 will be displaced if their interests were compulsorily acquired. In a worst case scenario, they might cease trading as a result of an acquisition by CPO. However, the Council and the developer will continue to work with them to seek alternative premises in the locality into which to relocate. Given they are not within the Shopping Centre itself, there is more time available for their relocation than those located within the Shopping Centre, as the "knock-through" of these arches does not need to occur immediately.
4. The implementation of the CPO will see the area at the rear of Arch units 113c/122 removed to make way for the redevelopment. This will result in some disruption to the occupiers of that unit, who are currently using that rear area as part of their business premises. The Council has assumed that the rear area is a legitimate part of the occupier's leasehold area. The level of disruption will depend on whether the remaining part of the unit can be used beneficially without that rear area. In a worst case scenario, the occupier may cease trading. However, the CPO envisages rights being acquired to carry out consequential works to the remainder of the unit to assist its re-use once the rear area has been removed.
5. Local independent traders on the East Site have access to the relocation funds made available in accordance with the section 106 agreement and the Council has

allocated a further fund of £200,000 as set out in the introductory progress report. Furthermore and independent of those relocation funds, any party that has their interest acquired pursuant to a CPO are be entitled to statutory compensation for the loss of their interest.

6. The CPO covers land owned by TfL and LUL as referred to in the report, the intention is to bring this land into the Scheme by agreement but the CPO will allow for its acquisition if necessary. It is not considered that the acquisition of the TfL paved areas immediately adjacent to the Shopping Centre and the LCC Site will give rise to any significant detriment to TfL's undertaking. Indeed, the acquisition will facilitate the revised highway boundary arrangements which were expressly agreed with TfL in the section 106 planning agreement. The acquisition of the current LUL Northern Line station against the wishes of LUL is clearly something that the Council will do only as a last resort and the Council would only do so in a manner which did not affect the smooth running of the Tube network. In practice this situation is very unlikely to occur as the developer is required by the terms of the section 106 agreement to reach agreement with LUL at an early stage of the Scheme. In each case, TfL and LUL are entitled to compensation for any land acquired.
7. The CPO would also see new rights created over the land shown shaded blue on the plan at Appendix A. The new rights of access that will be sought over the railway station and the arch units to the south of it (other than those being acquired), to facilitate the works to the western boundary of the viaduct, may have the adverse effect of disruption to the occupiers of those premises. However, it is not considered that any such disruption would be long-lasting or significant. The same is true of the rights sought over the viaduct structure for cabling and wiring works.
8. As pointed out in the Planning Committee report in the background papers, the Scheme would result in a reduction in the size of a smoking area at the rear of Corsica Studios. There are no standards in relation to the size of smoking areas, therefore this impact will need to be managed, to limit the number of people using the smaller area.
9. The rights being sought over the Tabernacle, to de-couple the current LCC building, will result in some inconvenience to the Tabernacle, by way of the proposed scaffolding but the Tabernacle itself will remain open to its congregation throughout the duration of any such works and it is considered that such an adverse effect is relatively minor.
10. The acquisition of crane oversail rights over various pieces of land is considered to be relatively minor in effect.
11. The owner of any land interest affected by the new rights will be entitled to statutory compensation in respect of those new rights.
12. The implementation of a CPO will have the effect of overriding any rights of light or other property rights that apply over the CPO site (to the extent they had not already been overridden by way of the overriding arrangements referred to elsewhere on the Agenda). This will be an adverse effect of the CPO. This aspect is dealt with in detail in the interfering with rights report elsewhere on the Agenda. There are 93 registered property interests at the Land Registry which have been identified in this respect (all as to rights of light) and other unregistered interests in those properties may also exist and be affected. Many of those interests will suffer a significant infringement of their rights of light ie without the use of the Council's powers they will potentially be able to apply for and obtain an injunction against the Scheme, or to

seek to hold the developer to ransom. The use of the Council's powers will remove that ability. Again, any party suffering interference with its rights will be entitled to statutory compensation which will be on a diminution in value basis (as required by legislation) rather than a ransom or share of the profits basis.

Adverse effects of the Scheme generally

13. It is considered the above adverse effects are relatively limited. Nevertheless, consideration has also been given to the position if all adverse impacts of the Scheme should be ascribed to the CPO and the Council's decision to pursue it. In that scenario, the adverse effects would be more numerous and more significant. As well as the adverse effects referred to above, the following adverse effects arise.
14. Despite the considerable efforts that the Council and the developer have gone to as to relocation of the traders, there are still a number of East Site traders that do not have either an allocated place in one of the three relocation premises being provided or a clear plan as to what they wish to do as regards the relocation of their business. The Council and the developer are committed to assisting these businesses, including the market traders, through the section 106 relocation arrangements and Tree Shepherd will continue to work with each of them to help them decide what they wish to do. The relocation funds will be available to assist them in relocating to other locations. Notwithstanding these points, the possibility remains that the worst case scenario is that a number of these businesses will cease to operate as a result of the Scheme generally. This would be detrimental to the business owners, their employees and customers.
15. Notwithstanding that the Council does not envisage needing to use CPO powers against the kiosks near the bridge on New Kent Road, adverse effects that may arise from the removal of those kiosks. Have been considered. Potentially this may result in the loss of those kiosk businesses but the Council is seeking to relocate those traders within the locality and they will have access to the relocation funds under the section 106 agreement and the Council's further relocation fund. The Council is seeking to relocate the kiosks onto the north side of New Kent Road, very close to where they are now.
16. Secondly, the tall buildings proposed as part of the Scheme will result in adverse day light and sunlight effects on a number of nearby properties, including residential properties, particularly those in Oswin Street, Hayles Buildings and Metro Central Heights. . Cabinet is referred to the Planning Committee report in the background papers - the Planning Committee considered light amenity and overshadowing in detail as part of the planning application process and it was considered that those adverse effects were outweighed by the benefits of the Scheme.
17. Thirdly, as set out in the Planning Committee report, there would be harm to the setting of the Metropolitan Tabernacle. Cabinet will note, though, that notwithstanding the substantial weight given to that harm, the Planning Committee concluded that such harm would be outweighed by the significant public benefits accruing from the Scheme.
18. Fourthly, there are likely to be some adverse equality impacts in relation to age and race as discussed in detail in the main body of this report and the progress report on the agenda. It is considered all that can reasonably expected to be done to mitigate impacts on traders/occupiers and the local community has been and is continuing to be done.