

Mayor & Cabinet		
Report Title	Compulsory Purchase Order for the builder's yard at 112-114 New Cross Road and The Fox and Hounds public house at 58-60 Besson Street.	
Key Decision	Yes	Item No. 10
Ward	Telegraph Hill	
Contributors	Executive Director for Regeneration / Executive Director for Resources / Director of Programme Management And Property / Head of Law	
Class	Open	Date: 19 September 2007

1. Summary

- 1.1 The New Cross Gate New Deal for Communities ("the NDC") wish the Council to acquire land currently under private ownership comprised of the builders yard at 112-114 New Cross Road, New Cross Gate, SE14 5BA ("the Builders Yard") and the Fox and Hounds Public House at 58 – 60 Besson Street, New Cross Gate, SE14 5AS ("the Pub"). This land is required for a major scheme to provide a multi-purpose healthy living centre, commercial space and both private and social housing ("the NDC Centre") for the community. The NDC Centre forms a key part of the NDC's strategy to regenerate the New Cross Gate area.
- 1.2 The acquisition of both the Pub and the Builders Yard is essential to the successful delivery of the NDC Centre. Failure to acquire either site would jeopardise the delivery of the NDC Centre and therefore the achievement of the NDC's regeneration objectives. The NDC has been in negotiations with the owners of both the Pub and the Builders Yard to secure the purchase of these sites should these negotiations prove to be unsuccessful then it is now necessary for the Council to proceed with all necessary statutory procedure to obtain a compulsory purchase order ("CPO")

2. Purpose

- 2.1 This report seeks authorisation to make a CPO in respect of the Pub and the Builders Yard, so that in the event that the ongoing negotiations with the current owners should fail the Council will still be in a position to acquire these sites to enable the NDC Centre to be delivered within the relevant timeframes.

3. Recommendations

It is recommended that the Mayor

- 3.1 Resolves to make a CPO in accordance with Section 226 of the Town and Country Planning Act 1990 for the acquisition of all interests in the Pub and the Builders Yard as the same are shown edged green and blue respectively on the Site Plan (Appendix I).
- 3.2 Authorises in consultation with the Head of Law the Executive Director for Resources to take such other action as may be necessary to make, obtain confirmation of and effect the CPO and to acquire all interests under it, either by agreement or compulsorily.

4. Narrative

Background

- 4.1 The NDC programme is a flagship government regeneration programme introduced in 1998 to tackle social exclusion and to take forward the ideas that are contained in the National Strategy for Neighbourhood Renewal.
- 4.2 Lewisham was invited to prepare a bid for submission under the NDC programme in November 1999. The initial bid (Phase one) was submitted in April 2000. Phase one concentrated on selecting an appropriate neighbourhood (New Cross Gate) and identifying the key issues for that neighbourhood within the core NDC themes of tackling crime, health, educational attainment and worklessness. For New Cross Gate, additional themes of transport, housing and the environment were included in the Phase one bid.
- 4.3 New Cross Gate was chosen as the most suitable area in Lewisham for an NDC programme because in addition to its high deprivation scores, it is strongly perceived by local people as an identifiable geographical neighbourhood with a high potential for economic, social and environmental improvement.
- 4.4 The Government approved the Phase one bid in June 2000 and Lewisham Challenge Partnership (LCP) was invited to work with the local community to develop the proposals into a full delivery plan, to be submitted by March 16 2001 ("Phase two") Grant aid of £245,000 was made available to LCP by the Government Office for London ("GOL ")to support the Phase two works.
- 4.5 On 21 February 2001 the then Executive Committee approved the submission of the phase two Delivery Plan to GOL. GOL approved the phase two Delivery Plan in October 2001 and allocated grant funds in the amount of £45million over 10 years. The NDC Delivery programme is designed to invest physically in the New Cross Gate area, through a wide range of projects covering a variety of themes, but it is also intended to bring people together and to utilise the energy, enthusiasm, imagination and perseverance of local people. The neighbourhood is rich in ethnic and cultural diversity, and the local community is keen to influence and shape delivery of the programme and to develop a robust local neighbourhood management model.

- 4.6 The executive of the NDC is a Board of 21 people comprised of local residents and industry professionals. The majority of NDC Board members are locally-elected residents and community representatives who ensure that the objectives of all NDC projects relate to community needs and that the interests of local residents as a whole are represented within all projects.
- 4.7 The NDC programme is divided into six themes:
- Community development;
 - Community safety;
 - Education;
 - Employment and enterprise;
 - Health, sport, and leisure;
 - Housing, transport and environment.
- 4.8 Within each of these core themes a number of important projects have been funded that have had a significant impact on the lives of residents in the New Cross Gate area.
- 4.9 Examples of major projects funded in the financial year 2006/07 are as follows: The Neighbourhood Wardens project under the Community Safety theme was funded £600,000 to provide a visible presence to address crime and anti-social behaviour, achieve a reduction in the overall levels of crime and improve the sense of safety and security of the residents within the NDC area. In the Education theme the TAP into Learning project was funded £574,595 to bring together the community, voluntary, private and public sector to offer an enhanced, inclusive and co-ordinated provision of Skills for Life, vocational and other training to residents in New Cross Gate.
- 4.10 NDC funding is designed to support and realign mainstream spending in the New Cross Gate area by the end of the programme. The injection of NDC funding is seen as a means of raising personal aspirations, unlocking the hidden potential of the area and challenging traditional ways of delivering services through community ownership of delivery.
- 4.11 A draft NDC urban design framework and development strategy (“the Development Framework”) was developed in 2004, in collaboration with the local community, local and strategic service providers and statutory authorities, including the Council’s development control service to generate a series of projects which together would tackle physical urban problems and provide for a sustainable community infrastructure from which local services could be delivered. Following its inception, the document was further consulted on with relevant stakeholders before its adoption by the NDC as the basis for the capital programme.
- 4.12 Stakeholder consultation on the Development Framework included Hyde Housing Association and Lewisham PCT as representatives on the NDC board and as strategic service providers in the area. The Development Framework was also submitted to the Council for comment, following the consultation with development control, regeneration and housing officers that had helped to identify the proposed site for the NDC Centre and the strategic pedestrian route running north-south through the site. Elements of the

Development Framework are now incorporated into the Council's emerging Local Development Framework ("the LDF"), which identifies the NDC Centre site as a location for housing and community facilities.

- 4.13 The provision of the NDC Centre is identified within the NDC's Development Framework as the flagship community project that cuts across all the core NDC themes and is key to achieving the objectives of the NDC. As the cornerstone of the NDC's capital programme, the NDC Centre will form a major component in the sustainable regeneration of the New Cross Gate area, and will provide community benefit beyond the lifetime of the NDC programme, through locally-directed and owned community services and facilities.
- 4.14 The NDC Centre will provide a key range of local community facilities to promote health and wellbeing. Further, the scheme will provide additional housing and replace the existing housing stock with high quality accommodation that meets modern needs, and provides a stimulating, integrated, mixed use environment.
- 4.15 The integration of high quality mixed housing within the proposed development will provide for additional vitality to the area, natural surveillance to the public realm, and replace the current housing stock on the site.
- 4.16 The existing housing on the site is now vacant, having been decanted as part of the Council's Kender Triangle housing masterplan, implemented in conjunction with Hyde Housing Association. The housing masterplan followed the Council's Housing Improvement Plan (HIP), that identified the Kender Triangle as a high priority area in need of social and physical regeneration. Consultation with local residents accompanied the masterplan to inform the proposals and on 9th December 2001, the Mayor and Cabinet resolved to seek acquisitions of the leasehold units on the site in order to implement the masterplan. The masterplan set a minimum requirement of 45 new affordable housing units on the Besson Street site, to replace the existing plus a further 16 private units. A key aim underpinning the masterplan is to provide for the diversification of tenures on housing regeneration sites, to promote mixed, sustainable communities.
- 4.17 The form of development envisaged under the Kender Triangle masterplan has now been superseded by the more recent NDC Development Framework, and the Council's emerging LDF.
- 4.18 The NDC Centre proposals exceed the basic requirements of the original masterplan and will provide 172 new residential units, to replace the existing 69 currently on the site. The new accommodation will provide a mix of sizes and tenure. 56 units, or 35% of the habitable rooms of the development, will be affordable housing. 50% of the affordable housing will be for social rented accommodation. Further, Lewisham Council will have 100% nomination rights to ensure the housing goes to local people in need.

- 4.19 The housing tenure will be mixed throughout the development site, to provide a mixed and balanced community and ensure that there is no physical distinction between the private and affordable housing.
- 4.20 The new housing will provide much needed accommodation, breathe new life into the area and demonstrate a high standard in sustainable building and design. It will meet the aims of the housing masterplan by providing a mixed community of high-quality housing, in lieu of poor quality existing housing, identified as a high priority for replacement. Further, it will exceed the quantitative requirements in terms of numbers of units and provide for the sustainable regeneration of the site.
- 4.21 The NDC Centre provides for a health and cultural centre including: doctor's surgery; library; community space; community gym; crèche; café; and retail and commercial space. Providing these locally sought facilities in an integrated environment, together with high quality public open space and strategic links to surrounding areas, will provide for an inclusive, vital, and stimulating environment that typifies the NDC's objectives.
- 4.22 The community facilities proposed in the NDC Centre have been developed as part of the NDC programme since 2001. In 2002, a Health Impact Assessment was commissioned by the NDC that identified the need for service delivery in this area. Further research and consultation in the area was commissioned as part of the NDC Centre feasibility study (stages 1 and 2) in 2004, that matched need with potential service providers to develop options for a brief to meet the needs of local people in the area. This has formed the basis of the design for the current scheme (details of public consultation on the scheme proposals at paragraphs 4.41 - 4.46 of this Report)
- 4.23 The NDC area is currently served by a single GP practice, located in a Victorian property on Queen's Road and an annexe building nearby. The practice has a large patient list, that is anticipated to grow and has 6 full-time equivalent GPs as well as support staff. The accommodation is currently sub-standard and is inaccessible to physically disabled patients. It is costly to maintain and environmentally unsound. It does not adequately meet the needs of the patients or staff. The NDC Centre will provide a new high-quality facility for the practice, which will be fully accessible and environmentally sustainable to current standards of good practice. It will provide significant additional accommodation to allow for the anticipated expansion of the patient list.
- 4.24 A pharmacy is proposed adjacent to the GP surgery to support and complement the practice.
- 4.25 The NDC's original 10-year delivery plan of 2001 identified a need for leisure facilities in the area, and linked this need to the provision of new health services in a single facility. There are currently no municipal, or other gym facilities within the area. The NDC Centre will provide a new gym facility that will be subsidised to offer affordable leisure services to the area. The current preferred gym provider, Fusion Leisure, are a charitable organisation who will

work in partnership with the GPs practice to encourage fitness programme recommendations to patients as part of a holistic healthy lifestyle. A café will be provided within the facility to promote healthy eating. A crèche will also be provided to maximise accessibility to facilities for parents and carers.

- 4.26 There is currently no municipal library within the NDC area. The nearest Council library is located on New Cross Road, to the east of the NDC area. The opening hours are very limited and significantly less than full normal working hours of 40 hours per week. The NDC Centre proposals include a new library facility in conjunction with Lewisham libraries, to replace the facilities on New Cross Road. The facility will be managed by the leisure provider and self-serve facilities provided so that the opening hours of the library can be maximised, significantly in excess of normal working hours of 40 hours per week. This will provide a much more accessible service than is currently available in modern, fully accessible accommodation.
- 4.27 The combination of these services together in a single building will provide a complimentary set of community facilities and the partnership working between the service providers will ensure that the services are integrated and mutually supportive to maximise accessibility and community benefit.
- 4.28 A recurring theme arising in NDC consultation since 2001 is the lack of physical identity in the area of New Cross Gate. The iconic architecture of the proposals, that have developed through thorough consultation and the provision of a high-quality public space around which the services are gathered addresses this need. The NDC Centre will provide a fully accessible public square, announced by prominent and exemplary architecture. The strategic location in the Kender Triangle is supported by strong urban connections and landmark architecture on the Besson Street / Briant Street corner and onto New Cross Road that act as way-finders. This is identified in the NDC Development Framework.

The NDC Centre Site

- 4.29 The site of the proposed NDC Centre is in the Kender Triangle in New Cross Gate, bound by Briant Street to the west, Besson Street to the south, and New Cross Road (A2) to the north as the site shown in heavy black edging on accompanying Plan B and which site includes both the Pub and the Builders Yard and vacant housing land currently owned by the Council.
- 4.30 The area of the NDC Centre site fronting New Cross Road is currently occupied by the Builder's Yard. The Builder's Yard is an 'existing non-conforming' use. No planning permission was granted for the present use, which therefore operates unfettered by planning control. The Pub is located on the corner of Besson Street and Briant Street.
- 4.31 The sites of the Builder's Yard and the Pub are essential to the successful delivery of the NDC Centre proposals.
- 4.32 The Builder's Yard occupies a strategic position on the only frontage of the development site to New Cross Road. The need for a strategic north-south

link was identified in the NDC's Development Framework, following consultation. A key part of the NDC Centre proposals, as evident from the design competition, has been the inclusion of the Builder's Yard site as a strategic linkage to New Cross Road and beyond.

- 4.33 The Pub also occupies a strategic position on the corner of Besson and Briant Streets. The site is to be transformed into the landmark tower element of the scheme. To meet the NDC's objectives the NDC Centre needs to provide a landmark building of sufficient quantum to efficiently and effectively utilise the development site. Retaining the existing Pub would unnecessarily constrain the development potential of the site and remove the opportunity for a new landmark structure on this important corner position.
- 4.34 The retention of the Builders Yard and the Pub, would constrain the development of the site to such an extent that the NDC's full objectives for the NDC Centre could not be achieved.
- 4.35 The NDC Centre site does not contain any listed buildings; however, the frontage along New Cross Road is within the Hatcham Conservation Area. The preservation of the conservation area will be a relevant material consideration when the Council considers the planning application for the NDC Centre. The NDC Centre proposals have been designed to complement and preserve the character and setting of the conservation area. A detailed built heritage assessment and a visual assessment have been commissioned and demonstrate that the proposed form of the proposed NDC Centre would not have an adverse impact on the conservation area.
- 4.36 Briant Street and Besson Street are part of an existing gyratory system, which Transport for London propose for removal, as supported in the NDC's Development Framework. This project has secured funding from Borough partnerships and Transport for London and is subject to public consultation in October 2007. The proposals will provide significant improvements to pedestrian movement and safety within the area.
- 4.37 The removal of the gyratory will help ease parking stress in the area and provide for a more pedestrian friendly environment. The removal of the gyratory will therefore complement higher density redevelopment of the site and the creation of strong pedestrian links through the site to New Cross Road and beyond.
- 4.38 The NDC Centre site is in an area of excellent public transport accessibility. A number of public transport routes run along the roads surrounding the site. New Cross Gate and Queen's Road Peckham rail stations are equidistant from the site; these rail stations provide for both underground and over-ground rail services within a 10 minute walk of the site.
- 4.39 The NDC Centre site is designated as a specific site allocation, 'Site 23 – Kender Estate New Cross Gate', in the Council's emerging 'Development Policies and Site Allocations, Preferred Options Report', for the emerging Lewisham Local Development Framework – as is dealt with in more detail

later in this report as part of the Planning Context. The draft site allocation supports and reflects the proposed development of the site.

- 4.40 The site's designation in the emerging development plan reflects the proposed NDC Centre's general proposal and range of uses. Further, the location is appropriate for higher density development that maximises the potential of this brownfield site, in accordance with Government policy. The proposed CPO will allow the full potential of this strategic development opportunity to be realised.

The NDC Centre Consultation and Development.

- 4.41 The proposed NDC centre is the result of extensive community consultation and stakeholder engagement.
- 4.42 A feasibility study (stages 1 and 2) for the NDC Centre project was commissioned in 2004, combining extensive consultation with residents, local groups, stakeholder organisations and potential service providers.
- 4.43 Further scoping work with potential stakeholders was carried out to form a project brief for an architectural competition during 2005. This included working with Lewisham PCT, Hyde Housing Association and Lewisham Council via the NDC board and Queen's Road GP practice and other local groups via the NDC theme groups to identify accommodation requirements. The development of the brief was overseen by the NDC's board in order to make proposals that could be delivered by partnering service providers. A call for expressions of interest was posted in the Official Journal of the European Union in 2005 and 73 expressions of interest were received. Five teams were shortlisted according to the pre-agreed criteria and were issued with the brief as part of an Invitation To Tender.
- 4.44 The Five schemes returned as part of the tenders were exhibited to the public during March 2006. A total of 393 questionnaires were completed by visitors and the results were presented to an assessment panel comprising key stakeholders for information. The consultation revealed a clear first-choice preference for scheme A. The panel reached a consensus analysis resulting in the selection of the design team for scheme A, led by Feilden Clegg Bradley architects. The appointment of the design team was approved by Mayor and Cabinet (Contracts) in March 2006.
- 4.45 Since appointment, the design team have been in discussions with Council officers including development control, housing and other services as well as the Greater London Authority to develop the scheme towards a planning application. The Council's design review panel have reviewed the scheme on two occasions to help steer the design development. In January 2007, the GLA's chief architectural advisor, Lord Rogers of Riverside, reviewed the outline scheme and gave his strong support, commenting 'The architectural and urban design principles presented are very strong and together with the potential improvements to the local traffic system, could transform this part of New Cross which is now dominated by noisy and fast moving traffic into a pleasant place to live and work and play. I strongly support the NDC's

ambitions for the area and look forward to reviewing the proposals as they develop'.

4.46 The design development process has been informed by extensive consultation as follows:-

- **February 2006** – design competition exhibition
393 questionnaires completed, with 39% voting for Scheme A as their first choice. Other schemes were voted as follows: Team B – 16%; Team C – 18%; Team D – 13%; Team E – 10%. The analysis of the self-selecting sample of visitors indicated that the demographic composition of the area was generally well-represented. The NDC report, stakeholder preference of the proposals dated 8th February 2006 contains the full analysis.
- **May 2006** – fun day and public space consultation
101 questionnaires completed to inform the design development of the public space. A palette of elements and materials were presented and questionnaires sought respondents views and preferences. The responses were collated and analysed in the NDC report, Stakeholder preference of the proposals, design and usage of the public space in the NDC Centre, dated 16th July 2006. The findings were used to inform the design development of the public space and ensure that it facilitates the most popular kinds of activities – in particular temporary events such as a market, ice rink etc.
- **August 2006** Gateside community festival
At this stage of the design development, the scheme was a defined set of outline proposals and plans, elevations and a computer-generated walk-through were presented along with samples of materials and prototypes of the renewable technologies such as a working solar thermal panel. 59 questionnaires were completed, almost entirely positive on all the proposals presented. The only negative response was regarding a proposal to clad one of the blocks in slate. The cladding material for this block was subsequently changed to revert to the original material proposed in the competition, timber. Analysis of the returns is contained in the NDC report, stakeholder preference on the outline proposals for the NDC Centre, dated, September 2006
- **Ongoing consultation with stakeholders:** Lewisham PCT, Hyde Housing, Greater London Authority, Council's development control including the Council's design review panel, Council's library service, Council's housing department, NDC design panel, Transport for London.

The NDC and their design team have been working through design team meetings on a monthly or fortnightly basis to meet with the stakeholders above and develop their accommodation requirements in conjunction with the scheme business plan and the advice of the statutory authorities, the Council and the Greater London Authority.

- 4.47 As part of the ongoing consultation process the owners of the pub and the builders yard have been contacted. The owner of the builders yard attended the design competition exhibition in February 2006. Throughout the different stages of project development both owners have been given the opportunity to contribute as much or as little to the process as they saw fit. Furthermore the owner's representative of the builders yard and the owners' representative of the public house have been contacted specifically on a regular basis as part of the consultation and negotiations process and at no time have they indicated that they are unwilling to sell.
- 4.48 The current NDC Centre development proposal provides for a flagship regeneration scheme. The scheme provides for :

Housing

The scheme will provide 172 residential units, of which 35% (56 units) would be affordable housing. 27 units would be for social rented accommodation, which represents over 50% of the habitable rooms of the affordable housing. All homes would achieve Ecohomes 'very good' standard as a minimum.

Community Facilities

The Centre will provide for a range of community facilities including: GP surgery; library; community space; and crèche. The NDC has identified partners to deliver these facilities including Queens Road GP Practice, Lewisham PCT, Lewisham Library Services. Negotiations are at an advanced stage to secure the ongoing occupation of this space. In the case of the Queen's Road GP practice and Lewisham PCT a draft tenancy agreement has been prepared and is due to be completed prior to the end of 2007. In the case of Lewisham Library Services, an agreement in principle has been reached, subject to terms.

Community Gym

The scheme provides for a significant community gym space. Fusion leisure have been identified to manage this facility and negotiations are at an advanced stage to secure their occupation and management of the facilities. An agreement in principle has been reached, subject to terms.

Retail and commercial facilities

A range of retail/commercial space is provided for in the development to meet local convenience and economic needs. An independent business audit has been conducted by Donaldson's, which demonstrates the viability, flexibility, and value for money provided for by the scheme.

Public Space

A key feature of the proposed Centre is the provision of high quality public open space. The proposal forms part of the Mayor of London's 100 public spaces program, and offers generous public open space to encourage and facilitate interaction, integration and pedestrian movement through the area.

Landmark

The overall scheme will provide a landmark, flagship building in the area. A key feature of the proposal is the landmark structure on the corner of Briant

and Besson Streets. The structure will provide an important local landmark and aid urban legibility and orientation through the area.

- 4.49 The proposal will provide much needed housing and community facilities, high quality public space, and a landmark community building demonstrating excellence in design and environmental sustainability.
- 4.50 The proposal has been developed in close consultation with the local community and relevant stakeholders including Lewisham Council. The scheme will provide community facilities for the benefit for local residents, which will be subsidised by the NDC, and would otherwise not be economically viable. The Grant funding put forward by the NDC to support the scheme enables the building of facilities that would otherwise represent a large private capital investment that would need to be paid for through market pricing for access to services. The grant-funding enables the services to be accessible to residents of an economically deprived area of London, as identified by the NDC programme in 2001. The business plan for the NDC Centre demonstrates that the uses will generate sufficient income to support the long-term viability of the whole facility including operation and maintenance.
- 4.51 The proposal provides for the comprehensive development of the NDC Centre site and seeks to create strategic pedestrian links between New Cross Road and Besson Street and Briant Street, through the proposed public square.
- 4.52 The pedestrian linkages will aid the permeability of the area and allow greater pedestrian movement. The link will also provide a strategic north/south route through the site to surrounding areas, as identified in the NDC's Development Framework for the area.

The sites required

- 4.53 Whilst the majority of the land forming the NDC Centre site is within the ownership of Lewisham Council, two significant landholdings, the Pub and the Builders Yard are privately owned. The acquisition of both of these sites is essential to delivering the proposed NDC centre and achieving the NDC's objectives.
- 4.54 The Builder's Yard is owned by a private individual and does not have planning permission. The existing operations on the site, including heavy vehicle deliveries, are therefore not regulated by a planning control. The existing yard is incongruous with its surroundings and blights an important frontage onto New Cross Road. The site is strategically located and offers the only available frontage of the development site to New Cross Road. The removal of the existing use would be a positive planning outcome and provide for the improvement of the New Cross Road street scene. The comprehensive development of the NDC Centre site, would also provide for the realisation of the Council's aspiration to provide a strategic 'north-south' pedestrian link from New Cross Road. The need for a strategic north-south link was identified in the NDC's Development Framework, following consultation. A key part of the NDC Centre proposals, as evident from the design

competition, has been the inclusion of the Builder's Yard site as a strategic linkage to New Cross Road and beyond.

- 4.55 The removal of the Builders Yard is also anticipated to result in a net increase in jobs. Whilst the existing use would need to be relocated, the combined employment potential of the NDC Centre is anticipated to provide significant employment benefits to the area.
- 4.56 The Pub is owned by a pub landlord company and is currently in operation. The Pub occupies a strategic position on the corner of Besson and Briant Streets that as part of the NDC Centre scheme would be transformed to provide a landmark feature. The Pub building is not considered to be of any historic merit and provision will be made for another public house to be situated in the NDC Centre scheme.
- 4.57 To meet the NDC's objectives the NDC Centre needs to provide a landmark building of sufficient quantum to efficiently and effectively utilise the development site. Retaining the existing Pub, by virtue of its current built form, would unnecessarily constrain the development potential of the site and remove the opportunity for a new landmark structure at this important corner location.
- 4.58 Fettering the NDC Centre site through the retention of the Builder's Yard and the Pub, would constraint the development of the site to such an extent that the NDC's full objectives for the Centre could not be achieved.
- 4.59 During the process of negotiations with the site freeholders the NDC have been informed that the site leaseholders have been consulted, and adequate compensation will be agreed with the leaseholders by the freeholders. In addition the freeholders have advised NDC that they have alternative provisions in place for the leaseholders as NDC are negotiating for the freehold purchase of the sites on a vacant possession basis.

Acquisition of the sites

- 4.60 The NDC has been in negotiations with the owners of both the Pub and the Builder's Yard since 2004. These negotiations are ongoing.
- 4.61 Negotiations with the owners of the Pub have been productive and it seems likely that an agreement will be reached regarding the acquisition. The offer made is being recommended to the Board of the Pub and a decision is expected soon. Reaching a negotiated agreement seems likely but if unsuccessful a compulsory purchase order would become necessary.
- 4.62 Negotiations with the owners of the Builder's Yard have extended over a number of years. Currently there appears to be a significant difference between the parties regarding the expectations of development potential and therefore the valuation of the property.
- 4.63 Both parties have put forward proposals indicating the development potential of the site. The NDC proposal provides for a four storey development fronting

New Cross Road, with up to three storeys at the rear. The latest proposals from the owners of the Builders Yard provide for five storeys fronting New Cross Road, with four storeys at the rear. NDC's planning advisers Savilles have advised that the proposal from the owners of the Builders Yard does not comply with the Council's minimum setback distances, parking standards, and various other planning considerations, all of which would prevent permission being granted.

- 4.64 Negotiations are ongoing to reach agreement regarding the development potential and valuation of the property. The owners of the Builders Yard have not objected to the principle of moving premises, the only question is of financial compensation. However as previously outlined negotiation for the acquisition of the Builders Yard have been ongoing for some considerable length of time and the gap in expectations around compensation continues to be significant and it is therefore felt that in order to ensure that the NDC Centre can proceed it is necessary to make a CPO in respect of the Builders Yard.

The Need for the Compulsory Purchase Order.

- 4.65 Negotiations with the owners of both the Pub and the Builders Yard are ongoing. However, should agreement not be reached a CPO would be the only means of acquiring all of the land required for the NDC centre site.
- 4.66 The NDC Centre is an important public project necessary to achieve the objectives of the NDC in providing for the sustainable economic, social and environmental regeneration of the New Cross Gate area. Further, the NDC centre will provide an ongoing legacy to the area once the NDC programme is exhausted, through the provision of community services to aid the ongoing regeneration of the New Cross Gate community .
- 4.67 The NDC Centre is a fundamental asset for the NDC successor body – the New Cross Gate Trust. The New Cross Gate Trust is a development trust registered as an incorporated company, limited by guarantee. It is a not for profit organisation registered with the Charity Commission. Over the next few years the Trust will take on more and more responsibility for the NDC programme as NDC grant funding tails off towards 2011 and the Trust takes control of NDC funded assets.
- 4.68 The New Cross Gate Trust has agreed a memorandum and articles which include:
- Improve employment opportunities, promote training and development
 - Improve health and promote healthy lifestyle choices, for example through the provision and promotion of recreational, sports and leisure facilities
 - Reduce crime and improve community safety
 - Raise educational attainment and promote quality childcare
 - Promote good quality housing and enhance the physical environment
- These objectives all link closely to the NDC Centre development, the services and facilities that will be on offer there and the physical impact it will make to the area. As described in paragraph 4.48 the legacy of the NDC Centre will be

broad and encompass improvements in housing, community facilities, retail and commercial opportunities and public space.

- 4.69 The NDC Centre proposal is in accordance with national, regional, and local planning policy, and has been developed through detailed collaboration and consultation with the local community and relevant stakeholders. The proposals have been developed in consultation with Council planning officers. It is anticipated that an informal submission will be made to the Council during September. Following comments from Council officers, it is anticipated that the formal planning application will be submitted in October 2007, allowing permission to be granted in January/February 2008. There are a number of issues still being discussed regarding parking and the precise form of the development; however, it is anticipated that these matters will be resolved before the formal planning application is submitted, to allow a smooth development assessment and decision making process. The emerging development plan specifically provides for the proposal as is outlined in section 5 of this Report. .
- 4.70 The proposals for the NDC centre are clear and there are no obvious impediments to implementation other than the acquisition of relevant properties to assemble the land and formally obtaining planning permission. The Pub is to be provided for in the redevelopment proposals. Further, removal of the Builder's Yard would provide a positive planning outcome.
- 4.71 The acquisition of both properties would be in the public interest, for the reasons outlined in this report.
- 4.72 While the ongoing negotiations to acquire the Pub and the Builders Yard will continue it is considered necessary to begin the CPO process in order to ensure the delivery of this important project which will implement the NDC's objectives and provide for the ongoing sustainable economic, social and environmental regeneration of New Cross Gate area.

5. Policy Context

- 5.1 Government policy provides for the sustainable regeneration of brownfield sites in areas of good public transport accessibility, additional housing, and the sustainable location of community and commercial services.
- 5.2 PPS 1 (Creating Sustainable Communities) provides an overview of the Government's objectives for the planning system. In particular, PPS1 encourages a design led approach to achieve sustainable development.
- 5.3 PPS 3 (Housing) reaffirms the Government's commitment to provide additional housing in 'suitable locations that offer a range of community facilities, with good access to jobs, key services and infrastructure'. The guidance states that this should be achieved 'by making effective use of land, existing infrastructure and available public and private investment. The priority for development should be previously developed land, in particular vacant and derelict sites and buildings.'

- 5.4 PPS 6 (Town Centres) seeks to provide for vital and viable town centres by concentrating growth in existing town centres and encouraging a wide range of services in existing and, where necessary, extended town centres, which are accessible to all.
- 5.5 PPG 13 (Transport) seeks to direct development to areas of good public transport accessibility. The guidance aims to reduce the need to travel, to encourage walking and cycling, to maximise the development potential of sites in accessible locations and to reduce the reliance on the car for work and other journeys.

The Development Plan (London Plan and Lewisham Unitary Development Plan)

- 5.6 The London Plan and Lewisham Unitary Development Plan (UDP), which together form the 'development plan', further promote initiatives for positive urban regeneration.
- 5.7 The London Plan seeks to promote urban regeneration. Policy 2A.4 provides that boroughs identify areas for regeneration and provide integrated spatial policies that bring together regeneration development and transport proposals with improvements in learning and skills, health, safety, access, employment, environment and housing. Local policies are to state how they will achieve the Government's objective that no-one should be seriously disadvantaged by where they live within 10-20 years.
- 5.8 Policy 2A.12 provides that development should: optimise the use of previously developed land; use a design led approach to optimise the potential of sites; ensure development occurs in areas accessible by public transport, walking and cycling; ensure development occurs in locations accessible to town centres, employment, housing, shops and services; and takes account of the suitability of sites for mixed use development and the contribution that development might make to strengthening local communities.
- 5.9 Other relevant policies in the London Plan include: Policy 3A.1 (Increasing London's Supply Of Housing); Policy 3A.7 (Affordable Housing Targets); Policy 3A.15 (Protection And Enhancement Of Social Infrastructure And Community Facilities); Policy 3C.2 (Matching Development To Transport Capacity); Policy 4A.7 (Energy Efficiently And Renewable Energy); Policy 4B.1 (Design Principles For A Compact City); and Policy 4B.4 (Enhancing The Quality Of The Public Realm).
- 5.10 The NDC Centre development proposal is also a part of the London Mayor's 100 public spaces programme, which seeks to create or upgrade 100 public spaces within London over the next five years, based on the Mayor's conviction that 'creating and managing high quality public spaces is essential to delivering an urban renaissance in London'.
- 5.11 A key strategic objective of the Lewisham Council's adopted Unitary Development Plan is, 'to drive regeneration, to ensure that development is

sustainable, and to promote equality of opportunity, in the land use planning system' (part 1, paragraph 32).

- 5.12 Of specific relevance is UDP Policy URB 2 (Major Regeneration Schemes) which states that 'the Council will support the land use changes that are agreed as part of the implementation of regeneration projects in connection with Single Regeneration Budget and New Deal for Communities or successor schemes.'
- 5.13 Other relevant policies in the UDP are: Policy URB3 (Urban Design); Policy HSG 2 (Housing on Previously Developed Land); HSG 5 (Layout and Design of New Development); HSG 15 (Creating Viable and Balanced Communities); Policy TRN1 (Location of Development) and Policy LCE 1 (New Development for Leisure, Community Facilities and Education).
- 5.14 In the UDP Proposals Map the properties at 112-114 New Cross Road fall within the Hatcham Conservation Area. The Hatcham Conservation Area Supplementary Planning Document states that the Builders Yard forms an awkward gap (which was a result of bomb damage) in the otherwise tightly packed terraces and paired villas.
- 5.15 The site is identified in the Council's emerging Local Development Framework Development Policies and Site Allocations document as Site 23 Kender Estate New Cross Gate, within a schedule of sites identified for particular proposals. The public consultation on this document has recently been completed. The Preferred Option for the site proposes the use of the land for a local community facility with public space and high density residential units over community uses including a doctor's surgery, library, gym, community hall, café and crèche along with high quality open space.
- 5.16 The reasons for the Preferred Option states that the amended options provides more details on the proposals by New Deal for Communities on this significant site. The proposal will replace housing on the site and be an important part of the New Deal for Communities development framework for the area. The proposal will result in the creation of new open space, provide a new focus for New Cross Gate and lead to significant improvements to the social and physical characteristics of the area.

6. Financial Implications

- 6.1 The Council acts as the Accountable body for the NDC Programme. The overall programme was allocated £45m under the Governments ten year New Deal for Communities (NDC) Regeneration initiative. The cost of developing an NDC Centre forms an integral part of the overall programme and £7m is currently earmarked for the development of the NDC Centre. The sum of £2,948,208 is set aside in the agreed delivery plan for 2007/8 to cover site acquisition and development costs for the NDC centre. This sum is currently considered sufficient to meet all acquisition and development costs. Should this prove insufficient then NDC Board and CLG approval would need to be sought to transfer funding from elsewhere within the overall NDC Programme.

- 6.2 The proposed project is still subject to the usual approval by the Government Office for London (GOL). The project cost will be met entirely from Government Grant monies and should have no specific cost implication for the LB Lewisham

7. Legal Implications

- 7.1 For the reasons outlined in this Report it is considered necessary for the Council to use its compulsory purchase powers (CPO). This report recommends the making of a CPO for the Builders Yard and the Pub. The CPO will be required to be made using planning powers pursuant to Section 226(1)(a) of the Town and Country Planning Act 1990 as the proposed scheme is a mixed development including a healthy living centre, some commercial floor space, as well as housing. Section 226(1)(a) enables authorities with planning powers to exercise their compulsory acquisition powers if they think that acquiring the land in question will facilitate the carrying out of redevelopment of the land and it is not certain that they will be able to acquire it by agreement. Section 226(1A) provides that the acquiring authority must not exercise the power unless it thinks that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of its area. The benefits of the NDC Centre and the contribution it will make to the economic, social and environmental well being of the area are set out in the body of this report..
- 7.2 In deciding whether to make a CPO using planning powers, the Council will be required to demonstrate that there is sufficient justification for acquiring the land compulsorily and that there is a compelling case for a CPO. In particular, the relevant government guidance (Circular 06/2004) states that any programme of land assembly must be set within a clear strategic framework. The guidance goes on to state that such a framework will need to be founded on an appropriate evidence base and to have been subject to consultation processes, including with those whose property is directly affected. In order to satisfy this requirement and as part of the work that has been done to build a compelling case for a CPO, a programme of consultation has been undertaken. This consultation is referred to in paragraph 4 of this report .
- 7.3 It should be noted that where a development that will include housing is being facilitated using Planning CPO powers the guidance states that it will be necessary to have regard to policies which would apply if a housing CPO were being made the most obvious of these being the need to demonstrate a qualitative or quantitative housing gain from the scheme
- 7.4 As is outlined in the body of this Report The Mayor, when making the CPO, and the Secretary of State, when considering whether to confirm it, must have regard in particular to whether the purpose for which the land is being acquired fits with the adopted planning framework for the area or, where no such up-to-date framework exists, with the core strategy and the relevant Area Action Plans in the process of preparation in full consultation with the community. Members will therefore wish to have full regard to the comments of the Head of Planning contained in paragraph 5 of this report.

- 7.5 The Council is able to demonstrate that the Builders Yard and the Pub are required in order to secure the carrying out of the NDC Centre and, that there is a compelling case for acquisition in advance of the planning permission being obtained.
- 7.6 Once a CPO has been made, it must be notified to relevant persons and publicised, following which it will be submitted to the Secretary of State for confirmation. Any person may object to a CPO and, if an objection is made and not withdrawn, a Public Inquiry is required to be held. Any Public Inquiry will be conducted by an inspector appointed by the Secretary of State who will hear evidence from any persons objecting to the CPO and from the Council. The Inspector will then submit a report on the Public Inquiry and his/her recommendations to the Secretary of State who will then decide whether or not to confirm the CPO. Before confirming the CPO the Secretary of State will have to be satisfied in particular that (i) there are no planning obstacles to the implementation of the scheme; (ii) as to the extent that the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area; (iii) as to the potential financial viability of the scheme for which the land is being acquired and iv) whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means.
- 7.7 The process of acquiring and obtaining possession of properties through a CPO may take up to 12-18 months if a Public Inquiry is required before the Secretary of State will confirm the CPO.

8. Human Rights Act 1998 Implications

- 8.1 The Act effectively incorporates the European Convention on Human Rights into UK law and requires all public authorities to have regard to Convention Rights. In making decisions Members therefore need to have regard to the Convention.
- 8.2 The rights that are of particular significance to Members' decision in this matter are those contained in Articles 8 (right to home life) and Article 1 of Protocol 1 (peaceful enjoyment of possessions).
- 8.3 Article 8 provides that there should be no interference with the existence of the right except in accordance with the law and, as necessary in a democratic society in the interest of the economic well-being of the country, protection of health and the protection of the rights and freedoms of others. Article 1 of the 1st Protocol provides that no-one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law although it is qualified to the effect that it should not in any way impair the right of a state to enforce such laws as it deems necessary to control the uses of property in accordance with the general interest.
- 8.4 In determining the level of permissible interference with enjoyment the courts have held that any interference must achieve a fair balance between the general interests of the community and the protection of

the rights of individuals. There must be reasonable proportionality between the means employed and the aim pursued. The availability of an effective remedy and compensation to affected persons is relevant in assessing whether a fair balance has been struck.

8.5 Therefore, in reaching their decision to make a CPO, Members need to consider the extent to which the decision may impact upon the Human Rights of property owners and to balance these against the overall benefits to the community which the NDC Centre development scheme will bring. Members will wish to be satisfied that interference with the rights under Article 8 and Article 1 of Protocol 1 is justified in all the circumstances and that a fair balance would be struck in the present case between the protection of the rights of individuals and the public interest.

8.6 It is relevant to the consideration of this issue, that should the NDC Centre development scheme proceed owners will be entitled to receive market value for their properties.

9. Crime and Disorder Implications

9.1 The proposed development will be planned to meet the police's Secured by Design standards and should lead to a reduction in crime and the fear of crime.

10. Equalities Implications

10.1 The Council's equalities objectives are addressed in the reports and various documentation referred to.

11. Environmental Implications

11.1 The development will be an exemplar of sustainable construction and lifecycle operation. It is designed to achieve 10% energy provision from renewable sources. Residential accommodation will achieve a minimum EcoHomes standard of 'very good'. Construction waste will be minimised and recycling maximised. High environmental industry standards will be targeted and assessed throughout the development.

11.2 The new homes to be built will be more thermally efficient than the existing ones and hence, apart from being cheaper to heat, will generate less greenhouse gases. The physical improvements made to the area within the NDC Centre development will improve the environmental quality of this particular space within New Cross Gate.

12. Conclusion

12.1 The regeneration of the site known as 'Site 23 – Kender Estate New Cross Gate' is one of the Council's priorities. An imaginative and innovative new mixed use development will create an attractive sustainable environment linking housing and provision of new community facilities and services to the

wider agenda to improve the lives of residents in terms of housing and social inclusion.

- 12.2 For the programme to proceed to schedule and to avoid incurring costs from any delay it is considered prudent that the Council make the necessary Order to allow the compulsory purchase of interests in the land not already in the Council's ownership.

13. Background documents and originator

<u>Short Title of Document</u>	<u>Date</u>	<u>File Location</u>	<u>Officer Contact</u>	<u>Exempt Information</u>
Compulsory Purchase Orders for the builder's yard at 112-114 New Cross Road and The Fox and Hounds public house at 58-60 Besson Street.	Current	Unit D Hatcham Mews Business Centre	Clive Wilson Ext. 43824	

Supporting documents:

- **Appendix I - Site plan**

If you would like further information on this report please contact, Clive Wilson Chief Executive New Cross Gate NDC on extension 43824.