

<b>Committee:</b> Strategic Development	<b>Date:</b> 10 <sup>th</sup> May 2007	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b> 8
<b>Report of:</b> Corporate Director of Development and Renewal		<b>Title:</b> Bishops Square s106 Planning Obligations Allocation for Decision	
<b>Case Officer:</b> David Williams, Development Manager		<b>Ref No:</b>	
		<b>Ward(s):</b> Spitalfields and Banglatown; Weavers	

## 1. SUMMARY

1.1 The Bishops Square Development, which was completed in 2005, generated an £8,580,377 section 106 financial contribution to be spent in accordance with the legal obligations detailed in the section 106 Agreement.

1.2 This report provides:

- Details of the Bishops Square development and section 106 Agreement;
- Sets out the processes the Council Officers have used to reach the recommendations made in this report;
- The Council Officer Planning Contributions Overview Panel (PCOP) recommended list of projects for the section 106 monies; and
- A Plan detailing the proposed s106 expenditure boundary to support the Deed of Variation needed to enable resources to support projects outside the original s106 defined area.

## 2. RECOMMENDATIONS

- 2.1 That the Committee resolve to **approve** the **attached project list**, Appendix 1;
- 2.2 That the Committee agree to the Boundary extension indicated to enable resources to support projects recommended by PCOP which are outside the original s106 boundary. As shown on attached Plan 1.
- 2.3 That the Committee endorse officers to complete the negotiation of a Deed of Variation to the existing s106 legal agreement, to the satisfaction of the Chief Legal Officer, to secure the boundary extension and any other variations required to allow allocation in line with the project list and subsequent re-allocations.
- 2.4 That the Corporate Director of Development and Renewal be authorised to amend project allocations and/or identify new projects, in relation to issues such as the following:
- the re-allocation of any outstanding funds or resources not able to be spent if the intended s106 variation cannot be agreed;
  - additional boundary changes to secure the Deed of Variation negotiations;
  - any re-allocation if projects cannot ultimately go-ahead; and
  - allocation of any additionally accumulated interest.

---

**LOCAL GOVERNMENT ACT 2000 (Section 97)**  
**LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THIS REPORT**

Brief Description of background papers:      Tick if copy supplied for register

Name and telephone no. of holder:

Application, plans, adopted UDP. draft  
LDF and London Plan

Simon Ryan  
020 7364 2663

### **3. BACKGROUND**

- 3.1 An application for planning permission was made on 5<sup>th</sup> March 2002 and amended on 10<sup>th</sup> July 2002 for the development of the Bishops Square Development over land between Brushfield Street, Elder Gardens and Bishopsgate including the site of the 1928 extension to the former Spitalfields Market, London, E1. The mixed-use development comprises primarily of office and retail uses and is referenced by the Council as PA/02/00299.
- 3.2 On 9<sup>th</sup> October 2002, the application for Planning Permission was granted for the development of Bishops Square, subject to the making of a section 106 Agreement and various conditions. The section 106 Agreement for this development was later signed on 19<sup>th</sup> November 2002, detailing various planning obligations, including a financial contribution from Spitalfields Developments Limited (the Developers) towards 'Local Community Improvements' totalling £8,580,337. The Developer is also obliged to pay an initial sum of £350,000 towards Environmental Improvements in Brushfield Street and other highways adjoining the development site, subject to pre-conditions specified in the legal agreement.
- 3.3 In accordance with clause 9 of the section 106 Agreement dated 19<sup>th</sup> November 2002, the 'Local Community Improvements' financial contribution is to go towards:

*'the promotion of projects for the economic and social benefit of the local community in accordance with:*

- (a) the relevant provisions of the development plan applicable in the London Borough of Tower Hamlets at the relevant time; and*
- (b) any relevant planning policy guidance circular or advice issued by the Government.*

*And such projects may include training and employment initiatives and community improvement schemes to ensure that the community does not suffer loss as a result of the implementation of the Bishops Square Planning Permission and environmental improvement in the immediate locality of the Site and the adjoining conservation areas namely the **Elder Street** Conservation Area the **Fournier Street** Conservation Area the **Artillery Passage** Conservation Area and the **Middlesex Street** Conservation Area.'* (See Plan 1 attached at Appendix 2 which shows the original Bishops Square section 106 boundary area as identified through the section 106 Agreement).

### **4. PROJECT IDENTIFICATION**

- 4.1 The Council received the financial contribution of £8,580,377 on 28<sup>th</sup> July 2005 which initiated the project.
- 4.2 This is not a usual s106 agreement as specific projects have not been identified within the obligations. Therefore, the actual improvements which are to utilise the resources need to be identified by the Council at the relevant time in accordance with the relevant planning policy context.

#### **Bishops Square PCOP Sub-group**

- 4.3 As specific impacts have not been identified, it was necessary to structure the approach to project identification. Therefore, Officers worked, as is appropriate, through the PCOP chaired by the Corporate Director of Development and Renewal. The Bishops Square sub-group was established to enable a more focussed discussion to take place with all represented service areas, including the full involvement of the Local Area Partnership (LAP) Area Director.

## Policy Context

- 4.4 This has proved to be a lengthy process, especially as the planning policy context for the Borough has been changing throughout this time with the appearance of the new Local Development Framework (LDF) and in particular the City Fringe Area Action Plan Submission document (Nov 06). The projects attached as Appendix 1 have been identified through this process. All projects had to provide detailed Project Initiation Documents (PIDs) explaining the project, how much money they needed, what for, a business case for the project, how they meet Corporate strategies which have been consulted upon, how they will be managed, other funding if appropriate, a risk assessment and a programme for delivery.
- 4.5 Some of these projects, reflecting service area priorities as of now actually fall outside the original section 106 boundary area. Discussions with the developers are taking place to agree to a Deed of Variation to the s106 agreement to extend the boundaries so that all projects can be funded.
- 4.6 From the start it was suggested that an overall theme or vision to guide consideration of presented projects was needed.
- 4.7 The London Plan (Feb 2004) is not too specific on planning obligations but policy 6A.4 does identify that boroughs should reflect the policies of the plan as well as needs in their policies for planning obligations. The allocation of resources secured prior to the London Plan is perhaps not a matter that should be too concerned with the London Plan; nevertheless the projects identified do meet the Mayor's priorities for things such as learning and skills.
- 4.8 The sub-group determined that the vision laid out in the City Fringe Area Action Plan Submission Document (Nov 06) would be most appropriate as this directly related back to the requirements of the section 106 clause. The vision is identified below:

*"In 2016, the City Fringe will be a dynamic, vital urban district made up of a well-connected network of distinct and diverse neighbourhoods, a variety of employment opportunities, and more usable and well-connected open space. Building on the existing character, range of uses and diversity of the City Fringe, the future vision is for an area with:*

- *A vibrant character based on a mix of fine grain built environment and larger scale modern offices and homes celebrating the multi-cultural diversity of local communities;*
- *Strong small business sectors, building on existing clusters of creative and cultural sectors;*
- *Continuing expansion of global financial and business centre functions from the City to Tower Gateway, Aldgate, St Katharine Docks and Bishopsgate which contribute to the economic strength of London in the global economy;*
- *High quality, sustainable development which respects the historic and sensitive townscape of the area, while introducing distinctive world class architecture and public realm;*
- *A flourishing evening and night-time economy and tourism sector based on managed clusters of activity in the key accessible locations of Brick Lane, Whitechapel, Tobacco Dock and St Katherine Docks;*
- *Innovative and well-connected public realm and open spaces; and*
- *Integrated cultural facilities with the new Ideas Store, the expanded Whitechapel Gallery, the Rich Mix Centre, the Old Truman's Brewery and greater use of public spaces for cultural events.*

*The policies, actions and implementation tools set out in the City Fringe Area Action Plan seek to facilitate the physical, social and environmental transformation of the area to ensure the vision becomes a reality."*

## **Selection Criteria**

- 4.9 It was also recognised that where possible to be consistent with the terms of clause 9 in the s106 agreement, the Bishops Square Sub-Group used the following criteria to consider projects:
- Projects must meet with the relevant requirements of existing planning policy including the 1998 UDP DEV4 Policy Criteria and the LDF Core Strategy and Development Control Submission Document (Nov 06) prominent policies include IM1 – Implementation, CP30 – Improving the quality and quantity of open space, CP42 – Streets for People, CP47 – Community Safety, CON2 – Conservation Areas, City Fringe Area Action Plan Submission document (2006) and the Consultation Draft Interim Planning Obligations Guidance (April 2005).
  - Meets the terms of the section 106 Agreement;
  - Contributes to the achievement of priorities as set out in the Strategic Plan and other publicly consulted service strategies;
- 4.10 To identify projects the Sub-Group undertook to consult internally all sections relevant to their service area, using the Community Plan and agreed policy and strategies as the guide. Project proposals were then discussed in sub-group meetings.
- 4.11 The Sub-Group met finally on the 29<sup>th</sup> March 2007 to finalise the list of projects, as attached in Appendix 1. It also agreed to include Project Management Fees totalling 5% of the total contribution to facilitate good programme and project management. This will ensure resources are available to support projects including providing contingency amounts over the anticipated 3 year life of the programme. This package was agreed, for recommendation to Members at the PCOP on 30<sup>th</sup> March 2007.

## **Boundary**

- 4.12 As mentioned above, some of the recommended projects, wholly or partially fall outside of the original boundary area. In order to support these projects the legal agreement will need a Deed of Variation to be agreed with the developers. This is agreed in principle with the developers although the necessary legal work needs to be completed. If this is not agreed then the resources towards those projects will need to be re-allocated.
- 4.13 Once projects are approved, the process for rolling out the projects will be as follows:
- Projects that have been approved and are in the original area will then be able to go forward to be programmed, the Project Initiation Documents (PIDs) which detail the project, its timing/funding and contacts, need to be finalised and then they can commence.
  - Projects within the additional area subject to variation will have to wait until the s106 variation is agreed and signed by all parties. This could take a few weeks to finalise.

## **Monitoring**

- 4.14 The programme will be closely monitored. Monitoring will take place through Development and Renewal's Programme Management Framework. This process will be scrutinised through the Bishop's Square Sub-Group (Project Board) which will meet quarterly. All monitoring activity will be reported to PCOP.
- 4.15 Where contingency sums have been allowed in project costs then project managers can manage variations in project cost up to 10% of project total budget. Where no contingency has been allowed then the Project Board will be responsible for allocation of resources to manage any variations up to 10%. Monies would come from the 5% programme

management resources available to support the delivery of the programme. For variations greater than 10% then they will be referred to the Corporate Director of Development and Renewal. All requests for additional resources will need to go through exception reporting procedures as part of the D&R programme management framework.

## **5. FINANCE COMMENTS**

- 5.1 This report outlines proposals for the utilisation of Section 106 contributions received in respect of the Bishops Square development. The contribution of £8,580,377 was received in July 2005 and is held in a separate earmarked account to be applied in accordance with the terms of the agreement.
- 5.2 Member approval is sought for the projects that have been recommended by the Officer Planning Contributions Overview Panel. These are shown in Appendix 1.
- 5.3 All expenditure on the proposed projects will be met from within the Section 106 funds received.

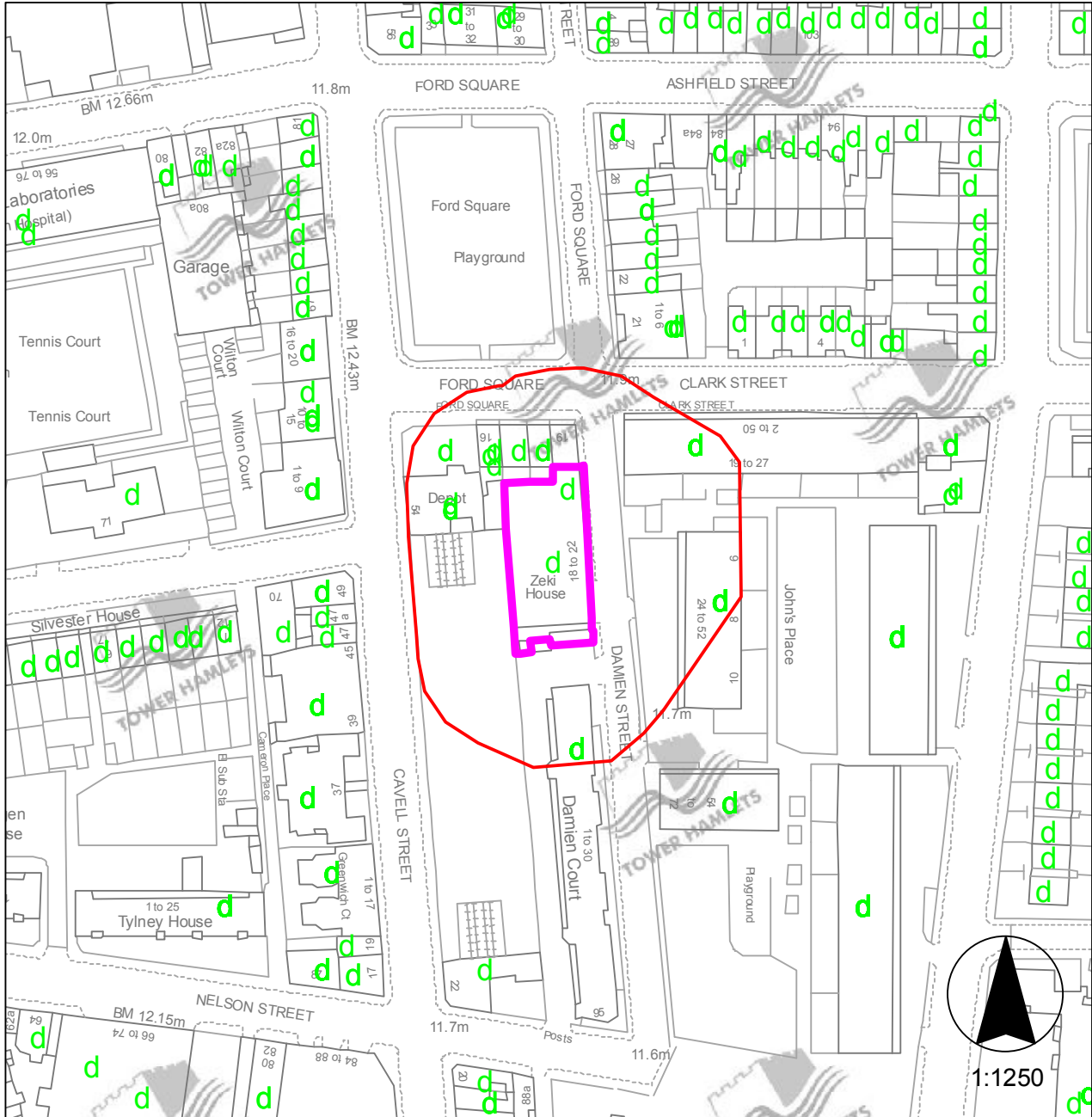
## **6. LEGAL COMMENTS**

- 6.1 Legal comments are incorporated in the report.

## **7. CONCLUSIONS**

- 7.1 The list of projects that is recommended by Officers (shown in Appendix 1) was identified and agreed by the Bishops Square Sub-Group as part of a process initiated through PCOP. These recommended projects were identified as those that best met the criteria listed above.

# Site Map



## Legend

- Planning Application Site Boundary
- Consultation Area
- d Land Parcel Address

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process. The Site Map was reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office © Crown Copyright. London Borough of Tower Hamlets LA086568

**Second Floor, 18-22 Damien Street, London, E1 2HX**