



**Cabinet**

**14 December 2009**

**Old Lilian Baylis Site**

Princes Ward

**Cabinet Portfolio:**

Cabinet Member for Housing and  
Regeneration: Councillor Lib Peck

**Report authorised by:**

Executive Director for Housing,  
Regeneration and Environment: Dorian  
Leatham

**Executive summary**

The council has drawn a conclusion to negotiations with the All Nations Centre (ANC) around transfer of the Old Lilian Baylis site. This paper seeks formal decommissioning of the approach endorsed at the March 2008 Cabinet meeting.

The report presents an interim way forward and explores a long term strategy for dealing with the site.

**Summary of financial implications**

The council has powers to agree a disposal of land at a value of up to £2m less than market value in the interests of delivering wellbeing. Any further discount necessitates referral to the Secretary of State for approval. The discount will be equivalent to the value of the community benefit the council perceives it will receive from the site's use. The offer proposed by ANC entailed a substantial discount below market value, which the council could not justify through demonstration of public benefit. Any new process should take into account assumptions around capital receipt within the council's Capital Programme.

The site requires substantial capital investment. The council has retained responsibilities for security and overheads for the property and has incurred and will continue to incur estimated annual overheads of £380,000 in relation to the Old Lilian Baylis buildings.

Pursuit of a maximised social and community outcomes approach is likely to be an overall capital cost to the council, i.e., the cost of development would be greater than any capital receipt. The overall capital gain to the council would be maximised if the site were disposed on the open market. A smaller overall capital gain is likely to be realised by delivery of the minimum outcomes and residential or commercial development of the remainder of the site, but this gain is likely to be less than the amount set out in the Capital Programme. Potentially, the overall capital gain might be greater if other sites in the area were included in the redevelopment process allowing for the reconfiguration

and consolidation of community outcomes on particular sites and realisation of the full development value of other sites.

### **Cabinet Recommendations**

That Cabinet:

- (1) Agree to the decommissioning of the ANC focused project.
- (2) Thank the working group of ANC, SAZ and Ethelred nursery that met for an eight month period to try to establish a viable way forward on the site.
- (3) Acknowledge the importance of the provision of community facilities in the heart of a very deprived ward.
- (4) Acknowledge the positive role that SAZ plays in the area and consider how their use of the site might be formalised by the provision of a lease or similar as detailed in paragraph 2.23.
- (5) Acknowledge the work done in drawing up a menu of community benefits that could be delivered from the site and to give Cabinet approval for officers to work up a further detailed business case for an appropriate development option which realises these benefits and is in the spirit of the vision statement articulated by the working group referred to at point 2.
- (6) Note that the listed building status conferred on the site restricts the scope for development and agree for officers to investigate how this might be addressed in order to enable suitable development options.
- (7) Note that there is a capital receipt expectation for the site which needs to be realised, alongside the minimisation of ongoing revenue costs to the council.

## Consultation

Name of consultee	Department or Organisation	Date sent	Date response received	Comments appear in report para:
<i>Internal</i>				
Dorian Leatham	Executive Director, HR&E (Interim)	24/11/09	30/11/09	Throughout
Jo Negrini	Divisional Director, R&E	24/11/09	26/11/09	Throughout
Mike Dickens	Legal Services	24/11/09	03/12/09	Section 4
Jon Williams	Divisional Director, Performance and Business Development	24/11/09	-	
Mike Suarez	Executive Director, Finance and Resources	1/12/09	1/12/09	Section 3
Frank Higgins	Corporate Finance	24/11/09	2/12/09	Summary, Section 3
Christian Fleming	Corporate Finance	24/11/09	25/11/09	FI Summary, 2.30, 3.5, 3.10
Anthony Wilkinson	HRE Finance	24/11/09	2/12/09	Summary, 2.15, 3.3 – 3.6, 3.9 – 3.10
Cllr Lib Peck	Cabinet Member for Housing and Regeneration	24/11/09	02/12/09	Summary and recommendations
Zbig Blonski	Head of Strategic Planning	24/11/09	25/11/09	2.4 – 2.9
Colm Lacey	Head of Physical Regeneration (interim)	24/11/09	25/11/09	throughout
Derek Prentice	Interim Head of Sport and Recreation, Cultural Services	24/11/09	-	
Paul Cooper	Assistant Director Housing Regeneration	24/11/09	25/11/09	no comment
Phil Langslow	Head of Business Growth and Enterprise	24/11/09	-	
Bernard Corless	Head of Adult Learning Services	24/11/09	25/11/09	2.26, 2.28
Leah Levane	Head of Active Communities	24/11/09		
John Readman	Divisional Director Community Learning	24.11.09	25/11/09	2.26
Tunde Ogbe	Valuation and Asset Management Services	24/11/09	26/11/09	no comment
Phyllis Dunipace	Executive Director, CYPS	24/11/09	30/11/09	Sect 2
Laura McFarlane	Head of Service, Community Children's Service. CYPS	24/11/09	25/11/09	2.26
Jon Armstrong	Head Of 2012 Cultural Activity	24/11/09	25/11/09	No comment
Christina Thompson	Finance / Resources	24/11/09		
Peter Jones	Divisional Director, Cultural Services	24/11/09	26/11/09	2.19
Carolyn Dwyer	Divisional Director, Public Realm	24/11/09		
Uzo Nwanze	Valuation and Asset Management Services	24/11/09	25/11/09	2.16
Dunni Komolafe	Head of Departmental Finance, CYPS	24/11/09	26/11/09	3.3
Mike Pocock	Director of Programmes, Building Schools for the Future	24/11/09	-	

## Report history

<b>Decision type:</b> Key decision [ 1 February 2009]		<b>Key decision: reason</b> <b>EITHER a) expenditure or savings of £500,000 or more</b> <input checked="" type="checkbox"/>	
		<b>OR/AND: b) proposal affects significantly two or more wards</b> <input type="checkbox"/>	
<b>Authorised by Cabinet member:</b>	<b>Date report drafted:</b>	<b>Date report sent:</b>	<b>Report deadline</b>
02.12.09	09	03.12.09	23.11.09
<b>Report no.:</b>	<b>Report author and contact for queries:</b>		
253/09-10	Adam Platts, Project Manager, Physical Regeneration 020 7926 2765 aplatts@lambeth.gov.uk		

**Background documents**

Review of Prince's Ward Investment strategy, Cabinet Report, 17 March 2008  
 Prince's Ward Investment Strategy, Cabinet Report, July 2007  
 Princes Ward Investment Strategy Cabinet Report, March 2007  
 Former Lilian Baylis School Cabinet Report and Development Brief, October 2007  
 Lambeth Unitary Development Plan, August 2007  
 PPG15 – Planning and the Historic Environment (September 1994)

**Appendices**

None

## **Old Lilian Baylis Site**

### **1. Context**

- 1.1. The Lilian Baylis school site is a complex of two and three storey buildings with open play areas set on a site of 2.3 hectares. The school opened in 1964 and the site ceased being used as school in 2005. The site is surrounded on three sides by the Ethelred Estate comprising five to eight storey public housing built in the 1960s. To the east there is a cluster of three 18-23 storey blocks. To the north-east, Lollard Street contains a small terrace of housing built around 1900, a park and a playground. The principal public frontage, vehicular access and parking for the site face Lollard Street. There is further pedestrian access roughly in the centre of the south-western boundary. The site is surrounded by brick walls and chain link fencing.
- 1.2. In June 2007 Cabinet resolved that the site was to be part of the self financing 'Princes Ward Investment Strategy' (PWIS), which brought together a number of council owned sites in Princes ward. In March 2008, Cabinet agreed to the disaggregation of the sites in PWIS and to take forward sites independently under the umbrella of an overarching "Future Kennington" regeneration programme. Cabinet also agreed to place ANC at the centre of any development at the site as a lead partner with security of tenure on an appropriate part of the site consistent with their needs.

### **2. Proposals and reasons**

#### **Decommissioning of the approach endorsed at March 2008 Cabinet.**

- 2.1. Over the past year the council have been seeking to secure a 'community hub' on the old Lilian Baylis site (OLB) with the following characteristics:
  - Retention of part of the site in Council ownership for the relocation of the Ethelred Nursery School and Children's Centre (ENCC)
  - Transfer of the remainder of the site to All Nations Centre (ANC) under a long lease and to achieve a target capital receipt
  - Conditions/covenants as part of the transfer to secure the delivery of agreed outcomes and to restrict the development of future housing on the site
- 2.2. Work was completed with All Nations Centre, the North Lambeth Sports Action Zone (SAZ), Ethelred Nursery and Children's Centre, Ward and Lead Members and Kate Hoey MP to develop plans and the Council and ANC have been in specific negotiations around the potential terms of transfer. Ultimately, the terms of the offers by ANC presented an unacceptable risk of challenge to the council and other elements of the proposed leasehold terms were also unacceptable in principle. The negotiation process was therefore brought to a conclusion. The decision not to progress negotiations with ANC does not prejudice or preclude ANC's involvement in alternative delivery arrangements.

#### **Planning context**

- 2.3. The school is listed grade II as being architectural or historic interest and is on the Heritage at Risk Register. Listing means that there is a general presumption

in favour of preservation and sympathetic adaptation. The council approved a development brief SPD for the site in October 2007 following extensive consultation. Amongst other things the development brief indicates that the preferred uses of the site are for housing and a mix of community, leisure and other uses serving local needs. Re-use of the buildings for educational purposes or other uses in the same use class (D1 – such as medical/health centre; day centre; day nursery; library; museums; art galleries; exhibition halls; non-residential education and training centres; place of worship and public halls) would not require planning permission. The development brief identified some potential for demolition of certain buildings on the site to which English Heritage did not object at the time of the consultation on the development brief. These are the sports hall; Gurney House; and the school caretaker's house.

- 2.4. The listing of buildings of this period is not without controversy and presents a number of problems and constraints in this instance. The listing applies to the whole site complex of some 23,000 sqm (2.3 ha) not just the individual buildings. This presents difficulties around disaggregation or partitioning of the site which creates challenges for defining viable uses and development models as well as improving the permeability and legibility of the neighbourhood as a whole. The buildings are also in a state of some disrepair.
- 2.5. Removal of the listed status (delisting) or securing listed building consent for demolition or part demolition and consent for redevelopment, whilst resulting in the loss of a building of recognised interest, would present a number of significant opportunities. To date the council have resisted pursuing the possible delisting of the site on the basis that there is little prospect of the Secretary of State agreeing. The council failed to stop the listing originally and no new evidence has been forthcoming to challenge the English Heritage assessment of the building's special interest.
- 2.6. Current Government guidance on listed buildings is contained in PPG15. Paragraph 3.17 states that "the Secretaries of State would not expect consent to be given for the demolition of any listed building without clear and convincing evidence that all reasonable efforts have been made to sustain existing uses or find viable new uses and that these efforts have failed or that redevelopment would produce substantial benefits for the community which would decisively outweigh the loss". Nor should consent be given "because redevelopment is economically more attractive than repair and re-use". The potential value of the cleared site is not a material consideration.
- 2.7. Paragraph 3.19 goes on to say that applications for Consent to demolish are subject to three specific tests. In summary these are:
  - the condition of the building, and the costs of repair;
  - the adequacy of efforts to retain it in use; and
  - the merits of alternative proposals for the site.
- 2.8. An application to demolish would not be entertained unless there was a proposal for a replacement building against which to contest it. However, "the architectural merits of the replacement buildings should not in themselves justify the demolition." (PPG15, paragraph 3.19(iii)).

- 2.9. While the buildings and site are owned by the Council, any application will be determined by the Government Office for London. If the Council disposes of the building English Heritage has a power of direction over the Local Planning Authority under Section 14 of the Planning (listed Building and Conservation Areas) Act 1990.
- 2.10. An application may still be submitted for demolition/part demolition and redevelopment of the site and which would be evaluated on its merits. To incorporate this possible scenario in the process, it is proposed that any relevant procurement process and subsequent development agreement incorporate an overage mechanism to allow for the council to share in any increase in value resulting from a comprehensive redevelopment.
- 2.11. Current uses of the site and the development undertaken by SAZ have not to date been subject of planning control and the planning position around continued use by current occupiers will need to be regularised. Given the scale and listed status of the site, this will entail a comprehensive application process.

### **Capital receipt and valuations**

- 2.12. The council's Capital Programme assumes a significant capital receipt for the site. The latest valuations commissioned by the council determine the current market value (taking into account the current condition of the buildings) though no detailed conditions survey has been completed. Valuers have also completed an updated market value for unrestricted use, i.e. as if the site were delisted.
- 2.13. The Council has powers to agree a disposal at a value of up to £2m less than market value in the interests of delivering wellbeing. Any further discount necessitates referral to the Secretary of State. The transfer of a council asset to any third sector organisations is likely to trigger the asset transfer process. The Council's adopted asset transfer policy and associated guidance stemming from the Quirk Review (DCLG, 2007) was adopted in June 2009. This sets out a process by which asset transfers can be undertaken and risks managed. Essentially, the benefits of the service provided by the organisation in receipt of an asset should outweigh the benefits that would have been secured by investment of the capital receipt in other services.

### **Current property Issues and ongoing costs**

- 2.14. The site requires substantial capital investment. The last costed conditions survey (undertaken in 2003) established that there was a backlog in maintenance costs of c£7.2m. Increasing this estimate by construction inflation and factoring in the likely further deterioration in the condition of the property, a capital investment of as much as £10m may be required to bring the buildings back into an acceptable condition.
- 2.15. The council has retained responsibilities for security and overheads for the property and has incurred and will continue to incur estimated annual overheads of £380,000 in relation to the Old Lilian Baylis buildings.

- 2.16. The site and buildings are insured as part of the council's building insurance contract which includes a regular programme of health and safety inspection. It is possible that future inspections will identify works which would need to be completed in order to ensure continuity of use and as a consequence may affect the Council's ability to maintain the continued insurance of the property.
- 2.17. The rates payable for the property in 2009 were £80,000 p.a.. Hitherto, this charge has not been made by the Rates Department as the property is listed and has been regarded as unoccupied. As existing uses have intensified, it is likely that rates will begin to be charged. Rates liability will fall on the council (CYPS) although under the terms of the licence the council can request that SAZ contribute a proportion for the part of the site used by SAZ.

### **Current activities on the site**

- 2.18. The Sport Action Zone (SAZ) has been operating on the OLB site since 2005, shortly after the site ceased to be used for educational purposes by Lambeth and before decisions had been reached on its future. A partnership involving SAZ, Positive Futures and other local community organisations delivers a wide and varied programme of activities for the local and wider community from the site including high quality sports facilities, open access ICT facilities, a multi-media centre and homework clubs.
- 2.19. Since 2005 SAZ have been successful in attracting considerable external investment (Nike, Barclays Spaces for Sports, Football Foundation) and voluntary investment which has helped to transform the complex into a successful community facility. SAZ is negotiating currently to bring in up to £4m of capital funding for a community basketball initiative, with an ambition to provide a basketball facility and venue of international standard. This success and impact of the Sport Action Zone has recently been independently evidenced by a detailed impact study and assessment by the New Economics Foundation of the 'social return on investment' which demonstrates that investment by SAZ generates more than a seven fold return in terms of social benefit (e.g. health, employment prospects, reduced crime etc). To invest further in the site, SAZ requires a reasonable length of security of tenure.
- 2.20. The Lambeth Sports and Recreation service uses the OLB site to deliver a range of community sport sessions that target priority groups, and healthy living sessions that teach people to exercise independently and safely. These include:
- Basketball:* The Lambeth community sports coach responsible for leading on and delivering basketball sessions across the borough provides basketball sessions for children and young people aged 8-16 years on Monday, Wednesday, Friday, and Saturday from 5-7pm. There are also basketball programmes that are run by this coach at LBOS during the school holidays.
- Tennis:* The community sports coach responsible for leading on and delivering tennis sessions across Lambeth provides a school tennis programme for children aged 7-9 years on Thursday from 11-1pm. The potential for establishing a disabled adult tennis programme at the site is also being explored.

*Football:* The Lambeth football development community sports coach is currently in the process of setting up football sessions for schools on Wednesday. The logistics and suitable times for these sessions are being investigated.

*Healthy Living Exercise Sessions:* Lambeth's healthy living team deliver health-related activities at the centre, including 2 weekly exercises on referral sessions of 1.5 hours in duration per session. This programme is predominantly for people with chronic health conditions that have been referred by their GP.

- 2.21. In addition to the occupation by SAZ, part of Lillian Baylis has been used by Metropolis Motorcycles for motorbike proficiency training.
- 2.22. The SAZ currently occupy the site under a 1 year rolling license to South Bank Employers' Group (at a fee of £60,000 pa). The licence fee has not been charged and this rent waiver should be regarded as in lieu of grant assistance. The SAZ itself is not a legal entity and contracts are entered into on its behalf by the South Bank Employers' Group (SBEG).
- 2.23. There is potential to formalise this arrangement by offering a temporary, full repairing lease to the existing occupiers (SBEG/SAZ), at an appropriate rent, to facilitate continued service provision from the site. The lease would be able to be terminated in the event of a redevelopment of the site in future. It should be noted that under this arrangement, SAZ/SBEG would be required to gain planning permission for existing uses and take on responsibilities around health and safety and insurance, maintenance, DDA compliance, security and rates and be subject to due diligence exercises.

#### **Potential outcomes from the site**

- 2.24 Negotiations with partners over the past year around activities on the site have been pursued in the context of an underlying objective of realising social and or community benefits in North Kennington consistent with the Sustainable Community Strategy. The project has sought to deliver a range of service outcomes around young people, sports, the arts and education. The current contribution of the SAZ towards these aims is noted.
- 2.25 Over the past month more detailed work has taken place across Council departments to specify the outcomes sought from the site, in particular with Cultural Services with view to a significant sports/leisure focus of activity on the site and with CYPS around education, young persons and play facilities, including provision for a new ENCC.
- 2.26 Key inputs into the outcome specification were also made by the Business Growth and Enterprise and Employment, Learning and Skills teams and key context was provided around Sustainability, Planning, Finance and Legal issues. The results are presented in the table below. The individual service areas have also provided financial modelling of the revenue implications to the council of delivery of their required outcomes.

Dept	Outcomes/outputs
CYPS	<p><i>Optimum</i></p> <ul style="list-style-type: none"> <li>• Suitable premises for the Ethelred Nursery school and Children’s Centre</li> <li>• Adventurous and challenging play area, available outside of school hours, incorporated with external outdoor sports areas on redeveloped site</li> <li>• Youth provision – access to internal spaces that can be used in a flexible way, for activities to support the development of the themes and outcomes identified in the refreshed Youth Strategy.</li> <li>• Space that is for the exclusive use of young people, dimensions to be agreed following feasibility and needs analysis</li> </ul>
	<p><i>Minimum</i></p> <ul style="list-style-type: none"> <li>• Suitable premises for the Ethelred Nursery school and Children’s Centre</li> </ul>
ACS	<p><i>Optimum</i></p> <ul style="list-style-type: none"> <li>• The provision of a cultural ‘shared space’ that facilitates interaction, community cohesion, and inclusion through the delivery of sport sessions.</li> <li>• Delivery of a healthy living programme with participants demonstrating significant health improvements and fostering the ability to incorporate activity into their daily lives.</li> </ul>
	<p><i>Minimum</i></p> <ul style="list-style-type: none"> <li>• The provision of a cultural ‘shared space’ that facilitates interaction, community cohesion, and inclusion through the delivery of sport sessions.</li> <li>• Delivery of a healthy living programme with participants demonstrating significant health improvements and fostering the ability to incorporate activity into their daily lives.</li> </ul>
HRE	<p><i>Optimum</i></p> <ul style="list-style-type: none"> <li>• Employment, Learning and Skills package - provision meeting the needs of local communities with a focus on fitness and health, family learning and sustainability</li> <li>• An employment hub facility to address a broad range of barriers and bring support services closer to where people live</li> <li>• Adult Skills for Life provision</li> <li>• Self help activity space (multi purpose flexible community space) to enable local people to organise community led club-type activities</li> <li>• Business Growth and enterprise - flexible small business space</li> </ul>
	<p><i>Minimum</i></p> <p>n/a</p>

2.27 There has also been consideration of use of the OLB site for educational purposes beyond the nursery and children's centre provision. Whilst there is not

an immediate identified need for use of the site for education purposes in the short term, there may be a need in the medium term for primary school places provision.

### **Spatial and financial modelling**

- 2.28 Different levels of outcomes on the site have recently been subject to spatial and financial modelling, looking at how outcomes would be accommodated on the site, what other value generating (eg commercial or residential) development would be possible, estimated development costs and impact on likely capital receipt to the council.
- 2.29 Options which deliver maximum service specification outcomes and offer scope for only limited commercial or residential development are likely to present a significant capital cost to the council (i.e. the costs of development exceeds the expected receipt from sale). There are also long term revenue implications to the council of delivery of optimum service outcomes from the site and risks around the potential failure of commissioned organisations to deliver the required outcomes, or to meet the costs of service delivery.
- 2.30 Options which deliver minimum outcomes and offer scope for other development are likely to present opportunities for an overall capital gain to the council (i.e. the expected receipt from sale exceeds the costs of development). As above, there are also long term revenue implications to the council of delivery of service outcomes from the site and risks around the potential failure of commissioned organisations to deliver the required outcomes.
- 2.31 Disposal of the site for maximum value would present a significant net capital gain to the council (i.e. the expected receipt from sale exceeds the costs of development exceeds) but this needs to be balanced against the loss of the opportunity to drive regeneration and secure community benefits on the last remaining council owned major site in the north of the borough, the loss of services provided locally by SAZ and the potential future inward investment SAZ might secure.
- 2.32 There are a number of other council assets the area, including Lollard St Adventure playground, Beaufoy Institute , Ethelred Youth Club and Kerrin Point. It should be noted that these sites present an opportunity for reconfiguration, relocation and consolidation of community outcomes on particular sites and the attendant realisation of the full development value of other sites.

### **Next steps**

- 2.33 On confirmation of a new direction of delivery for the site by Cabinet, officers will complete an action plan and business case, including detailed financial and risk analysis, to be reported to a future Cabinet meeting for approval in advance of implementation. Work would also proceed immediately to ensure the ongoing provision of social outcomes from the site, including discussions with SAZ/SBEG regarding tenure.

### **3 Comments from Executive Director of Finance and Resources**

- 3.1 The offer proposed by ANC entailed a substantial discount below market value, which the council could not justify through demonstration of public benefit.
- 3.2 The council has powers to agree a disposal at a value of up to £2m less than market value in the interests of delivering wellbeing. Any further discount necessitates referral to the Secretary of State. The discount will be equivalent to the value of the community benefit the council perceives it will receive from the site's use. From a value for money perspective the sale price plus the appropriate discount should be at least equal to the market value.
- 3.3 The costs of developing a detailed business case will be met from existing budgets within Physical Regeneration.
- 3.4 The site requires substantial capital investment and the council has retained responsibilities for security and overheads for the property and has incurred estimated annual costs of £380,000 in maintenance, security, rates and utilities. A proportion of the rates and the utilities costs could be apportioned to user of the site and this is expected to be on the agenda in the discussions over a temporary lease. All these costs are currently paid for by CYPs although they do not hold a budget to cover them. A growth bid has been submitted for £290,000 to cover costs of vacant buildings which includes Old Lilian Baylis, however the growth bid is not as yet agreed. Any unbudgeted expenditure which remains after a lease has been agreed will be addressed through the service and financial planning and budgeting process.
- 3.5 The process of developing a detailed business case should take into account the assumptions around capital receipt within the council's Capital Programme. As an amount is already factored in to the Capital Programme, any reduction to the receipt would need to be agreed with Corporate Finance in order that the competing priorities of the capital programme are addressed.
- 3.6 There is no budget identified to provide the circa £10m which has been estimated as the amount required to bring the buildings into acceptable condition. It is unlikely that this could be found from council funds in the current climate in the near future.
- 3.7 Recent financial and spatial modelling shows that the delivery of maximum service specification outcomes are likely to present a significant overall capital cost to the council (i.e. the costs of development exceeds the expected receipt from sale). Delivery of minimum outcomes are likely to offer scope for overall capital gain to the council but the receipt (i.e. capital receipt minus development costs) may fall short of the amount set out in the council's Capital Programme.
- 3.8 Potentially, the overall capital gain might be greater if other sites in the area were included in the redevelopment process allowing for the reconfiguration and consolidation of community outcomes on particular sites and realisation of the full development value of other sites. The overall capital gain to the council would be maximised if the site were disposed on the open market.
- 3.9 Further approvals from Cabinet will be sought before taking a scheme forward. Initial costs of taking a scheme forward would include professional fees and project staff costs. These project costs would be kept to a minimum to increase the opportunities to produce a financially viable project.

3.10 The estimates of revenue cost used to inform the assessment of revenue implications of different levels of outcomes are to be provided by the service departments and based on existing departmental expenditure profiles being maintained.

#### **4. Comments from Director of Legal and Democratic Services**

4.1 Local Authorities have powers pursuant to section 123 of the Local Government Act 1972 to dispose of land held by them in any manner they wish. However they can not dispose of land, except by way of a short tenancy for consideration less than the best that can reasonably be obtained without consent from the Secretary of State.

4.2 The Secretary of State has issued a general consent. The 2003 consent permits local authorities to dispose of land held by them at less than best consideration where the:

- a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
  - i) The promotion or improvement of economic well-being
  - ii) The promotion or improvement of social well-being;
  - iii) the promotion or improvement of environmental well-being; and

b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).

4.3 A council may not dispose of any land consisting or forming part of an open space unless before disposing of the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them. Under s336 of the Town and Country Planning Act "Open Space" is defined as including any land used for public recreation.

4.4 The Ethelred Youth Club is designated in the adopted UDP as open space (under the Parks designation). The expectation would be that if the youth club is removed from the site that it should become available for open space or a use ancillary to the open space use.

4.5 Paragraph 2 and 5 of Schedule 35A of the Education Act 1996 states that the Council would have to obtain the consent of the Secretary of State to sell land which "at any time in the period of eight years ending with the day on which the disposal is proposed to be made, entered into or granted, the land was used wholly or mainly for the purposes of a county school or community school" or for any appropriation under section 122 of the Local Government Act 1972.

4.6 Under paragraph 7 of Schedule 35A of the Education Act 1996 the Council has a duty to inform the Secretary of State if, under the same terms as set out in

paragraph 4.5 above, it intended to change the use of the land to the extent that it would cease to be capable of use mainly or wholly as a school. There is also a requirement to obtain the consent of the Secretary of State in relation to the change of use of “hard” playing areas of the site.

- 4.7 Section 77 of the Schools Standards and Framework Act 1998 (SSFA) protects school playing fields used by maintained schools in the last ten years. Local authorities, school governing bodies and foundation bodies, now need to obtain the Secretary of State’s consent before they dispose, or change the use, of school playing fields. The Secretary of State’s consent is normally sought before application is made for planning permission.
- 4.8 Section 77(4) provides that changes of use by a local authority are not covered by section 77 where the land in question, after the change in use, becomes used: ‘in connection with the provision by a local authority of educational facilities for a maintained school or any recreational facilities.’
- 4.9 There are a number of general consents, including use of the land in pre-school education, childcare, continued use as playing fields, land swap for alternative playing fields and temporary school use, however, it does not obviate the need to obtain the Secretary of State’s consent under Schedule 35B of the Education Act 1996 if that playing field has been used wholly or mainly for the purposes of a community or county school since 28 July 1995.
- 4.10 The effect of The Education (School Premises) Regulations 1999 is that, while changes of use may be made in this way to playing fields in excess of the minimum area prescribed for team games in the Regulations, nothing may be done to reduce the team game playing fields to a size below that which is prescribed. This is so unless a relaxation of the minimum area standard has been secured from the Secretary of State under section 543 of the Education Act 1996, as amended by paragraph 159 of Schedule 30 to the SSFA.
- 4.11 The Secretary of State expects, therefore, all applications for consent under section 77 to dispose, or to change the use, of school playing fields to detail exactly the existing community use of those fields. The question of potential additional future community use falls within the remit of Sport England and would be addressed during any planning process.
- 4.12 In the case of closed schools, where the site is sold the Secretary of State will normally expect any proceeds arising to be re-invested firstly in enhancing or improving sports facilities at other school sites in line with any local sports strategy plan. Otherwise, any proceeds should be used to meet educational priorities identified in Asset Management Plans for other schools in the authority’s local area or as prioritised in the local School Organisation or Development Plans.
- 4.13 In summary, if the Council wished to change the use of the land at the old Lillian Baylis site and that change involved the appropriation of the land for another purpose or that it meant that the land could no longer be used as a school the Council would need the consent of the Secretary of State. Where there is a change of use for the play areas of the site, if there are any (e.g. land in the open air, games courts, hard paving marked out for games etc.), the Council would need to consult

with the community users of the site and obtain the consent of the Secretary of State if not already in place.

## 5 Results of consultation

- 5.1 Previous consultations have demonstrated a broad consensus around community benefits and support for a vision to create a vibrant community hub that is inter-generational and inclusive with activities based around sports, health, arts and culture, community activities, education, childcare and the environment.
- 5.2 This 2007 development brief was informed by a consultation with local residents which found:
- *80% of respondents wanted to see Old Lilian Baylis reused.*
  - *47% supported leisure development.*
  - *36% prioritised community use.*
  - *31% prioritised housing*
- These were followed in descending popularity by facilities and services for education, health and employment.
- 5.3 The site presents some clear opportunities for strong future third sector involvement and a key priority will be to work in partnership with local people, groups and organisations. Ongoing liaison will take place with the Sports Action Zone in respect of their current interest as an occupier.

## 6 Organisational implications

### Risk management:

6.1 Key risks are around:

- Balancing the capital receipt and outcomes sought from the site and potential failure to meet capital programme expectations
- A potential missed opportunity to deliver community benefits and to drive regeneration on last remaining Council owned site in the north of the borough
- Long term revenue implications to the Council of service outcomes from the site
- Community objections and reputational issues
- Failure to achieve a solution results in on going maintenance and security costs to council
- Failure of service providers to deliver required outcomes
- Inability of leaseholders to meet the requirements of occupancy around such as rent, health and safety, planning, security and maintenance
- Loss of service provided by SAZ and their potential inward investment

### Equalities impact assessment:

6.2 There is an ongoing Equalities Impact Assessment (EQIA) process covering the Old Lilian Baylis project. In line with the approach that the Physical Regeneration Department has agreed with corporate equalities, considerations will be widened to issues of social inclusion and community cohesion as well as race, disability,

gender, faith, sexual orientation and age. There will be a presentation on progress to the EQIA Panel every three months across the full range of Physical Regeneration team projects, including the Old Lilian Baylis project, to maximise the impact of the EQIA process through linking its lessons across projects and to corporate priorities.

**Community safety implications:**

6.3 Analysis of the community safety impact of redevelopment and reuse of the site will be undertaken and where appropriate it is proposed that all development will comply with the principles of Secure by Design (SBD) and, where appropriate, seek full SBD certification.

**Environmental implications:**

6.4 Environmental implications are a key consideration of the project development process.

6.5 Any proposals for the site will need to comply with the Councils policies set out in the adopted UDP in particular policy 34 Renewable Energy in a Major development and 35 Sustainable Design and Construction Environmental. The approved Sustainable Design and Construction SPD will provide guidance for the preparation of proposals for this site. It explains and provides further guidance to the interpretation and application of Lambeth UDP policies, the London Plan and relevant Government policies. It will be a material consideration in the determination of a planning application for this site.

**Staffing and accommodation implications:**

6.6 None at this stage.

**Any other implications:**

6.7 None at this stage.

**7 Timetable for implementation**

7.1 The overall timescales for the approach is dependent on the direction of delivery. As a general guide, an approach to translate desired outcomes into procurement and commissioning documentation, commissioning of service providers and the procurement of a development partner is likely to take approximately 12-18 months. Similarly, a process of disposal of all or part of the site though to completion, including the conclusion of attendant legal work, is likely to take 9-12 months. Work to agree heads of terms for a shorter term lease of the site is likely to take 3-6 months.