

THE LONDON BOROUGH OF SOUTHWARK

TOWN AND COUNTRY PLANNING ACT 1990

AND ACQUISITION OF LAND ACT 1981

**THE LONDON BOROUGH OF SOUTHWARK (ELEPHANT AND CASTLE NO.1) COMPULSORY
PURCHASE ORDER 2012**

STATEMENT OF REASONS

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1 Introduction

- 1.1 The London Borough of Southwark ("the **Acquiring Authority**") has made the London Borough Of Southwark (Elephant and Castle No.1) Compulsory Purchase Order 2012 (the "**Order**") under section 226(1)(a) of the Town and Country Planning Act 1990 (the **1990 Act**) and the Acquisition of Land Act 1981 (the **1981 Act**). This Statement of Reasons is the non statutory statement produced in accordance with paragraph 35 and Appendix R of Circular 06/2004 (Compulsory Purchase and the Crichel Down Rules) (the **Circular**). A plan showing the extent of the Order Land is provided at Appendix 1.
- 1.2 If confirmed by the Secretary of State for Communities and Local Government the Order will enable the Council to acquire compulsorily the land included in the Order (the **Order Land**) in order to facilitate the second phase of the Elephant and Castle regeneration proposals, namely the redevelopment of the Heygate Estate (**the Heygate Scheme**) described in section 6 of the Statement of Reasons. The Acquiring Authority has given careful consideration to all relevant issues and thinks that the proposed acquisition will:
 - 1.2.1 facilitate the carrying out of development/redevelopment or improvement on or in relation to the land; and
 - 1.2.2 contribute to the promotion or improvement of the economic, social and environmental wellbeing of the Borough, for the reasons set out in Section 7.
- 1.3 The Acquiring Authority has identified the Elephant and Castle ("**E&C**") as an area in need of regeneration and development. In particular, it envisages a comprehensive regeneration that will provide a high quality mixed use sustainable neighbourhood that integrates with the surrounding area. This is in contrast to the current state of residential accommodation that exists in the area. The regeneration of the E&C is an objective of the London Plan 2011, Southwark Core Strategy and Elephant & Castle OAPF/SPD 2011.
- 1.4 The Heygate Scheme that underlies this Order comprises the second of three phases. The three phases comprise the Rodney Road Phase ("**the RR Phase**") , the Heygate Phase ("**the Heygate Phase**") and the Shopping Centre Phase (" **the SC Phase**"). The RR Phase of the Scheme is for the redevelopment of the Rodney Road site (shown shaded yellow on the plan at Appendix 2. A detailed planning application for the RR Phase is anticipated in the summer of 2012 for a predominantly residential scheme of 247 homes. The RR phase has been cleared of residential buildings that were demolished by the Acquiring Authority at the end of 2011 without the need for a compulsory purchase order. The Heygate Phase is the redevelopment of the part of the Heygate Estate shown outlined in red on the plan at Appendix 3 with the Order Land shaded pink within it.

- 1.5 The final phase of the regeneration is the redevelopment of the Elephant and Castle Shopping Centre. This is shown shaded green on the Masterplan at Appendix 2. The Acquiring Authority, KPI III SARL (freehold owner of the shopping centre) and Lend Lease are working together to develop proposals for its regeneration having entered into a co-operation agreement to secure the regeneration of the shopping centre.
- 1.6 The schedule to the Order lists owners, lessees, occupiers and tenants of the order land ("**the Order Schedule**"), in addition to other parties with a qualifying interest, where known. The Order Schedule refers to the map accompanying the Order ("**the Order Map**"). It is intended save as indicated in paragraphs 7.7 - 7.13 that unless acquired by private treaty negotiations, by the exercise of termination provisions, or where appropriate by the exercise of its powers under the Landlord and Tenant Act 1954, all land and rights within the Order Land (including but not restricted to, those scheduled in the Order) will be acquired by the Acquiring Authority pursuant to the Order.
- 1.7 The Acquiring Authority recognises that a compulsory purchase order can only be made if there is a compelling case in the public interest which justifies the overriding of private rights in the land sought to be acquired. It is considered that a clear and compelling case exists in this instance as described in sections 3, 4, 5, 6, 7, 8 and 9 of this Statement of Reasons.
- 1.8 On 30 July 2007 the Major Projects Board resolved to make a compulsory purchase order over an area including but not limited to the Heygate Scheme. On 9 February 2010 the matter was reported back to the Executive that resolved to withdraw the Major Projects Board 2007 resolution but authorised the use of compulsory purchase orders over the land needed for the RR Phase and the Heygate Phase.

2 BACKGROUND

Acquiring Authority's Strategy for the Estate

- 2.1 The Order Land together with land to its south between Heygate Street and Wansey Street and a site to its east between Rodney Road, Victory Place and Balfour Street forms the Heygate Estate (the **Estate**). The Estate was designed by Tim Tinker and was completed in 1974. The Estate provided a total of 1,212 residential dwellings. 1,018 of these were let under secure tenancies, the remaining 179 were held under 125 year leases by third party owners some of whom occupied the properties and some of whom let them out.
- 2.2 The concept behind the construction of the estate was of a modern living environment. The neo-brutalist architectural aesthetic was one of tall, concrete blocks dwarfing smaller blocks, surrounding central communal gardens. The architect's concept was to link all areas of the estate via concrete bridges, so there was no need for residents to walk on pavements or along roads; indeed there is an absence of pedestrian provision at grade along parts of the perimeter.

- 2.3 The blocks of flats and maisonettes were constructed using pre-cast concrete cross wall construction which was developed in the mid 60s as a quick way to produce affordable housing. It was phased out in the mid 70s as the method of construction became less popular due to social implications of the estate construction and the revised requirements of the building regulations regarding disproportionate collapse in the event of accident.
- 2.4 The use of the six high rise blocks to surround the Estate worked well in protecting the lower maisonettes from noise from the surrounding highways; however the high rise blocks dominated the smaller units. The high level pedestrian links enabled good pedestrian access within the Estate and from the surrounding areas however they act as barriers encircling the site making the Estate very insular and divorced from the ground level. The residents of the maisonettes tended to be satisfied with their dwellings whilst the residents of the high rise flats were less so.
- 2.5 By 1998 the repair of the buildings was in decline. There were cracks in walls, damp and flooding from rainwater pipes. The concrete panelling to the buildings was not sealed against moisture ingress which could potentially have caused problems for the long term stability of the panels. The external walls and parapets throughout the estate all showed signs of weathering. When the buildings were constructed asbestos was used for insulation at various places within each dwelling. There is now a better understanding of health risks of this material.
- 2.6 At this time, the Estate was one of the several estates that formed part of what was known as the Southwark Estates initiative. This Initiative arose as a response to landlord issues - deterioration in the estate condition, investment needs and residents aspirations. It also sought to take advantage of additional capital investment made available by the new government in 1997.
- 2.7 Against that background, in 1998 because of the need for maintenance to keep the Estate in a serviceable condition the Acquiring Authority undertook an option appraisal. That found the buildings to be structurally sound but in need of complete refurbishment. The appraisal examined seven options including: do nothing, repair and refurbishment, reducing the height of high rise blocks and refurbishment and improvement, complete demolition and rebuild.
- 2.8 The do nothing option was not viable as the Estate was showing signs of deterioration due to lack of maintenance which would only be exacerbated if nothing was done. The option to repair and refurbish was the minimum option and had the lowest capital cost but it did not represent best value for money when taken into account whole life costs and social viability. The external appearance of the buildings remained the same as did the high density and it did nothing to address the wider issues of layout and security. Ultimately, the option for the partial demolition and refurbishment was recommended as the best solution. It was however

recognised at the time changing land values could make the complete demolition and redevelopment by the private sector a better option.

- 2.9 The Council commissioned a Market Opinion Research International survey in 1999 that reported 70% of Heygate tenants expressed a wish to move to a new home. On the basis of that survey the Housing Committee agreed a cessation of lettings on the Heygate Estate with effect from early 2001.
- 2.10 In approximately 2000 a decision was taken to remove the Estate from the Southwark Estates Initiative and from that point the Heygate Estate became a key component of the wider vision for Elephant and Castle area.
- 2.11 Following a competitive selection process, the Council formally confirmed Southwark Land Regeneration PLC ("SLR") as its preferred partner in January 2001 for the physical redevelopment of the area. Subsequently in May 2001 the Council agreed to enter into a co-operation agreement with SLR. However, in March 2002 the regeneration plans terminated as the Acquiring Authority and SLR failed to reach an agreement on terms for the regeneration.
- 2.12 In May 2002 the Acquiring Authority's Executive Committee renewed its commitment to the regeneration of Elephant and Castle. In July of that year, the Executive re-launched the Elephant and Castle regeneration scheme under the banner 'Fresh Start for the Elephant and Castle'. A work plan to take it forward was agreed and more surveys were undertaken. These lent further support to the original finding of a strong desire amongst Heygate tenants to move to new homes in the vicinity to benefit from the imminent regeneration of the Elephant and Castle area. Officers were instructed to prepare a framework for the regeneration programme, that was informed by a detailed analysis of the strengths and weaknesses of the area supported by independent opinion testing. The first stage of this work was set out in the Emerging Framework Principles document, which was endorsed by the Executive on 17 December 2002 (see paragraph 2.20 below).
- 2.13 Make Architects was commissioned by the Acquiring Authority in June 2004 to develop a develop framework for the Elephant and Castle, to prepare the regeneration opportunity for the commercial sector. In January 2005 the Acquiring Authority commenced the official European procurement process for the main commercial development partner.

Relocation Strategy

- 2.14 In recognition of the impact the closure of the Estate would have on the availability of social housing in the locality over the regeneration period, the Council resolved to make a number of sites in its ownership available to registered social landlords (RSLs) at no financial consideration to provide replacement housing.

- 2.15 In August 2005 two RSL consortia were selected to build replacement housing for Heygate residents and in autumn 2006 the first Heygate residents moved into the Wansey Street replacement housing development close to the Order Land.
- 2.16 In June 2007 the Executive approved the Heygate action plan for the early rehousing of tenants and the rehousing process began.
- 2.17 In Autumn/Winter 2008/2009 applications for planning permissions were submitted for a number of replacement housing sites the majority of which have now been completed. The sites and housing provided is set out below and a plan showing the location of the sites is at Appendix 3:

<i>Plan Ref</i>	<i>Scheme</i>	<i>Status</i>	<i>Total</i>	<i>Social Rent</i>	<i>Intermediate</i>	<i>Sale</i>
A	Bolton Crescent	Completed	103	88	15	0
B	Brandon Street	Completed	18	18	0	0
C	Library Street	Completed	40	21	19	0
D	Arch Street	Completed	52	34	18	0
E	St Georges Road	Completed	15	15	0	0
F	Comus Place	Completed	37	37	0	0
G	Wansey Street	Completed	31	15	0	16
H	Symington Hse	Being built	72	50	22	0
I	Royal Road	Being built	96	76	0	20
J	Stead Street	In planning	140	80	4	56
Totals			604	434	78	92

- 2.18 As explained in more detail in section 3 below, only three residential properties remain occupied on the Estate with all other residential occupiers having been successfully relocated.

Planning Policy Background

- 2.19 In the 1995 Southwark Plan Elephant and Castle was designated as a regeneration area where Regeneration Area policy R.2.1. applied which essentially stated permission would normally be granted for proposals which generated employment, improved the environment, met resident's

needs and borough beneficial use back to vacant land or buildings. The Emerging Framework Principles document, as endorsed by the Executive in December 2002, set out clear proposals for releasing the potential of the Elephant and Castle by paving the way for a major redevelopment. The report defines a central opportunity area where a new town centre, in effect a new capital for Southwark could be established and made specific reference to the demolition of the Shopping Centre, Heygate Estate, Leisure Centre, London Park Hotel and the roundabouts and link road.

- 2.20 In January 2003, the Acquiring Authority published the Emerging Framework Principles for the future regeneration of Elephant and Castle and by June 2003, the draft development framework was published. In February 2004, the Acquiring Authority adopted a development framework for the Elephant and Castle in the form of supplementary planning guidance [SPG] after winning the support of 80% of the local community. The SPG identified an area for regeneration and the guidance promoted a low carbon mixed use town centre comprising mixed tenure residential units, retail, leisure and complimentary town centre uses, and business space, based around a network of open routes and public spaces.
- 2.21 The objectives set out in the SPG were embedded into the Southwark Plan which was formally adopted following a public inquiry in 2007.
- 2.22 The Acquiring Authority's Core Strategy adopted in 2011 consolidated the planning objectives and set out an updated strategic planning framework for development at the Elephant and Castle.
- 2.23 Most recently, the Elephant and Castle SPD/Opportunity Area Planning Framework (OAPF) adopted in March 2012 replaced the 2004 SPD and sets out specific policies for the overarching area and the Heygate Estate, including the Order Land (see section 8 below). The extent of the Elephant and Castle Opportunity area is outlined in purple on the plan at Appendix 5 with the Estate shown shaded pink within it.

Development Partner Background

- 2.24 The Acquiring Authority carried out a major exhibition in January 2007 which showcased its work so far, before it selected a preferred commercial development partner. Research showed 94% of local people were in favour of the Acquiring Authority's regeneration plans. Lend Lease Europe was selected as the Acquiring Authority's commercial development partner in July 2007 after a competitive tendering exercise that met relevant EU and domestic procurement requirements.
- 2.25 The worldwide deterioration in economic activity prolonged negotiations with the preferred development partner and so it was not until 2010 that a Regeneration Agreement ("RA") was signed with Lend Lease (Elephant & Castle) Limited ("Lend Lease") on 23 July 2010.

- 2.26 The Council recognised that the appointment of a lead developer experienced in delivering regeneration projects of a significant size and complexity was critical to the realisation of the proposals for the area.
- 2.27 Lend Lease were able to demonstrate that their approach had the capacity to fully integrate the Council's objectives for quality of design, urban movement with particular emphasis on pedestrian and public transport modes, network of open routes and public spaces, physical and environmental sustainability, mixed use, and balancing residential tenures. Lend Lease is an integrated development services business operating globally with an annual turnover of over £5billion. Lend Lease has a strong track record in London of partnering with public sector landowners on large, complex urban regeneration projects through its work with the Olympic Delivery Authority delivering the 2,800 home East Village in Stratford and with the Homes and Communities Agency on a number of projects. Through these projects Lend Lease gained experience in handling complex transport and infrastructure works in tandem with high density mixed use development.
- 2.28 Lend Lease demonstrated their experience and long term commitment to delivering the best built, economic and social outcome for the regeneration of the Elephant and Castle through the OJEU tender process resulting selection development partner by the Acquiring Authority in 2007.

Regeneration Agreement ("RA")

- 2.29 The RA is a form of development agreement that is a common mechanism of securing the redevelopment of land. It contains a number of conditions precedent to development, one of which relates to site assembly.
- 2.30 The RA obliges the Acquiring Authority to obtain vacant possession of the Order Land (and other land the subject of the RA) including obtaining a CPO or CPOs if required. Delay in obtaining vacant possession of the Order Land will have an adverse effect on the whole of the development programme.
- 2.31 As well as the obligation to obtain vacant possession of the Order Land, the RA contains obligations on the Acquiring Authority to secure demolition of existing buildings on all the land included within the RA, including the Order Land. Such demolition on the Order Land cannot commence until vacant possession of whole of the Order Land has been obtained. Without demolition redevelopment cannot commence.
- 2.32 The planning application for the Heygate Phase that includes the Order Land was submitted on 28 March 2012. It was accompanied by an environmental statement and formal consultation on the application started on 12 May 2012. It is anticipated that the application will be considered by the Council's Planning Committee in the latter part of 2012. It includes an

indicative programme for demolition of structures on the Order Land starting in 2013 with completion in 2015.

- 2.33 Although planning permission may not yet have been granted for the redevelopment of the Order Land there is considerable policy support both at national, regional and local level for its redevelopment in the manner proposed by the Acquiring Authority as is explained in section 8.
- 2.34 The Order Land is largely vacant but the CPO is considered necessary to secure vacant possession of the entire area and to extinguish third party rights affecting the subject land so as to facilitate demolition and regeneration.

3 DESCRIPTION OF THE ORDER LAND, LOCATION AND PRESENT USE

- 3.1 The Order Land is shown shaded pink on the Plan attached in Appendix 3. The Order Land is part of the Estate, a large inner city estate located south of the Elephant and Castle in the Walworth district of Southwark. The dilapidated buildings are empty (save for three dwellings, some commercial units and a church) and there is an acknowledged need for regeneration of the area. The Order Land was home to approximately two thousand and eight hundred residents and contains seven hundred and fifty dwellings and four hundred and twenty-nine lock up garages occupying a total area of 60,163m². The Order Land also contains a block of commercial units and a church that remains in regular use for worship and associated purposes.
- 3.2 As shown on the Order Map, the Order Land runs just south of Heygate Street and is bounded by Brandon Street, Larcom Street, Rodney Road, Rodney Place, New Kent Road, and Walworth Road.
- 3.3 The Order Map identifies the freehold and leasehold interests to be acquired. The individual plot boundaries and numbers correspond with the Schedule to the Order. In addition, the Schedule also lists other parties who may have a qualifying interest in the Order Land where known after reasonable enquiry. This Schedule has been prepared based upon information gathered through inspection of the Land Registry title documents, site inspections and enquiries, and the responses to the notices issued under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- 3.4 The Order Land is largely vacant following the successful relocation of the vast majority of residential occupiers. The Estate comprises the following buildings and areas listed in the following paragraphs, the interests to be acquired are described more fully in the Order Schedule.

Dwellings

Block	Dwellings
1-242 Ashenden	242
1-216 Claydon	216
1-104 Marston	104
1-80 Cuddington	80
1-72 Chearsley	72
1-36 Risborough	36
Total	750

Lock Up Garages

Block	Garages
1-131 Ashenden	123
1-128 Claydon	128
1-95 Marston	95
1-27 Cuddington	27
28-42 Chearsley	15
44-84 Risborough	41
Total	429

Commercial

Property	Area m ²	Property Type
3 Brandon Street	44	Vacant retail
5 Brandon Street	79	Retail
7/9 Brandon Street	154	Retail
11 Brandon Street	85	Retail
13 Brandon Street	89	Retail
15 Brandon Street	95	Retail
17 Brandon Street	83	Retail
19a Brandon Street	75	Retail
19b Brandon Street	238	Warehouse
21/23 Brandon Street	415	Retail
25 Brandon Street	287	Vacant hall
27/31 Brandon Street	243	Vacant surgery
Office Content Street	611	Vacant office
Total	2,498	

- 3.5 The Order Land contains 750 dwellings of which 124 dwellings were purchased under Right to Buy provisions (representing 16.5%). Of those 124, 120 (96.7%) have been acquired by agreement with the former owners so 4 leasehold interests remain to be acquired.
- 3.6 All the occupiers of the other 626 properties that were let by way of secure tenancies have been rehoused. 209 tenants expressed a wish to return to the estate although the actual number may be much lower because they may have settled at their current property.

- 3.7 Of the 750 residential properties on the Order Land, 747 (99.6%) are currently vacant leaving only three occupied.
- 3.8 The freehold interest in the majority of the Order Land (and wider Heygate Estate) is held by the Acquiring Authority but it is subject to leasehold interests and other third party interests such as covenants and easements and the rights of statutory undertakers.
- 3.9 The freehold interest in one plot of land (plot 8 on the Order Map) is held by The United Reformed Church (Southern Synod) Trust Limited, a company limited by guarantee and a registered charity. This church is still in operational use and provides worship facilities for the United Reformed Church denomination, as well as meeting and worship facilities for other denominations and community organisations such as scouts, guides etc.

Statutory Undertakers' Land

- 3.10 The Order Land is subject to the rights of statutory undertakers to which sections of 16 and 17 of the Acquisition of Land Act 1981 may apply. The existing statutory undertakers with equipment in the area are UK Power Networks (UKPN), Southern Gas Networks, Thames Water, British Telecom and Virgin Media.
- 3.11 Power to the Estate is currently provided from four UKPN low voltage substations (of which two are located on the Order Land). The redevelopment of the Estate will necessarily involve the removal and relocation of this equipment and full consultation is being undertaken with the statutory undertakers and will continue as the Development progresses.

Unregistered Land

- 3.12 Parts of the Order Land are not registered. Historic maps of the areas in question reveal that these areas are small pieces of land which were previously (and are still) highways. It is considered extremely unlikely that any third party would be able to claim ownership to these pieces of land. In order to clarify the position these pieces of land are included in the Order.

4 EXPLANATION OF THE USE OF THE TOWN AND COUNTRY PLANNING ACT POWERS FOR CPO

- 4.1 Section 226(1)(a) of the Planning Act permits an acquiring authority to exercise compulsory acquisition powers if it thinks that the land will facilitate the carrying out of development, redevelopment or improvement on, or in relation to the land being acquired.
- 4.2 Section 226(1)(a) is now subject to S226(1A) which states that the acquiring authority must not exercise the power unless it thinks that the proposed development, redevelopment or improvement is likely to achieve the promotion or improvement of the economic, social or environmental well being of its area. As explained in section 6 below the Acquiring Authority is

satisfied that the compulsory acquisition of the Order Land will achieve the objectives of S226 (1A).

- 4.3 Government Circular 06/2004 makes it clear that the exercise of compulsory purchase powers pursuant to this section in terms of the benefit to be derived need not be restricted to the land the subject of the proposed order.

5 THE PURPOSE OF THE ORDER

- 5.1 The purpose of seeking to acquire land compulsorily is to facilitate the comprehensive redevelopment of the Order Land. The proposals for the area (described in section 6 below) will, in the opinion of the Acquiring Authority, meet its planning policy objectives and the use of compulsory purchase powers is essential to enable them to be met within a realistic timescale.
- 5.2 Negotiations have been pursued with those affected by the Order with success in the case of all but four residential properties, the commercial tenancies and the freehold church. Although reasonable efforts have been made and will continue to be made, to acquire the necessary land and rights by agreement, it is clear that the Order is required to ensure that there is sufficient certainty that regeneration can come forward as envisaged by the scheme partners.
- 5.3 Compulsory purchase will enable the Heygate Phase to take place in a timely fashion in order to derive the wider public benefits that the Scheme will secure and provide for certainty for programming and the realisation of the Council's policy objectives. It is therefore considered that compulsory purchase is not only necessary but also justifiable in the public interest.

6 DESCRIPTION OF THE PROPOSALS

- 6.1 The submitted outline planning application (reference 12-AP-1092) is for demolition of all existing structures and bridges and redevelopment to provide a mixed use development comprising a number of buildings ranging between 13.5metre (above ordnance datum "AOD") and 104metre (AOD) in height with a capacity for between 2,300 (minimum) and 2,462 (maximum) residential units together with retail (Class A1-A5), business (Class B1), leisure and community (Class D2 and D1), energy centre (sui generis) uses. It also includes new landscaping, park and public realm, car parking, means of access and other associated works. ("**the Proposals**"). The planning application parameter plans are at Appendix 6 of this Statement of Reasons.
- 6.2 The application site includes all of the Order Land and an additional area of land to the south including Kingshill, Centre Building, Brandon Street, Swanbourne and part of Wansey Street.
- 6.3 The illustrative masterplan submitted as part of the application shows a mixed use district that will transform Elephant and Castle. It will deliver:

- (i) A range of between 2,300 to 2,462 homes (a population of approximately 4,000 people) including affordable housing
- (ii) As much affordable housing as is financially viable to be split between social rented and shared ownership units;
- (iii) Retail space equivalent to 60 shops of which a proportion will be provided at affordable rents
- (iv) Food and beverage space equivalent to 16 cafes and restaurants
- (v) Business space to accommodate approximately 300 workers
- (vi) Leisure space for a gym or other use
- (vii) Community and cultural space
- (viii) Car parking for residents, visitors and commercial use (616 spaces) and 3,136 spaces of cycle parking.
- (ix) Open space including a new park.

6.4 At this stage before reserved matters approvals have been submitted it is not possible to quantify the precise areas of floorspace within the Order Land. In summary, the application seeks permission for a maximum total of 330,741m² Gross External Area floorspace. The table below defines the maximum and minimum floorspace figures for each category of land use proposed within the application boundary which is wider than the Order Land.

Total Floorspace by Use Class			
Land Use	Use Class	Minimum GEA m²	Maximum GEA m²
Residential	C3	160,579	254,400
Business	A1 A2 A3 A4 A5	10,000	16,750
Community	BI	2,000	5,000
Leisure	D2	1,000	5,000
Sui Generis/Energy Centre	Sui Generis	500	5,000
Sub Total		175,079	925
Parking; Servicing; Plant and Storage		38,854	43,666
Total		209,933	330,741

Open Space

6.4.1 In addition to the built floor space set out above, the regeneration will include areas of open space. These areas include the following:

- (a) Minimum of 45,286m² (4.53ha) of accessible public realm and a new park, which will include a minimum core area of 8,000m² (0.8ha).
- (b) Provision of private and communal residential amenity space across the application site ("Site") will be in accordance with the requirements of the adopted Development Plan policies at the time of submission

Heygate Masterplan

- 6.4.2 The vision for the Heygate Masterplan is to re-establish a flourishing urban quarter within which there will be five specific character areas; namely The Park; Walworth Road, New Kent Road, Walworth Local and the Rodney Neighbourhood (the illustrative plans are at Appendix 7. The Walworth Local area is largely outside the Order Land as is approximately half of the Walworth Road Area. The Rodney Neighbourhood is also largely outside the Order Land but within the RR Phase of the Scheme.

The Park

- 6.4.3 The central focus of the Proposals is the key east-west structuring of publicly accessible open space that acts as the destination of the local connections and spans the transition from town centre to residential community. The area is defined by a significant public space at the heart of the Site that will add visual and physical connection to the local area and a focus for routes and amenity.
- 6.4.4 The area will predominantly include residential uses at upper levels and retail/café uses at ground floor fronting the park. In addition, a park pavilion building is proposed that will act as a focus for the local community with the potential to hold events.
- 6.4.5 The character area will be terminated by a tall building on Plot H11b. This tall building has a prominent location in the Site and will act as the key focal conclusion to the major public space. The detailed design of the tall building on Plot H11b will be of the highest design quality with consideration for its impact on strategic and local views and local heritage assets.

Walworth Road

- 6.4.6 Over half of the Walworth Road character area is included in the Order Land and will include both the key strategic route of Walworth Road and an adjacent Central Shopping Street within the Masterplan. Both of these are anchored by Walworth Square a new public square proposed at the intersection and frontage with the Old Town Hall.

6.4.7 The principal objectives for the Walworth Road character area are to:

- (a) Complete Walworth Road with a successful retail high street activity and shops that link back south along the length of Walworth Road and north to the Shopping Centre;
- (b) Provide a concluding focus to Walworth Road and a relationship to the tall building context of the transport interchange and the Strata Tower;
- (c) Create a visual and physical connection through to the network of streets and spaces of the Heygate Masterplan from the primary approach of Walworth Road;
- (d) Create a high quality and attractive landscaped frontage and retail environment that incorporates existing trees on Walworth Road;
- (e) Deliver a significant gateway space of Walworth Square to the south, acting as an inviting public space and providing a fitting setting for the Old Town Hall;
- (f) Deliver tall buildings within the site-wide tall buildings strategy;
- (g) Create a central shopping street with smaller, local and independent shops and businesses, community facilities and a complementary retail offer to the high street environment.

6.4.8 Walworth Road will be regenerated as a sequence of taller residential structures accompanied by mid-rise buildings that are located above non-residential uses.

6.4.9 The area will comprise a continuous retail frontage along Walworth Road (with residential access to the upper floors) with a mix of smaller retail and commercial units on the Central Shopping Street. The setting of the new Walworth Square and the Central Shopping Street will also provide the opportunity for community uses along them. Taller buildings are proposed on Plots H1, H2, H3, H6 and H7 (see parameter plans at Appendix 6). The taller buildings within the character area are grouped along Walworth Road and the secondary retail street.

New Kent Road

6.4.10 This character area which is within the Order Land, includes the frontage of the plots onto the other key strategic route to the perimeter of the Site, the side elevations of these plots and the connections through to the park. The character of this area is most clearly defined by the existing busy route and the relationship with connections north-south through to the park and gateway spaces.

6.4.11 The principal objectives for the New Kent Road character area are to:

- (a) Create an inviting gateway and a series of routes through to the park from New Kent Road that form the new approach from the north into the development site;
- (b) Provide larger retail units and an active street environment;
- (c) Maximise the opportunities of views across London with tall and mid-rise buildings;
- (d) Retain the existing trees on the New Kent Road frontage;
- (e) Provide a concluding focus to New Kent Road and a relationship to the tall building context of the transport interchange with height rising towards the western end of the Site.

6.4.12 The New Kent Road character area will deliver a sequence of taller structures above larger-format commercial units and relate to adjacent gateway spaces and route connections. The area will comprise large double-height retail frontage with larger format stores to attract brand retail. Uppers floors will be residential with leisure and commercial uses at ground floor. Taller buildings are proposed on Plots H4, H5, and H11a.

Walworth Local

6.4.13 The character area which is mostly outside the Order Land encompasses the buildings that make the transition from the retail and Park frontages of the Heygate Masterplan and introduce a variety of more local residential buildings that come down to ground level.

6.4.14 Walworth Local is a residential quarter with frontages and ground level courtyards, town-housing and residential dwellings. Heygate Street will comprise of mid-rise blocks that reduce in scale towards the east with consistent language of articulation to reinforce the relationship with the existing street edge and boulevard. Low-rise town-housing will be provided on the southern edge facing Wansey Street which is of a scale that relates to the existing residential buildings.

Rodney Neighbourhood

6.4.15 This character area which is largely outside of the Order Land, includes neighbouring plots to the Walworth Local character area that have a direct relationship to the Rodney Road and the proposed development at the RR Phase of the Scheme on the other side of the street (which will be subject of a separate detailed planning application).

6.4.16 The principal objectives of the character area are to:

- (a) Deliver a high quality residential neighbourhood that complements the existing character of the area and reinforces the leafy character with tree-lined streets;
- (b) Provide a pocket park and local facilities that introduce the Proposals from the east;

6.4.17 The character area comprises a residential quarter and frontages with town-housing, residential dwellings and the energy centre, with its visitor centre and café uses. Buildings will be mid-rise reflecting the existing context of and scale of the Peabody buildings on Rodney Road. Lower-rise blocks will front the more sensitive edges of the Proposals. In addition, gateway buildings are proposed in relation to public spaces and arrival points from the south.

6.5 Phasing of the Proposals

6.5.1 At this stage the Proposals are anticipated to be split into five construction phases, these are summarised below and illustrated on the indicative phasing plan at Appendix 8:

- (a) Phase 1 (entirely within the Order Land) comprising Plot H4, including completion of 50% of the park area.
- (b) Phase 2 (predominantly within the Order Land) comprising Plot H1, Plot H12 (Energy Centre) and utilities infrastructure within Heygate Street.
- (c) Phase 3 (entirely within the Order Land) comprising Plot H2, Plot H5 and completion of central park area.
- (d) Phase 4 (straddling the Order Land and the area to the South) comprising Plot H3 and Plot H7.
- (e) Phase 5 (straddling the Order Land and the area to the South) comprising Plots H6, H10, H11a, H11b, and Plot H13

7 THE JUSTIFICATION FOR COMPULSORY PURCHASE

The Need for the CPO

7.1 The Heygate Estate suffers from physical, economic and social problems typically associated with similar "system built" estates. The residential units within the Order Land are in a poor state of repair. Neither the existing buildings nor the services provided are adequately in line

with modern standards. It is considered that the step change required to secure a thriving and vibrant mixed inclusive community is dependant on the redevelopment of the Heygate Estate

- 7.2 Extensive consultation took place with local residents on the regeneration options from 2000 to 2012. The relocation of tenants and leaseholders has been achieved by agreement and only four residential leaseholders remain along, two commercial leaseholders and the Crossways Church. Further statutory consultation will take place as part of the planning process
- 7.3 The regeneration and redevelopment of the Elephant and Castle is an objective and aspiration of the Acquiring Authority that is supported in the Core Strategy and the SPD. It has cross party political support and is supported by the Greater London Authority. The Acquiring Authority considers the redevelopment of the Order Land will enable the Acquiring Authority to provide a new high quality sustainable development that will meet the future needs of the area. The development will attract new investment to the area and deliver significant benefits for the Borough's community in the medium to long term. In order to discharge its obligations under the RA the Acquiring Authority must obtain vacant possession of the Order Land and therefore needs the certainty of the compulsory purchase order to achieve this.
- 7.4 The Acquiring Authority has carried out all reasonable searches and preparatory work as a matter of diligent inquiry required to establish a full record of the interests in the Order Land.
- 7.5 Despite negotiations it has not been possible to reach agreement with four residential leaseholders, occupiers of the commercial units and the United Reformed Church. The position with these remaining occupiers is as follows:-

Residential Leaseholders

- 7.6 Acquiring Authority officers have been successful in working with leaseholders on the Order Land since 2004 in order to acquire their interests by agreement. All but four residential properties have been acquired. To assist owner/occupier leaseholders an enhanced re-housing package has been made available. In addition to rehousing officers have encouraged and assisted resident homeowners to explore other rehousing, opportunities such as shared ownership and purchasing replacement homes.

63 Marston

- 7.6.1 Following negotiations with the surveyor, principal purchase terms were agreed on 5 December 2011 and the surveyor advised that these were approved by their client.
- 7.6.2 However, no action appears to have been taken by the leaseholder such as instructing a lawyer to effect that agreement, although the Acquiring Authority wrote requesting this information on a number of occasions. As a result, the Acquiring Authority

concluded on 17 April 2012 that there was no real agreement with the leaseholder and that negotiations have not enabled an amicable settlement to be reached.

49 Cuddington

7.6.3 Following negotiations, principal purchase terms were agreed on 5 December 2011

7.6.4 However, no action appears to have been taken by the leaseholder such as instructing a lawyer to effect that agreement, although the Acquiring Authority wrote requesting this information on a number of occasions. As a result the Acquiring Authority concluded on 17 April 2012 that there was no real agreement and that negotiations have not enabled an amicable settlement to be reached.

21 Cuddington

7.6.5 The property was inspected in the autumn of 2004 and proposed terms for the purchase of the leasehold interest were issued on 26 October 2004. In February 2008, the Acquiring Authority requested in writing the opportunity to inspect the property for valuation purposes. In July 2008 a response was that advised the leaseholders were now living in Sidcup. The Acquiring Authority was subsequently able to inspect the property and an offer was made on 23 September 2008. Following a period of discussion, principal terms for the Council's purchase were agreed in February 2009. The parties then instructed their respective lawyers.

7.6.6 The completion of the purchase was scheduled to take place on 5 June 2009 however the leaseholders advised on the morning of completion they would not proceed with the contract. The leaseholders subsequently instructed a surveyor to negotiate on their behalf. Agreement on terms was reached with the surveyor in November 2009 however when these terms were recommended to the leaseholders they were not accepted and no more was heard from that surveyor.

7.6.7 In January 2010 the Acquiring Authority's surveyor spoke to the leaseholders' son. The son advised his parents intended to let the property. The Acquiring Authority's surveyor advised him that the leaseholders would be responsible for any unauthorised occupation that may take place and emphasised the Heygate Estate was vulnerable to such unauthorised occupation. This conversation was confirmed to the leaseholder's son by email. On 22 June 2010 the property was substantially damaged by fire. Between then and April 2011 no discussions around the Acquiring Authority's purchase of the property took place. In April 2011 another surveyor advised that she had been instructed to negotiate on the leaseholders' behalf. Following negotiations, principal purchase terms were agreed on 5 December 2011. However, no action appears to have been taken by

the leaseholders such as instructing a lawyer to effect that agreement, although the Acquiring Authority wrote requesting this information on a number of occasions.

49 Chearsley

7.6.8 The property was inspected in the autumn of 2007 and proposed terms for the purchase were issued on 3 December 2007.

7.6.9 Following negotiations between surveyors, principal purchase terms were agreed on 5 December 2011 subject to alternative housing being provided for the leaseholders. A letter dated 7 December sets out the leaseholder's demands in this regard. These are extensive and effectively require rehousing in a more desirable dwelling than the subject property. In order to reach a solution the Acquiring Authority has tried to assist in this connection. The leaseholders' demands in rehousing terms are extremely onerous and as a result, few properties that become vacant in the Borough are likely to come close to meeting their criteria. The leaseholders are currently considering purchasing a share in a nearby vacant house.

Commercial Occupiers

7.7 There is a block of commercial units (Centre Building) in Brandon Street which is part occupied and part vacant. Where units are occupied, they have been included within the Order Land to ensure certainty in achieving the requirement for vacant possession under the RA but the intention is that the Acquiring Authority will not need to implement the Order in respect of these units. Instead the Acquiring Authority intends to determine these leases when they expire, or by the exercise of termination provisions, or where appropriate by the exercise of its powers under the Landlord and Tenant Act 1954 ("the 1954 Act").

7.8 Units 19A and 19B of the commercial units in Brandon Street are let on 20 year leases and are occupied. The leases for these units expire on 1 November 2013 and 21 January 2014 respectively. Possession of these properties is not needed until after the expiry of the contractual term of the leases. It is the Acquiring Authority's intention to determine these leases by exercise of powers under the 1954 Act.

7.9 Units 5, 7-9 and 15 are let on a lease contracted out of the security of tenure provisions of the 1954 Act that expired in 2006 but has not been terminated. The tenant is not in occupation but the units are currently occupied by community groups by way of monthly agreements. It is the Council's intention to terminate the 2006 year lease in time to enable possession of the units to be achieved ahead of the intended demolition of Centre Building.

7.10 Unit 11 is let on a lease that is contracted out of the security of tenure provisions of the 1954 Act and which will expire on 16 September 2012. It is currently occupied by an under tenant. The Council will follow the same possession strategy as for the units in 7.9.

- 7.11 Unit 13 is let on a tenancy at will which can be brought to an end at any time. The Council will follow the same possession strategy as for the units in 7.9.
- 7.12 Unit 17 is occupied by an undertenant. The lease of this property expired in 2006 but has not yet been terminated. This underlease can be terminated on a month's notice. The Council will follow the same possession strategy as for the units in 7.9.
- 7.13 Units 21/23 are occupied on a lease that will expire on 16 December 2012 and is contracted out of the security of tenure provisions of the 1954 Act. The Council will follow the same possession strategy as for the units in 7.9.

Freehold Interest - United Reformed Church

- 7.14 Discussions have taken place with the church since 2006 and the Church is supportive of the regeneration in principle but wish to retain a presence in the immediate area. The Acquiring Authority and the Church have agreed in principle to a site within the immediate locality that is potentially suitable for the relocation of the current facility and the parties are working together to establish the feasibility of this proposal.

11 Risborough

- 7.15 One of the leasehold properties on the Order Land, 11 Risborough, was purchased by the Acquiring Authority on 12 January 2009. The leaseholder was a company called Euro Arrow Limited. The property was subject to a business loan, the redemption fee for which is the subject of a protracted litigation brought by the owner of the property against the Council. The case has recently been listed for hearing on 13th & 14th August 2012. To date, the leaseholder's solicitors have not complied with directions set by the court, and solicitors for the Acquiring Authority have written to enquire whether they are still instructed by Euro Arrow. Once the matter has been decided and the mortgage paid off, it will be possible to close the leasehold title and remove the reference to it on the Acquiring Authority's freehold title to the Order Land. It is included in the CPO to ensure that clean title is provided to Lend Lease under the Regeneration Agreement.

Ongoing Maintenance Costs and Risks

- 7.16 The cost of keeping the Estate open for the remaining residents are considerable. Some of the key ongoing costs are set out below:
- 7.16.1 Lighting costs – Lighting must be supplied for current residents on the estate. This includes keeping the internal areas and stairways within the Marston block lit for the one remaining occupied dwelling.

- 7.16.2 Cleaning costs - In addition to the costs of clearance of each dwelling when it becomes empty, the Acquiring Authority are incurring increasing costs because fly tippers are using the estate to dispose of household clearances, tyres and other household waste. This is now increasing on a regular weekly basis so the cost will increase until the site can be hoarded and secured.
- 7.16.3 Security Costs - Guarding and patrol services on the estate. There are also policing costs which although not a cost to the Acquiring Authority are a cost to the taxpayer.
- 7.16.4 Legal costs - officers have had to seek legal advice on matters such as squatters and trespassing.
- 7.16.5 Welding costs - As areas become more at risk to anti social behaviour the Acquiring Authority is continuing to incur welding costs to close off these areas, and it incurs further costs if it is necessary to open up areas to allow contractor access for example for the removal of the wind turbines on the roof areas.
- 7.16.6 Gallow gate installation – gallow gates have been installed throughout the Estate to close off areas.
- 7.17 These costs are continuing and significant. They can only be avoided by the CPO and subsequent hoarding of the Estate and demolition of the buildings.
- 7.18 The Estate is a very large area. As a consequence of the high level walkways there is very little visibility into the site and there are many areas within it where potential criminals could hide after committing crimes or drag victims to. While works to prepare the site for demolition are being undertaken the actual process of taking down buildings can only occur following confirmation of the CPO and when vacant possession has been achieved. In the meantime, from a public safety point of view the design of the estate raises particular challenges and risks that the Acquiring Authority has a duty as the landowner to consider.
- 7.19 The Acquiring Authority has considered information concerning incidents of crime and anti social behaviour provided by the Police. In addition incident reports are logged by the Housing Department from information supplied from both the community wardens and the private security company which undertakes night time and weekend patrols on the estate. In light of this information, the Acquiring Authority and emergency services have reviewed the security measures on the Estate to identify how these could be improved and this resulted in the identification of the following priorities;
- (a) Demolition of walls within the estate to improve sightlines and visibility for police patrols;
 - (b) Improving security team effectiveness
 - (c) Restricting access for potential victims unaware that the estate is now nearly empty.

- 7.20 This programme has been implemented. For example, a key access into the estate from New Kent Road has been closed following police advice. Since the closure of the route the Police have advised that incidents of recorded crime have significantly reduced. There remain routes open into the Estate and given the inherent design problems there remains a public safety risk which can only be addressed by securing the entire Heygate site north of Heygate Street. Vacant possession is required in order to achieve this.

Contribution to the promotion or improvement of the economic, social or environmental wellbeing of the area.

- 7.21 The Order Land includes a high concentration of relatively poor quality and unpopular social housing, the surrounding roads are characterised by heavy and frequently congested traffic flows and high levels of air pollution and the community, retail and leisure facilities are generally of poor quality. Despite a location on the edge of the city many local people remain marginalised from central London employment. Local schools have traditionally struggled to equip young people with the means to overcome the obstacles to a fuller participation in the central economy.
- 7.22 Housing on the Estate is of poor quality and the limitations of the public transport interchange are apparent to all that use them. The general environment is degraded by congestion, pollution, a lack of investment and an arrangement of monolithic land uses that is out of place in a city fringe location. The regeneration will transform an underused brownfield site into a highly accessible location and deliver a significant number of new homes (between 2300-2462). These homes will promote opportunity and real choice for residents in ways that meet their needs and the strategic objectives for London and the Acquiring Authority.
- 7.23 The wards closest to the Order Land have a lower proportion of residents working in skilled occupation than the Southwark and London average (50%). The proportion of residents claiming job seekers allowance (5.4%) is higher than the London Average of 4.4%. Much of the East Walworth ward in which the Estate is located is in the top 10% deprived areas in England. The rates of crime in East Walworth are higher than the averages for Southwark and for London as a whole the highest rates of crime being for theft and handling, violence against the person, drugs offences and robbery.
- 7.24 The central objective of the regeneration is to change the Elephant & Castle from an area of economic, social and environmental weakness to one of opportunity and success characterised by a well-trained, economically active population benefiting from a stronger local economy and fast and effective transport links to and from the rest of London.
- 7.25 The proposed regeneration's range of uses will result in a new mixed but inclusive residential population as well as employees and visitors to the Site. The proposed mix and layout of land

uses will provide active frontages at ground floor level and encourage activity at all times throughout the day. This will maximise natural surveillance, thereby reducing the opportunity for crime and improving perceptions of safety. The regeneration will provide pedestrian routes through the Site which will open it up improving access and permeability. This will help to ensure a safe environment for pedestrians. The regeneration will play a substantial role in meeting the borough wide housing targets and those of the Heygate Street Character Area as defined in the draft SPD / OAPF. Such a quantity and quality of housing delivery will not be possible through the refurbishment of the existing Estate.

7.26 The regeneration includes a significant level of open space and play space provision. This includes the provision of a new publically accessible space, the park which will provide new open space for the residents of the regenerated area and the community of the wider Elephant and Castle Opportunity Area.

7.27 It is estimated that the regeneration will generate in the region of 1,080 construction jobs during the thirteen year demolition and construction programme. The regeneration will inevitably generate additional employment via the provision of various commercial land uses including office, retail, community and leisure floor space. Such land uses have the potential to create up to a maximum of 1,255 jobs on-site depending on the final end use of the commercial space which will be determined via future reserved matters applications.

7.28 The provision of retail uses within the regeneration will not only assist in increasing the level of expenditure locally but will also improve the local retail offer without diverting significant trade from other nearby retail centres. The new residential population and new employees on the Heygate regeneration has the potential to contribute £36.1 million annually to the economy local area.

8 THE PLANNING POLICY POSITION

The London Plan 2011

8.1 The London Plan sets out the Mayor's objectives and policies for London. His objectives include ensuring that the city meets the challenges of economic and population growth in ways that ensure a sustainable, good and improving quality of life and sufficient high quality homes and neighbourhoods for Londoners.

8.2 Of particular relevance to the Elephant and Castle, London Plan **Policy 2.14** emphasises that within the Areas of Regeneration, which includes the Heygate Estate and the Order Land, the Mayor will work with strategic partners to achieve their sustained renewal.

- 8.3 **Policy 3.8** indicates that Londoners should have a choice of homes that they can afford and which meet their requirements for different sizes and types of dwellings. **Policy 3.9** provides support for building mixed and balanced communities which include a range of dwelling types and tenures. **Policy 3.14** advises that loss of housing, including affordable housing, should be resisted unless the housing is replaced at existing or higher densities with at least equivalent floorspace.
- 8.4 Southwark's Local Development Framework is consistent with these policies. The Mayor has formally confirmed that Southwark's Core Strategy and the SPD, which in particular demonstrates how London Plan **Policy 3.14** is met, are in general conformity with the London Plan.
- 8.5 London Plan Table A1.1 Opportunity Areas identifies Elephant and Castle as an Opportunity Area with an indicative employment capacity of 5,000 and sets the minimum number of new homes to be delivered within the opportunity area at 4,000. The text states:
- "The Area is undergoing major transformation with significant investment in housing and potential for new retail provision integrated with a more efficient and attractive transport interchange. There is scope to create a series of connected public open spaces complemented by environmental and traffic management improvements. Resolution of these and rail related issues are crucial to the successful redevelopment of this southern gateway to central London."*
- 8.6 The proposed development is consistent with the objectives of the London Plan.

Local development framework

- 8.7 The redevelopment and regeneration of the Elephant and Castle is a primary objective of the Acquiring Authority and the Acquiring Authority adopted the Elephant and Castle SPD/ OAPF in March 2012. The Acquiring Authority's aspirations for both the Order Land and surrounding areas can be found in the following documents:
- The Core Strategy 2011
 - The Adopted Proposals Map 2011
 - Southwark Plan 2007
 - The Elephant and Castle SPD/OAPF 2012.

Core Strategy 2011

- 8.8 The Core Strategy provides the overarching planning framework for the Borough. It contains a vision and strategy for each area of the borough focusing development in growth areas one of

which is the Elephant and Castle Opportunity Area. The vision for Elephant and Castle states that the Acquiring Authority will use its land at the heart of the area to stimulate 440,000m² of new development with of up to 45,000m² new shopping and leisure floor space and 25,000-30,000m² of business floorspace. It sets a target of 4,000 new homes including affordable housing units achieved, by working with the local community, registered providers and developers. The regeneration of the Elephant and Castle Opportunity Area in which the Order Lands lie will also create a highly integrated and efficient public transport hub which will include an improved Northern line station, enhanced conditions for bus and rail users and an improved interchange between the various modes

- 8.9 The target for new homes in the Elephant and Castle Opportunity Area is reiterated in core strategy **Policy 5** (Providing new homes). The same policy indicates that residential density should generally be 650 to 1,100 habitable rooms per hectare.
- 8.10 Core strategy **Policy 6** states that across the Elephant and Castle Opportunity Area as a whole at least 35% of homes should be affordable (subject to financial viability). The policy also requires a minimum of 35% of new units to be privately owned. Core strategy Policy 7 requires mix of homes including provision of at least 10% of homes with three bedrooms or more.

The Adopted Proposals Map 2011

- 8.11 The Heygate Phase is designated as an Opportunity Area on the Adopted Proposals Map. As is noted above, this designation allows the provision of higher density housing, subject to high quality design. The Order Land falls within an allocated proposals site 39P on the Adopted Proposals Map.

The Elephant and Castle SPD/OAPF March 2012

- 8.12 The Elephant and Castle Supplementary Planning Document/Opportunity Area Planning Framework (SPD) sets out the Acquiring Authority's vision for the Elephant and Castle opportunity area. It provides a framework which will guide development over the next 15 years, ensuring that regeneration is coordinated and sustainable. This document comprises an SPD and an opportunity area planning framework (OAPF). The Acquiring Authority and Greater London Authority (GLA) worked closely on the preparation of the draft. Adopted by both Southwark and the Mayor, an agreed approach will help provide a robust basis on which forthcoming planning applications can be assessed
- 8.13 The Elephant and Castle opportunity area includes the Elephant and Castle junction and shopping centre, the Heygate estate (including the Order Land) , Walworth Road, the Pullens estate, West Square, St George's Circus, the Enterprise Quarter bounded by London Road, Borough Road and Newington Causeway and the Rockingham estate

8.14 The SPD provides guidance on:

- The mix of shops and other activities which will be provided
- The amount of new homes that may be built and their location
- The size and design of new buildings
- Public realm improvements
- The infrastructure needed to ensure that growth in the area can be accommodated sustainably, including improvements to public transport, open spaces, health facilities and schools.

8.15 Part 3 of the SPD reiterates the vision for the opportunity area which is established in the Core Strategy and the London Plan although it has been amended slightly to reflect the fact that there will no longer be a multi utility service company and that there may be lifts instead of escalators to improve the Northern Line. The vision is set out in below:

8.16 To help achieve the vision, the SPD sets out strategic objectives for the area. The objectives have informed the overarching policies in section 4 of the SPD. These provide general principles which apply to all development in the opportunity area. The opportunity area has been divided into nine character areas the Order Land is within the Heygate Street area and Section 5 of the SPD provides policies for this character area.

8.17 The strategy for the Heygate Street character Area is to:

- Use the redevelopment opportunity of the Heygate development site to create a vibrant new quarter at the heart of the Elephant and Castle.
- Provide around 3,000 new homes in the character area including approximately 2,500 homes through a phased development on the Heygate development site.
- Provide a range of retail opportunities including large format stores on Walworth Road and New Kent Road frontages and smaller affordable units on secondary routes, contributing to the objective of increasing the appeal of the Elephant and Castle and consolidating it as a major town centre.
- Provide a mix of business, leisure and community uses on the Heygate development site, contributing to creating a vibrant town centre.
- Ensure that development contributes to an improvement in public transport services.
- Provide strong links between the shopping centre and the Heygate site through opening arches in the railway viaduct.
- Introduce a choice of north-south and east-west routes through the Heygate site.
- Provide a market square and new public park in the heart of the Heygate site.
- Maximise the number of trees on the Heygate development site which can be retained.

- Promote built form of the highest quality on the Heygate estate and 50 New Kent Road development sites which contributes to creating a rich and diverse new neighbourhood and a sense of place.
- Enable interim uses of the Heygate development site which reduce blight while the redevelopment takes place, improve security and provide a resource for the local community.
- Provide a tall building at the northern end of Walworth Road which together with Strata helps define a gateway into the central area. Buildings on the Heygate estate and 50 New Kent Road development sites should help consolidate a cluster of tall buildings which takes advantage of excellent public transport services, contributes towards creating a neighbourhood of character and which manages the transition from the tallest point of the cluster down to lower scale development in the Brandon Street and Walworth Road character areas. The cluster of tall buildings must not harm heritage assets.
- Provide a district Combined Heat Plant/communal heating system for the Heygate development site which has the potential to link to the shopping centre, leisure centre and other external buildings where viable.

National Planning Policy Framework (NPPF)

8.18 The NPPF sets out the Government's planning policies for achieving sustainable development in England and the three dimensions to sustainable development including economic, social and environmental roles. The Heygate Scheme underlying the Order supports all three roles. At the heart of the NPPF is a presumption in favour of sustainable development. For decision making this means that local planning authorities should approve development proposals that accord with the development plan without delay.

8.19 The NPPF at paragraph 14 contains a presumption in favour of sustainable development which it states should be seen as a golden thread running through both plan-making and decision-taking. The proposed development will bring about strategic change and growth of a substantial brownfield site in a highly accessible location. It will deliver significant planning benefits, including a large number of new homes and jobs. This accords with the central theme of the NPPF which seeks sustainable growth.

8.20 The NPPF expands on the core land-use planning principles:

1. *be genuinely plan-led, empowering local people to shape their surroundings;*

The proposed development is consistent with up to date adopted planning policy for the Site which is consistent with the NPPF and has been developed following extensive consultation with the local community.

2. *not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;*

The proposed development has evolved following a comprehensive consultation process with elected representatives, Acquiring Authority Officers, key stakeholders and the local community as part of a collaborative exercise over a number of years.

3. *proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;*

The proposed development will deliver sustainable economic development within an identified Opportunity Area. The level of housing delivery is one of the most important benefits of the Proposals and will play a substantial role in meeting the borough wide housing targets, along the provision of additional retail, business community, and leisure floorspace.

4. *always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;*

The design of the proposed development is well considered following a rigorous review process and relates well to the Site's existing context and the overarching ambitions for the character area and wider Opportunity Area. Although the detailed design of the individual buildings is reserved, the Design Strategy Document submitted for approval as part of the application sets key guiding principles that will inform the future physical development of the Site when designed through subsequent reserved matters applications. It is therefore, anticipated that the requirement for high quality design can be secured through reserved matters approvals.

5. *take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;*

The Site is centrally located (Zone 1), large, accessible and underutilised and it presents an excellent opportunity to make an important contribution to sustainable mixed use place-making in the Elephant and Castle Opportunity Area and in London.

6. *support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including*

conservation of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);

The development aspires to achieve net zero carbon growth, by emitting no more carbon than the existing uses on Site, and includes a dedicated energy centre within development plot H12. The development would not increase flood risk on the Site or elsewhere beyond the Site boundary.

7. *contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;*

The site has been allocated in adopted planning policy for high density mixed use development in an urban area. The proposed development underlying the compulsory purchase order will enhance the natural environment through the introduction of a new park, open space, and proper estate management.

8. *encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;*

Redevelopment of this brownfield site will bring about strategic change and growth in a highly accessible location.

9. *promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage or food production);*

The development will deliver a mixed-use development with a large number of new high quality homes, set within a high quality designed environment which is served by a range of commercial, social and community uses that are well connected to public transport facilities.

10. *conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;*

The proposed development has been designed to respond positively in scale and mass to the existing townscape,

11. *actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable;*

The proposed development seeks to ensure that development achieves the highest possible intensity of use compatible with the local context, design principles and public transport accessibility and seek to deliver a scale of development which makes the most effective and efficient use of land. The Site has excellent levels of public transport accessibility and will significantly increase pedestrian and cycling permeability through the Site and contribute to improvements to public transport.

12. *take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.*

8.21 Annex 1 at paragraph 214 states that for 12 months from the date of publication, decision makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with the framework. It is the Acquiring Authority's view the Core Strategy and saved policies of the Southwark Plan are consistent with the NPPF and that no conflict arises.

8.22 The London Plan and the Core Strategy identify Elephant and Castle as an Opportunity Area and as one of the most suitable locations for accommodating major development and growth. The SPD/OAPF identifies the Heygate Estate as a key component of the wider vision for Elephant and Castle and acknowledges that development should include a range of uses. The proposed purpose of the compulsory purchase order will contribute significantly to the achievement of the promotion or improvement of the economic, social or environmental well being of the area.

8.23 Regeneration will bring about strategic change and growth of a substantial brownfield site in a highly accessible location. It will deliver significant planning benefits, including a large number of new homes and jobs. This accords with the central theme of policy which seeks sustainable growth.

8.24 The scheme underlying the Order is considered an appropriate response long overdue to the overarching objective of sustainable development in this location and will comprehensively regenerate the Heygate Estate and act as a catalyst for the future success of the Opportunity Area.

8.24.1 National planning policy promotes the regeneration of urban under-utilised brownfield sites and the delivery of mixed and balanced communities.

- 8.24.2 The delivery of significant new housing and economic growth is closely linked to realising the development potential of Opportunity Areas. The regional housing targets for London, as set out in the London Plan, are predicated on housing-led redevelopment and regeneration of the Opportunity Areas. Opportunity Areas are fundamental to the growth of London and key to achieving physical, social and economic regeneration.
- 8.24.3 A key priority and central theme of the Core Strategy is regeneration. The partnership between the Acquiring Authority and Lend Lease will achieve the comprehensive physical regeneration of this important Site and ensure wide reaching outcomes are achieved that are unlikely to happen through smaller scale intervention.
- 8.24.4 The application for the Proposals has been subject to extensive pre-application discussions over a period of almost a year. In the most general terms the application proposal is consistent with the provisions of the Development Plan (as set out in the saved Southwark Plan 7 the Southwark Core Strategy) and will meet the requirements of Proposal No 39P of the Proposals Map.
- 8.24.5 The proposal is in outline form only and all matters: access, appearance, landscaping, layout & scale are reserved. The Proposals will be phased over a 13 year period and there will be reserved matters applications to consider for each plot in detail in the future. The plans for which approval is sought are parameter plans which will secure maximum and minimum dimensions for plots and building envelopes. In addition, maximum and minimum floorspace figures for a range of other uses will be determined.
- 8.25 The application provides flexibility to enable it to meet demand and requirements throughout the development programme.
- 8.26 Accordingly whilst planning permission does not yet exist the principle of regeneration is firmly rooted in the development plan which is entirely consistent with the NPPF. Whilst there are a number of detailed matters which require further elaboration and justification there is no fundamental objection to the principles underlying current planning application.
- 8.27 Thus there is no impediment to the scheme proceeding once the CPO is confirmed and the necessary grant of outline consent has been issued. The Acquiring Authority is responsible for the demolition of the buildings on the Order Land pursuant to the RA and intends to do this as soon as the buildings are vacant following confirmation of the CPO.
- 8.28 For the above reasons, the Acquiring Authority believes that the principle of the regeneration of the Order Land contributes significantly to the achievement of the objective of the planning policy for the area.

9 IMPLEMENTATION OF THE PROPOSALS

- 9.1 The regeneration will be initiated by the discharge of the obligations in the RA. Implementation of the Proposals and demolition of the buildings within the Order Land will not be commenced unless the Order is confirmed.
- 9.2 The Acquiring Authority has selected development partner as a result of the EU procurement process and a planning application has been made.
- 9.3 The Acquiring Authority has funds to acquire the remaining interests and has agreed funding to demolish the buildings as soon as they are vacated following confirmation of the CPO. This also reduces the Acquiring Authority's risk associated with the Order Land being left with only very few occupiers scattered about the Order Land.
- 9.4 Lend Lease are committed to the whole development and will be funding the project through use of its own funds and borrowing. Options for partnering with third party investors including registered provider for affordable homes are also being explored to achieve best overall development outcome within the current programme. LL and the Acquiring Authority have also agreed to work together to identify sources of third party public sector funding available which may be of benefit to the development.
- 9.5 The Acquiring Authority is satisfied that there are no fundamental impediments to the implementation of the Heygate Scheme and that there is a reasonable prospect that the scheme is therefore likely to proceed if the Order is confirmed. There are no other alternative proposals for achieving the purpose for which the land is required.
- 9.6 For the reasons set out above there is considered to be a compelling case in the public interest to proceed with the Order to facilitate the comprehensive regeneration of the Elephant and Castle including the Heygate Phase.

10 SPECIAL CONSIDERATIONS

- 10.1 No part of the Order Land is within a conservation area and it does not include any listed buildings of scheduled ancient monuments
- 10.2 No part of the Order land comprises Green Belt, Metropolitan Open Land nor common land or open space within the meaning of Section 19 of the Acquisition of Land Act 1981.
- 10.3 The Order Land includes land used by statutory undertakers for the purposes of its undertaking.

11 ASSOCIATED ORDERS

- 11.1 The Proposals will require the closure and realignment of existing estate roads and high level walkways. If necessary, the Developer will apply for an order under section 247 of the Town and Country Planning Act 1990 to enable the closures.

12 HUMAN RIGHTS

- 12.1 Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with the European Convention on Human Rights (ECHR). Various Convention rights may be engaged in the process of making and considering the Order, including under Articles 6, 8 and Article 1 of the First Protocol. The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole". Both public and private interests are to be taken into account in the exercise of the Council's powers and duties as a local planning authority. Any interference with a Convention Right must be necessary and proportionate.
- 12.2 The Acquiring Authority has carefully considered the balance to be struck between individual rights and the wider public interest. The rights of owners of interests in the Order Land under the Human Rights Act 1998, in particular those contained within Article 8 of the Convention, which protects private and family life, home and correspondence have been taken into account by the Acquiring Authority in making the Order.. The redevelopment and regeneration of the Elephant and Castle area will secure significant environmental, social and economic benefits for the public. The regeneration of the Heygate Estate is considered to have benefits to not only the immediate community but also to the Borough as a whole in that it will act as a catalyst to further investment. The effect of the Order will be to dispossess persons of their rights in the Order Land. However, the Acquiring Authority considers that the advantages of regeneration substantially outweigh the disadvantages to those dispossessed. Accordingly, having taken these matters into the balance, it is considered that acquiring the Order Land by compulsory purchase will not constitute an unlawful interference with any of these rights. The interference with Convention rights is considered necessary to secure the long awaited regeneration and thus compliance with national regional and local planning policy.

Entitlement to a fair and public hearing.

- 12.3 Such rights require a fair and public hearing in the determination of a person's rights under Article 6. This includes property rights and can include opportunities to be heard in a consultation process. The statutory procedures taken with the right to object and the statutory challenge satisfy the requirements of article 6.

Rights to respect for private and family life and home

- 12.4 Such rights may be restricted if the infringement is in accordance with the law, has a legitimate aim and is fair and proportionate in the public interest (Article 8). It is considered that such interference as may occur as a result of the Order are in accordance with the law, pursue a legitimate aim and are proportionate having regard to the public interest in the Heygate Scheme referred to in this statement.

Peaceful Enjoyment of Possessions (including property)

- 12.5 This does not impair the right to enforce such laws as the State considers necessary to control the use of property in accordance with the general interest (Article 1 of the First Protocol). It is considered that the Order will strike a fair balance between the public interest in the implementation of the Scheme and those private rights that will be affected by the Order. It is also considered that the Order is proportionate as it is unlikely that the remaining property interests can be acquired by private treaty and compulsory purchase powers are necessary to enable the scheme to proceed. Compensation will be available under the statutory compensation code to those who have a legitimate claim arising from the exercise of compulsory purchase powers.

13 EQUALITIES

- 13.1 In making the Order the Acquiring Authority has also had regard to its public sector equality duty (PSED) under s.149 of the Equality Act 2010.
- 13.2 The PSED was as a relevant factor when the Acquiring Authority made its decision but the PSED does not impose a duty to achieve the outcomes in s.149. The PSED is only one factor that needs to be considered when making a decision and may be balanced against other relevant factors. The Acquiring Authority also took into account other relevant factors in respect of the decision, including financial resources and policy considerations. In appropriate cases, such countervailing factors may justify decisions which have an adverse impact on protected groups.
- 13.3 The Acquiring Authority has given consideration to all the protected characteristics in the Equality Act 2010 to ensure that any potential impacts of the proposed Order on these groups of people have been considered and where possible mitigated.

14 CONCLUSIONS

- 14.1 The Elephant and Castle must be regenerated and improved for the general benefit of those who will live in, work in or visit the area. The implementation of the Proposals will bring about a

long awaited transformation of the area by removal of the brutalist concrete buildings of the Heygate Estate. In order to achieve this, action is required, necessitating the compulsory purchase of the Order Land to facilitate the provision of a high quality mixed use sustainable neighbourhood that integrates with the surrounding area. Proceeding with the regeneration of the Elephant and Castle can only be achieved within a reasonable timescale by utilising compulsory acquisition powers. It is considered essential that compulsory purchase powers are now exercised in order to mitigate the significant risk of the overall regeneration being frustrated by the remaining owners and to remove the risks to the isolated occupiers remaining on the Order Land.

- 14.2 The compulsory purchase of the Order Land will be a catalyst for both the regeneration of the area in accordance with the terms of the Regeneration Agreement and for the wider Elephant and Castle Opportunity Area.
- 14.3 In order to give certainty to the Acquiring Authority's regeneration partner and to ensure that the Acquiring Authority is able to bring forward the development of many new homes on this site in accordance with the SPD, the Acquiring Authority has made a Compulsory Purchase Order for the Order Land.
- 14.4 The benefits to the community will be substantial, many of which will be regulated in the interests of the community as a whole through planning conditions and planning obligations to secure their delivery.
- 14.5 The compulsory purchase of the Order Land will be a major step towards achieving the Acquiring Authority's objectives for the E&C.
- 14.6 The Acquiring Authority is of the view that in pursuing this Order, it has carefully considered the balance to be struck between individual rights and the wider public interest. The use of compulsory acquisition is justified in order to secure the economic, social, physical and environmental regeneration and associated benefits that the proposals will bring.
- 14.7 Circular 06/2004 requires that a compulsory purchase order should only be made where "there is a compelling case in the public interest." Having considered the relevant policy guidance the Acquiring Authority is satisfied that there is a compelling need in the public interest for compulsory acquisition powers to be sought in order to secure the regeneration of the Order Land to deliver the economic, social and environmental improvement of the Heygate Estate and the wider area. The Acquiring Authority has therefore made the Order and would ask the Secretary of State to confirm the Order.

15 ADDITIONAL INFORMATION

- 15.1 The owners and tenants of the properties affected by the Order and any other interest persons who require information about the CPO process can contact:

Patrick McGreal
Principal Surveyor
Chief Executive Directorate
160 Tooley Street
London
SE1 2QH

patrick.mcgreale@southwark.gov.uk

Tel 020 7525 5626

- 15.2 Alternatively, those parties affected by the Order who wish to discuss legal matters should contact the Council's legal advisor:

Nicky Bradbury
Senior Planning Lawyer
160 Tooley Street
London
SE1 2QH

nicky.bradbury@southwark.gov.uk

Tel 020 7525 7247

- 15.3 Those parties affected by the Order who wish to discuss matters with the Council's partner should contact:

Peter Reay
Senior Development Manager
Lend Lease
20 Triton Street,
Regent's Place,
London NW1 3BF

peter.reay@lendlease.com

- 15.4 Additional Information is available on the Elephant and Castle website at www.elephantandcastle.org.uk

15.5 The Order, Order Map and Statement of Reasons

A copy of the Order, Order Map and this Statement of Reasons can be inspected at the Acquiring Authority's Offices, 160 Tooley Street London SE1 2QH between 9.30 am and 5pm on Mondays to Fridays.

16 LIST OF DOCUMENTS IN THE EVENT OF AN INQUIRY

In the event of a public inquiry, the Council would intend to refer to or put in evidence the following documents which are available for inspection at all reasonable hours at the Council's offices (see paragraph 15.3):

- 16.1 Compulsory Purchase Order, the schedule and the Order Map
- 16.2 National Planning Policy Framework 2012
- 16.3 ODPM Circular 06/04
- 16.4 London Plan 2011
- 16.5 Elephant and Castle SPD/OAPF 2012
- 16.6 Southwark Core Strategy 2011
- 16.7 Planning Application 12-AP-1092
- 16.8 Executive decision 23 July 2002 endorsing Fresh Start for the Elephant and Castle Development Project
- 16.9 Executive Decision 24 July 2007 approving selection of Lend Lease Europe as the Council's development partner.
- 16.10 Executive decision dated 9 February 2010 and minutes approving the making of the compulsory purchase order
- 16.11 Major Projects Board decision of 30 July 2007 and minutes approving the making of the compulsory purchase order
- 16.12 The Council reserves the right to introduce such additional documents as may be relevant to any public inquiry in respect of the Order and will endeavour to notify the public inquiry and any statutory third parties of any such documents as soon as possible prior to the opening of such public inquiry.

Appendices

1. Order Land (reduced from A2 to A3 size)
2. Regeneration Area Master plan
3. Heygate Phase with Order Land shown shaded pink
4. Location of Early Housing Sites
5. Elephant and Castle Opportunity Area with Heygate Estate shown
6. Planning Application Parameter Plans
7. Heygate Illustrative Masterplans
8. Indicative Phasing Plans