

Cabinet

Tuesday 6 December 2022

11.00 am

Ground Floor Meeting Rooms, 160 Tooley Street, London SE1 2QH

Appendices – Part 3

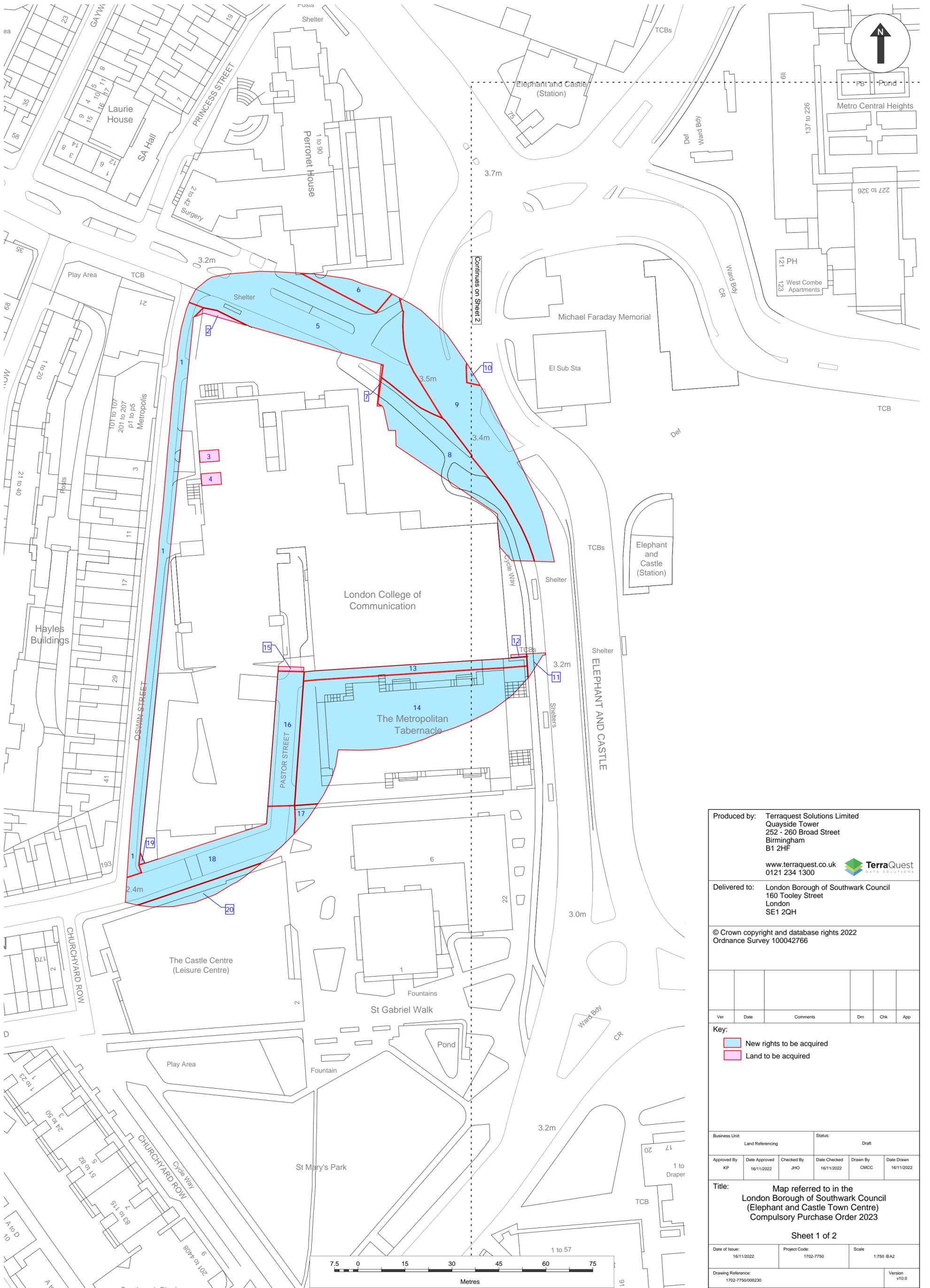
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Date: 28 November 2022



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Ver	Date	Comments	Dm	Chk	App

Key:

- New rights to be acquired
- Land to be acquired

Business Unit:	Land Referencing	Status:	Draft
Approved By:	KP	Date Approved:	16/11/2022
Checked By:	JHO	Date Checked:	16/11/2022
Drawn By:	CMCC	Date Drawn:	16/11/2022

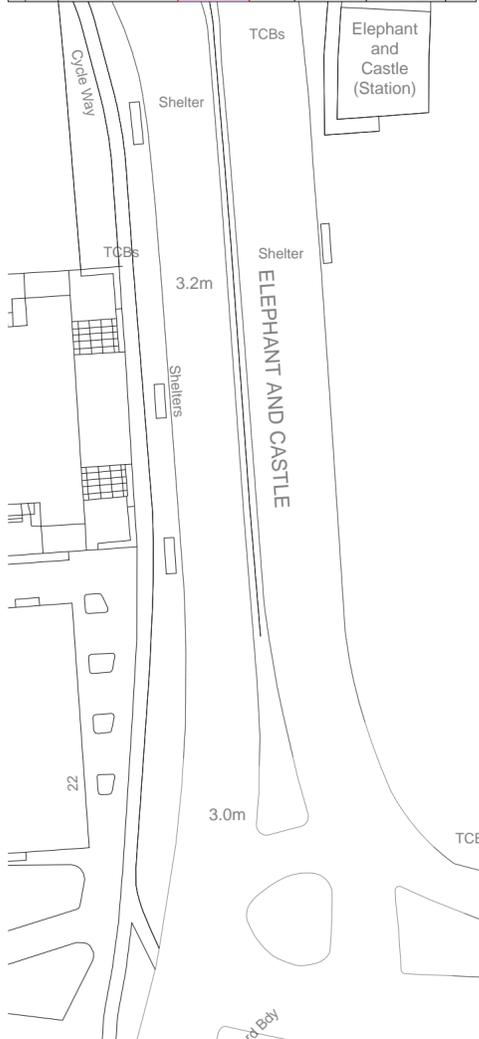
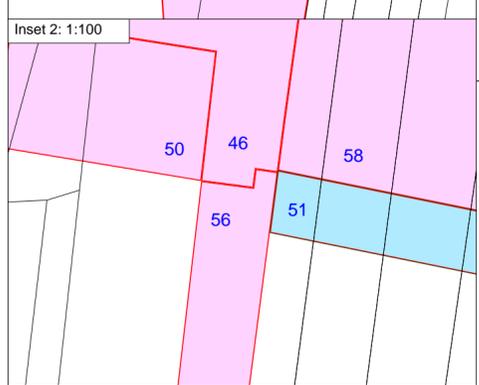
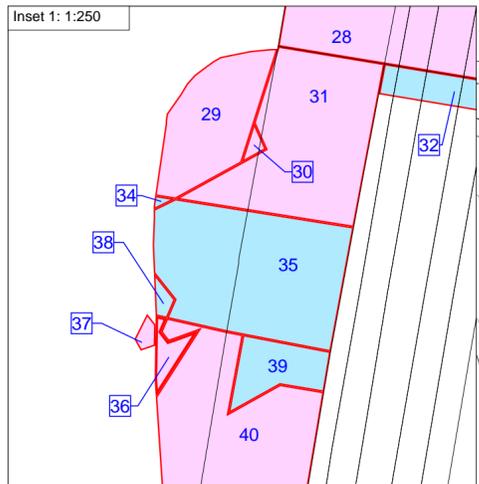
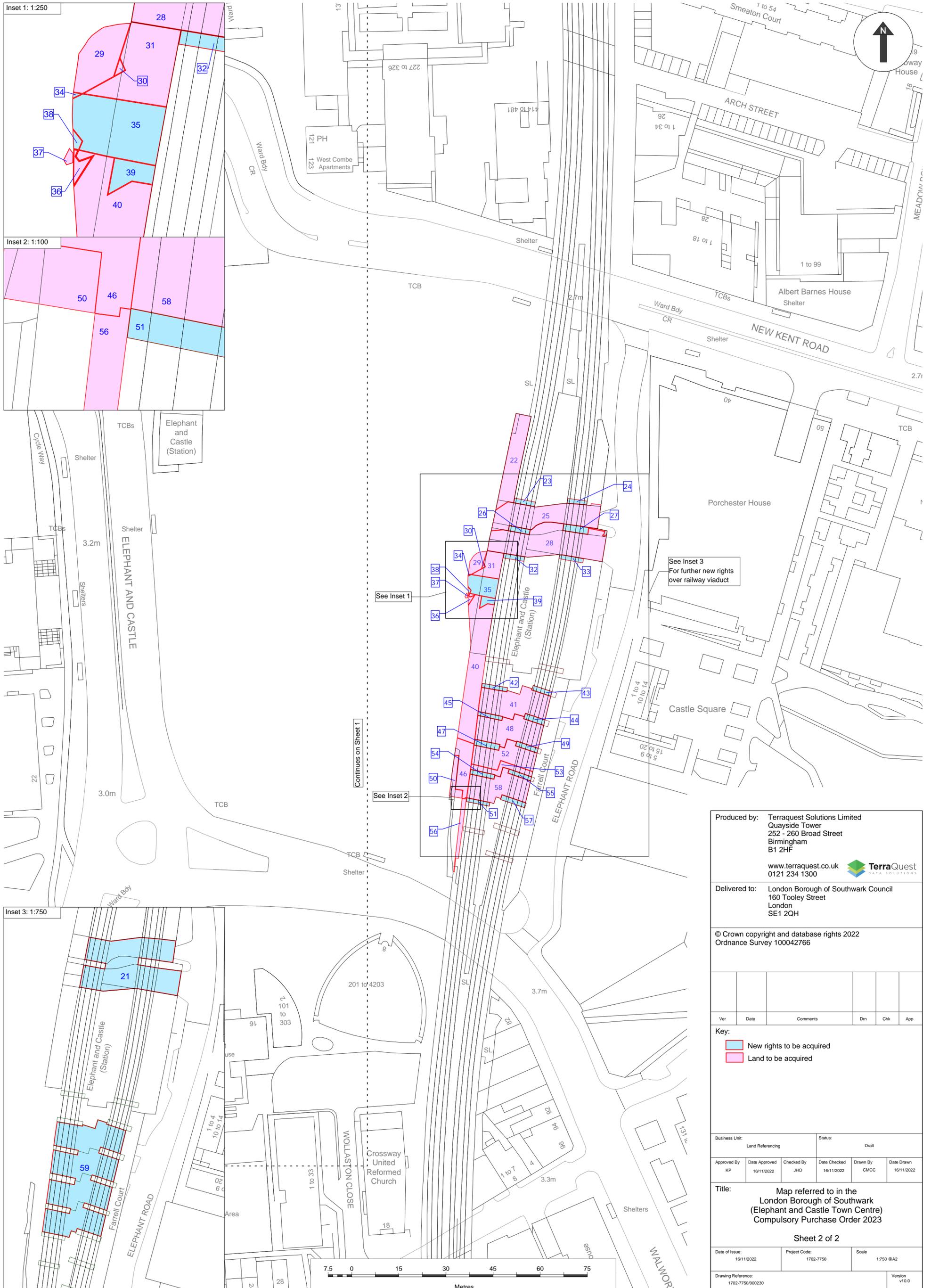
Title: Map referred to in the
London Borough of Southwark Council
(Elephant and Castle Town Centre)
Compulsory Purchase Order 2023

Sheet 1 of 2

Date of Issue:	16/11/2022	Project Code:	1702-7750	Scale:	1:750 @A2
Drawing Reference:	1702-7750/000230	Version:	v10.0		

Map referred to in the London Borough of Southwark (Elephant and Castle Town Centre) Compulsory Purchase Order 2023

APPENDIX A (2)



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Ver	Date	Comments	Drn	Chk	App

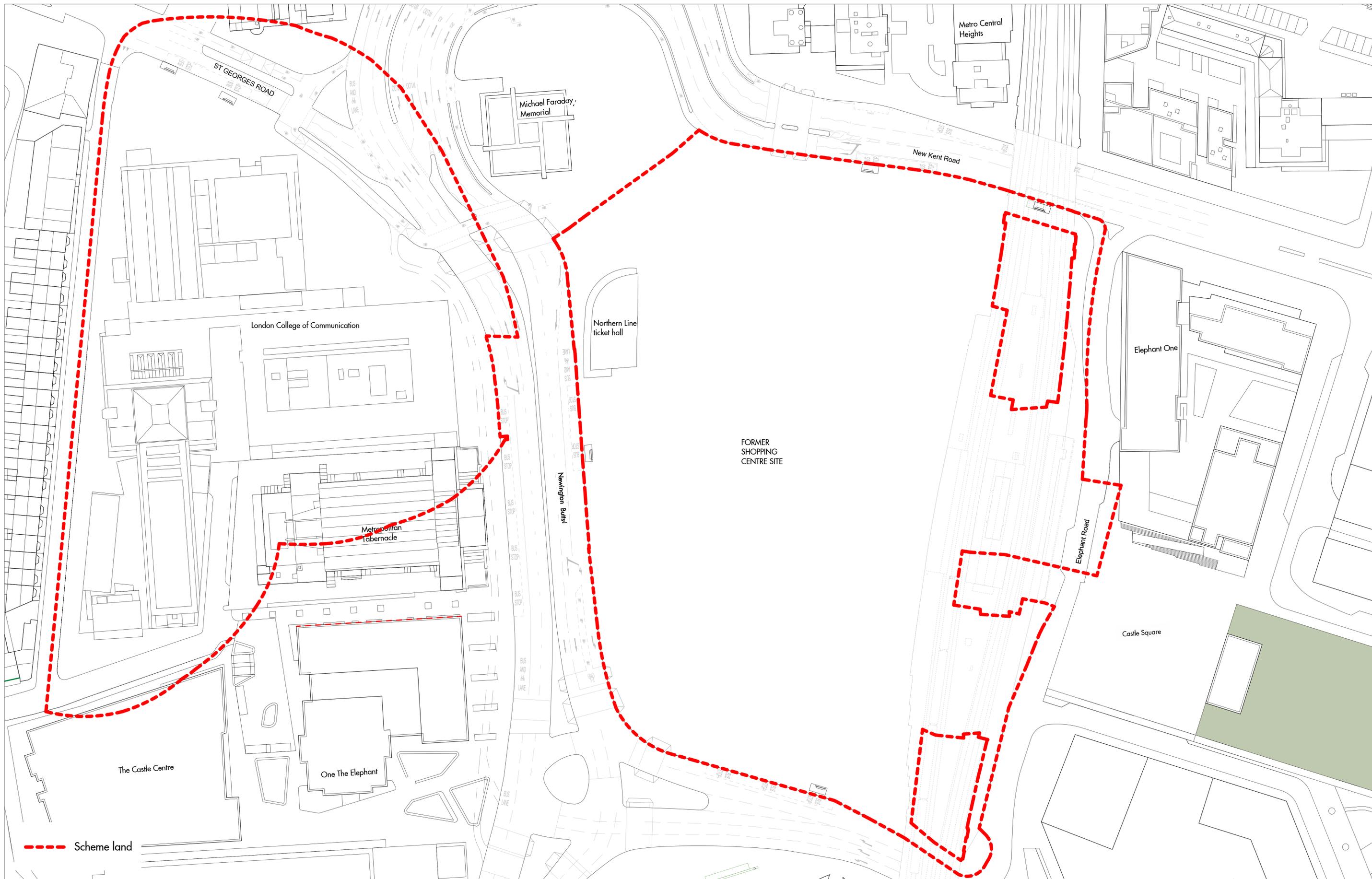
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Sheet 2 of 2

Date of Issue:	16/11/2022	Project Code:	1702-7750	Scale:	1:750 @A2
Drawing Reference:	1702-7750/000230	Version:	v10.0		



124

--- Scheme land

Do not scale from this drawing. Use figured dimensions only. Figured dimensions are in millimetres. All levels are in metres. All dimensions and levels shall be verified on site before proceeding with works. Detailed site survey to be carried out to verify positions and level relationships with site features and ordnance survey. The Architect must be notified of any discrepancy. Where building components are described in the specification as Descriptive Specification - (Contractor Design) elements shown on this drawing pertaining to those components are to be read as 'Issued for Design Intent' only. Allias & Morrison LLP is not responsible for any errors caused by the transmission, translation, software or computer systems. Allias & Morrison LLP is not responsible for, nor shall be liable for, the consequences of any use made of the drawings or models, other than that for which they were produced by Allias & Morrison LLP for the Client.

REV	DATE	DESCRIPTION	CD
P1	12.07.22	ISSUED FOR INFORMATION	EJ
P2	10.10.22	ISSUED FOR INFORMATION	EM

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ELEPHANT AND CASTLE : TOWN CENTRE
 Elephant & Castle Town Centre Redevelopment - Current
 SCHEME LAND
 ETC-AAM-EX-DR-A-100024

A&M JOB No: 935_06
 SCALE 1 : 500 @A1
 SCALE: 1 : XXX @A3

Revision **P2**

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APPENDIX C

ELEPHANT AND CASTLE TOWN CENTRE - COMPULSORY PURCHASE ORDER

Planning Policy

Background

1. A Development Plan sets out a local authority's policies and proposals for land use in their area. The Development Plan for Southwark consists of the Southwark Plan 2022 and the London Plan 2021.
2. Relevant policies from the Development Plan are listed in the notes at the end of this Appendix.

Site Allocation

3. In the London Plan, the site is located within the Elephant and Castle Opportunity Area, the Central Activities Zone (CAZ) and forms part of an area designated as a Major Town Centre. The site is suitable for Tall Buildings under policy P17 (Tall Buildings) of the Southwark Plan because it is in the CAZ and a Major Town Centre.
4. In the Southwark plan, the site is the subject of Proposal Site policy NSP48 (Elephant and Castle Shopping Centre and London College of Communication), a large area at the centre of Elephant and Castle identified as being suitable for comprehensive mixed-use redevelopment. In terms of housing policy, the site is in an area where a minimum of 35% affordable housing is required.
5. The allocation requires redevelopment to enhance connectivity to the existing cycle network and walking routes, improving the accessibility to the bus, tube and station interchange and enable the Low Line walking route along the railway viaduct.
6. The site sits within Zone 1 and has a Public Transport Accessibility Level (PTAL) of 6b - which is the best.
7. The London View Management Framework 2012 provides that Elephant and Castle sits in the background of townscape view 23A1 looking from the Serpentine Bridge in Hyde Park to Westminster.

National Planning Policy Framework (NPPF), July 2021

8. The NPPF sets out the Government's strong commitment to delivering sustainable development. It advises that there are three elements to sustainable development; economic, social and environmental. Sustainable development is the principal theme underpinning both London-wide and Southwark policies, where the regeneration of areas such as the Elephant and Castle is of high priority.
9. The NPPF acknowledges the important role that town centres play at the heart of local communities. Paragraph 86(a) of the NPPF states that planning policies should define a network and hierarchy of town centres and promote their long-term vitality and

viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters.

10. Paragraph 92 of the NPPF provides that planning policies and decisions should aim to achieve healthy, inclusive and safe places which
 - (a) promote social interaction for example through street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;
 - (b) are safe and accessible – for example through the use of attractive, well-designed, clear and legible pedestrian and cycle routes, which encourage the active and continual use of public areas; and
 - (c) enable and support healthy lifestyles – for examples through the provision of safe and accessible green infrastructure and layouts that encourage walking and cycling.
11. With regards to public realm and pedestrian connectivity, NPPF paragraph 112 states that development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas, and create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards.
12. Paragraph 119 of the NPPF states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
13. Paragraph 121 of the NPPF recognises that local planning authorities should take a proactive role in identifying and bringing forward land that may be suitable for development needs, using the full range of powers available to them. This includes identifying opportunities for land assembly, supported where necessary by compulsory purchase powers, where this can help to bring more land forward for meeting development needs and/or secure better development outcomes.
14. Paragraph 187 of the NPPF provides that planning decisions and policies should ensure that new development is integrated effectively with existing businesses and community facilities, which should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or facility could have a significant adverse effect on new development in its vicinity, the applicant (or “agent of change”) should be required to provide suitable mitigation before the development has completed.

Elephant & Castle Opportunity Area

15. The site is located within the Elephant and Castle Opportunity Area. The London Plan considers Opportunity Areas to be *“significant locations with development capacity to accommodate new housing, commercial development and infrastructure (of all types), linked to existing or potential improvements in public transport connectivity and*

capacity. Opportunity Areas typically contain capacity for at least 5,000 net additional jobs or 2,500 net additional homes or a combination of the two. When developing policies for Development Plans, allocations and frameworks, boroughs should use the indicative capacity figures as a starting point, to be tested through the assessment process” (Paragraph 2.1.1).

16. Table 2.1 (Opportunity Area Indicative capacity for new homes and jobs) of the London Plan provides that Elephant and Castle has an indicative capacity of 5,000 homes and 10,000 jobs based on the 2017 SHLAA capacity from 2019-2041.

Southwark Plan 2022

17. The adopted site designation NSP48 (Elephant and Castle Shopping Centre and London College of Communication) in the Southwark Plan encompasses the East Site, all of the railway arches along Elephant Road and the LCC site. The site vision requires employment uses including new offices (E(g)(i) use class), retail, cafes and bars to at least the existing level of provision, at least the same amount of education space as is currently on the site, new homes, civic space, public realm enhancements including along the railway viaduct, a new tube station entrance, and high quality active frontages. The site designation also advises that a new community health hub may be provided. The site designation plan shows two improved pedestrian connectivity routes: one linking the Elephant and Castle peninsula and underground station with the railway station and out onto Elephant Road, and the other providing a link from Elephant Road through arches to the south of the railway station into the East Site and beyond, towards the open space of St Mary’s Churchyard Newington.
18. Policy ST1 of the Southwark Plan provides the targets for the distribution of jobs, which for the Elephant and Castle Opportunity Area is 10,000. Policy ST2 sets out the development targets:

Table A: Delivery in Vision Areas

Site Area	Employment floorspace (sqm)		Retail, leisure and community uses floorspace* (sqm)		Approximate housing capacity within the borough through site allocations by area (net, units)	Net open space provision within site allocations in GIA (sqm)	
	Proposed provision (gross)	Uplift (net)	Proposed provision (gross)	Uplift (net)			
Elephant and Castle	Site Allocations	27,309	-2,884	30,946	2,261	1,686	1,640
	Elephant Park	60,000	60,000	6,014	6,014	683	8,000
	Planning applications	47,792	27,542	0	0	0	0
	Total	135,101	84,658	36,960	8,275	2,369	9,640

19. Policy SP4 (Green and Inclusive Economy) sets out town centre employment and jobs targets. For Elephant and Castle Opportunity Area the target for jobs is 10,000. The policy also sets targets for the distribution of the retail floorspace, which for the Elephant and Castle Major Town Centre is 10,000 sq.m.
20. Design and accessibility guidance in NSP48 provides that it is anticipated that the existing shopping centre will be demolished to facilitate a restructuring of the area’s layout, walking and cycle routes should be enhanced and a comprehensive mixed-use redevelopment of the site can include taller buildings, subject to consideration of impacts on existing character, heritage and townscape.

21. Policy AV.09 sets out the vision for Elephant and Castle Area, which is to provide an attractive destination for visitors with a strong daytime and night-time economy which provides a range of cultural and entertainment spaces alongside a lively and diverse retail environment for local residents. The policy requires that development in Elephant and Castle should provide as many homes as possible at a range of different tenures including second housing. Development should also provide opportunities for existing small businesses, particularly those from minority ethnic groups, to relocate and continue trading; and should support the creation of a distinctive environment through a mix of innovative and enduring new architecture, heritage buildings, open spaces and quality public realm that provides greenery, safety, connectivity and reduces exposure to air pollution, whilst enabling new transport infrastructure links with the surrounding areas by providing safe and accessible walking, cycling and public transport routes.
22. Policy P33 provides that where small or independent businesses or small shops may be displaced by development, a business relocation strategy, written in consultation with affected businesses, must be provided. The strategy must set out viable relocation options.
23. Policy P34 supports the use of railway arches within the borough for commercial or community uses.
24. Policy P35 notes that town centres should be the main focus for new developments providing new shops, education, healthcare and community facilities, offices and workspaces, leisure facilities and entertainment venues. This includes encouraging a diverse night-time economy with a range of appropriate activities throughout the evening and night-time.
25. With regards to pedestrian connectivity, Policy P51 states that development must enhance the borough's walking networks by providing footways, routes and public realm that enable access through development sites and adjoining areas. Similarly, Policy P49 requires development to improve accessibility to public transport by creating and improving walking and cycling connections to public transport stops or stations.

London Plan 2021

26. The London Plan was adopted in March 2021 following extensive consultation and an Examination in Public in 2019.
27. Policy SD1 (Opportunity Areas) of the London Plan states that the designated Opportunity Areas should maximise the delivery of affordable housing and create mixed and inclusive communities.
28. The London Plan allocates Elephant & Castle as an Opportunity Area. In addition, Policy SD6 (Town Centres and High Streets) applies to Elephant and Castle Town Centre and requires the vitality and viability of London's varied town centres to be promoted and enhanced through appropriate town centre development.
29. Table A1.1 - Town Centre Network of the London Plan sets out the vision for the Elephant and Castle Town Centre.
30. Elephant & Castle has a Major centre classification in the Town Centre Network. The London Plan defines Major centres as "*Major centres – typically found in inner and*

some parts of outer London with a borough-wide catchment. They generally contain over 50,000 sq.m of retail, leisure and service floorspace with a relatively high proportion of comparison goods relative to convenience goods. They may also have significant employment, leisure, service and civic functions.”

31. Elephant and Castle is classified as an NT2 in the night-time economy classification. The town centre is of regional or sub-regional significance with regard to the night-time economy.
32. Elephant and Castle is classified as Medium under the commercial growth potential. The London Plan defines Medium growth as “Medium growth – includes town centres with moderate levels of demand for retail, leisure or office floorspace, and with physical and public transport capacity to accommodate it.”
33. The London Plan provides that town centres are likely to be able to accommodate high or medium levels of residential growth, or incremental residential development and boroughs should be planning proactively to seek opportunities for residential growth in and around town centres. Elephant and Castle is classified in the London Plan as High under residential growth potential.
34. Elephant and Castle is classified as A/B and part CAZ. The CAZ areas have significant potential for an office function. Classification A establishes that the town centre has “*Speculative office potential – These centres have the capacity, demand and viability to accommodate new speculative office development.*” Classification B establishes that the town centre has “*Mixed-use office potential – These centres have the capacity, demand and viability to accommodate new office development, generally as part of mixed-use developments including residential use.*”
35. The site sits within the CAZ, the strategic priorities and functions for which are set out in policies SD4 and SD5 of the London Plan; this includes enhancing and promoting the roles of the CAZ based on a rich mix of local and strategic uses.
36. The plan states that the Mayor is proposing to extend the Bakerloo Line from Elephant to Lewisham which will improve the route’s connectivity and capacity supporting new homes in the Old Kent Road and elsewhere in South-East London. The Bakerloo Line Extension has been delayed.
37. Policy GG1 (building strong and inclusive communities) requires those involved in planning and development to (among other things): seek to ensure changes to the physical environment to achieve an overall positive contribution to London; provide access to good quality community spaces and infrastructure that accommodate, encourage and strengthen communities, increasing active participation and social integration; ensure that streets and public spaces are consistently planned for people to move around and spend time in comfort and safety; ensure that new buildings and the spaces they create are designed to reinforce or enhance the identity, legibility, permeability and inclusivity of neighbourhoods; and support and promote the creation of a London where all Londoners, including those with protected characteristics, can move around with ease.
38. Policy GG2 (making the best use of land) states that those involved in planning and development must (among other things): enable the development of brownfield land, particularly in Opportunity Areas; and plan for good local walking, cycling and public transport connections to support a strategic target of 80% of all journeys using sustainable travel, enabling car free lifestyles that allow an efficient use of land, as well

as using new and enhanced public transport links to unlock growth.

39. In relation to the relocation of Corsica Studios and the night-time economy, Policy HC6 states that the night-time economy should be promoted, where appropriate, particularly in the CAZ, strategic areas of night-time activity, and town centres where public transport such as the Night Tube and Night Buses are available. It states that boroughs should improve access, inclusion and safety, and make the public realm welcoming for all night-time economy users and workers. The policy seeks to protect and support evening and night-time cultural venues such as pubs, night clubs, theatres, cinemas, music and other arts venues.
40. Also relevant in this context is Policy D13 (The Agent of Change). This places the responsibility for mitigating impacts from existing noise emitting activities or uses on the proposed new noise-sensitive development. This means that the responsibility for mitigating the impact of noise is on the proposer of eg the new residential development. As a consequence, the developer of residential units close to a noise emitting activity (such as a music venue like Corsica Studios) may need to design them in a more sensitive way to protect the new occupiers from noise impacts and/or to pay for soundproofing of the existing music venue.
41. Regarding public realm and pedestrian connectivity, Policy D8 states that development should ensure that public realm is well-designed, safe, accessible, inclusive, attractive, well-connected, related to the local and historic context, and easy to understand, service and maintain. Proposals should maximise the contribution that the public realm makes to encourage active travel and ensure its design discourages travel by car. In particular, they should demonstrate an understanding of how people use the public realm, and the types, location and relationship between public spaces in an area, identifying where there are deficits for certain activities, or barriers to movement that create severance for pedestrians and cyclists. Desire lines for people walking and cycling should be a particular focus, including the placement of street crossings, which should be regular, convenient and accessible.
42. Policy T1 (Strategic approach to transport) requires Development Plans to support, and development proposals to facilitate the delivery of the Mayor's strategic target of 80% of all trips in London to be made by foot, cycle or public transport by 2041, requiring all development to make the most effective use of land, reflecting its connectivity and accessibility by existing and future public transport, walking and cycling routes, and ensure that any impacts on London's transport networks and supporting infrastructure are mitigated.
43. In accordance with the Mayor's Healthy Streets initiative, Policy T2 states that development proposals should deliver patterns of land use that facilitate residents making shorter, regular trips by walking or cycling. Part D of the policy states that development proposals should be permeable by foot and cycle and connect to local walking and cycling networks as well as public transport.

Elephant and Castle Supplementary Planning Document ("SPD")

44. The SPD provides a framework to guide development until 2027. The Opportunity Area is divided into character areas and the site forms part of the central character area. The strategy for this area is to:
 - Use development opportunities to redevelop or remodel the shopping centre and expand its appeal to a larger catchment.

- Provide a range of unit sizes and affordable retail units which are made available to existing occupiers displaced by development from across the opportunity area.
 - Provide a range of arts, cultural, leisure and entertainment uses, including food and drink uses which make a positive contribution to the evening economy.
 - Support the growth of the London College of Communication.
 - Strengthen links between the shopping centre site and Walworth Road ensuring that it becomes a key shopping axis.
 - Require developments to be mixed use and introduce active uses at ground level wherever possible.
 - Ensure that development opportunities provide opportunities for existing and future small and medium sized businesses.
 - Transform leisure opportunities by building a new leisure centre.
 - Make significant improvements to the interchange between buses, tube and rail and increase capacity in the Northern Line station.
 - Replace subways with surface level crossings.
 - Improve east-west pedestrian connections by providing direct links through the shopping centre site and railway viaduct.
 - Take opportunities to activate and soften key public spaces around the central area and provide a new civic space at the front of the shopping centre.
 - Ensure all development and public realm enhancements are of the highest quality to provide a positive perception of the area.
 - Use tall buildings to signal the regeneration of the area, help define gateways into the central area and create an interesting skyline.
 - Potential sites for tall buildings include the shopping centre and leisure centre sites. However, they must not detract from heritage assets, including the view of the Palace of Westminster from the Serpentine Bridge.
 - Provide the potential to link key sites, including the shopping centre and leisure centre, within a district CHP/communal heating network.
45. With regard to land use, guidance note SPD21 advises that a redevelopment/remodelling of the shopping centre will be supported. Proposals for the shopping centre site should:
- Support the objective of consolidating the Elephant and Castle as a major town centre.
 - Improve the retail offer by providing a range of types of retail, including comparison goods floor space.

- Provide a range of unit sizes and affordable retail units which are made available to existing occupiers displaced by development.
 - Increase the number of employment opportunities on the site and ensure that there is no net loss of non-residential floor space.
 - Provide a range of arts, cultural, leisure and entertainment uses, including food and drink uses which make a positive contribution to the evening economy.
 - Introduce residential use as part of mixed-use development where feasible.
 - Provide space for an increase in the capacity of the Northern Line ticket hall.
46. SPD 6 of the SPD states that proposals involving arts, cultural, leisure and entertainment uses which contribute towards consolidating Elephant and Castle and Walworth Road as a major town centre will be supported. Paragraph 4.3.5 of the supporting text acknowledges that the development of the evening and night-time economy in the area will help keep the town centre lively and safe at different times of the day and provide more leisure opportunities for local people, visitors and people working in the area.
47. SPD 11 seeks to provide a high-quality network of pedestrian and cycle routes in the opportunity area. Development in the opportunity area should provide convenient, direct, safe, and attractive pedestrian and cycle links which follow desire lines, whilst facilitating east-west pedestrian and cycle movement through the opportunity area and reducing severance created by the railway viaducts and main roads.

Conclusion

48. In conclusion, the development plan and national policy framework confirms strong support for a high density, mixed-use development on this brownfield site. Across both East and West Sites there will be an increase in retail floorspace in accordance with the London Plan, the Southwark Plan and the SPD. The proposed development will fully accord with the principle of accommodating large-scale development within Opportunity Areas and will deliver many of the key objectives set out in the development plan and the SPD for the central character area, including extensive public realm improvements and significant enhancement to pedestrian experience and connectivity. The permeability of development sites for pedestrians is a key aspect of development plan policy, and the proposed development would create such permeability. The development will also include a new and enhanced home for the cultural electronic and dance music venue on Elephant Road, in line with policy to protect the night time economy; and relocation opportunities for the displaced occupiers of 6 and 7 Farrell Court, in accordance with policy to offer opportunities to displaced small businesses to relocate and continue trading.

Notes

The London Plan 2021 – relevant policies

Policy GG1 - Building strong and inclusive communities

Policy GG2 – Making the best use of land

Policy SD1 - Opportunity Areas

Policy SD4 - The Central Activities Zone (CAZ)

Policy SD5 - Offices, other strategic functions and residential development in the CAZ

Policy SD6 - Town centres and high streets
 Policy SD7 - Town centres: development principles and Development Plan Documents
 Policy SD8 - Town centre network
 Policy SD9 - Town centres: Local partnerships and implementation
 Policy SD10 - Strategic and local regeneration
 Policy D1 - London's form, character and capacity for growth
 Policy D2 - Infrastructure requirements for sustainable densities
 Policy D3 - Optimising site capacity through the design-led approach
 Policy D4 - Delivering good design
 Policy D5 - Inclusive design
 Policy D6 - Housing quality and standards
 Policy D7 - Accessible housing
 Policy D8 - Public realm
 Policy D9 - Tall buildings
 Policy D10 - Basement development
 Policy D11 - Safety, security and resilience to emergency
 Policy D12 - Fire safety
 Policy D13 - Agent of Change
 Policy D14 - Noise
 Policy H1 - Increasing housing supply
 Policy H4 - Delivering affordable housing
 Policy H5 - Threshold approach to applications
 Policy H6 - Affordable housing tenure
 Policy H7 - Monitoring of affordable housing
 Policy H9 - Ensuring the best use of stock
 Policy H10 - Housing size mix
 Policy H11 - Build to Rent
 Policy S1 - Developing London's social infrastructure
 Policy S2 - Health and social care facilities
 Policy S3 - Education and childcare facilities
 Policy S4 - Play and informal recreation
 Policy S5 - Sports and recreation facilities
 Policy E1 - Offices
 Policy E2 - Providing suitable business space
 Policy E3 - Affordable workspace
 Policy E8 - Sector growth opportunities and clusters
 Policy E9 - Retail, markets and hot food takeaways
 Policy E11 - Skills and opportunities for all
 Policy HC1 - Heritage conservation and growth
 Policy HC3 - Strategic and Local Views
 Policy HC4 - London View Management Framework
 Policy HC5 - Supporting London's culture and creative industries
 Policy HC6 - Supporting the night-time economy
 Policy HC7 - Protecting public houses
 Policy G1 - Green infrastructure
 Policy G4 - Open space
 Policy G5 - Urban greening
 Policy G6 - Biodiversity and access to nature
 Policy G7 - Trees and woodlands
 Policy G8 - Food growing
 Policy G9 - Geodiversity
 Policy SI 1 - Improving air quality
 Policy SI 2 - Minimising greenhouse gas emissions
 Policy SI 3 - Energy infrastructure

Policy SI 4 - Managing heat risk
 Policy SI 5 - Water infrastructure
 Policy SI 6 - Digital connectivity infrastructure
 Policy SI 7 - Reducing waste and supporting the circular economy
 Policy SI 12 - Flood risk management
 Policy SI 13 - Sustainable drainage
 Policy T1 - Strategic approach to transport
 Policy T2 - Healthy Streets
 Policy T3 - Transport capacity, connectivity and safeguarding
 Policy T4 - Assessing and mitigating transport impacts
 Policy T5 - Cycling
 Policy T6 - Car parking
 Policy T6.1 - Residential parking
 Policy T6.2 - Office Parking
 Policy T6.3 - Retail parking
 Policy T6.4 - Hotel and leisure uses parking
 Policy T6.5 - Non-residential disabled persons parking
 Policy T7 - Deliveries, servicing and construction
 Policy T9 - Funding transport infrastructure through planning

Relevant GLA Supplementary Planning Guidance (SPG)

Character and Context SPG (October 2014)
 Fire safety LPG (draft)
 Characterisation and Growth Strategy LPG (draft)
 Housing Design Standards LPG (draft)
 Optimising Site Capacity: A Design-led Approach LPG (draft)
 Small Site Design Codes LPG (draft)
 Housing SPG (May 2016)
 Large scale purpose built shared living LPG (draft)
 Play and Informal Recreation SPG
 Social Infrastructure SPG (May 2015)
 London View Management Framework (March 2012)
 Urban Greening Factor SPG (September 2021)
 Be Seen Energy Monitoring SPG (October 2021)
 Circular Economy Statement SPG (March 2022)
 Whole Lifecycle Carbon Assessment SPG (March 2022)
 Energy Assessment Guidance (2020)
 Control of Dust and Emissions (July 2014)
 Air Quality Neutral Guidance (AQN) (draft)
 Air Quality Positive SPG (draft)
 Sustainable Transport, Walking and Cycling guidance (September 2021)
 Affordable Housing and Viability Supplementary Planning Guidance (August 2017)

Relevant Southwark Plan Policies 2022

ST1 - Southwark's Development Targets
 ST2 - Southwark's Places
 SP1 - Homes for all
 SP2 - Southwark Together
 SP3 - Great start in life
 SP4 - Green and inclusive economy
 SP5 - Thriving neighbourhoods and tackling health inequalities
 SP6 - Climate Emergency

AV.09 - Elephant and Castle Area Vision

- P1 - Social rented and intermediate housing
- P2 - New family homes
- P3 - Protection of existing homes
- P4 - Private rented homes
- P8 - Wheelchair accessible and adaptable housing
- P13 - Design of places
- P14 - Design quality
- P15 - Residential design
- P16 - Designing out crime
- P17 - Tall buildings
- P18 - Efficient use of land
- P19 - Listed buildings and structures
- P20 - Conservation areas
- P21 - Conservation of the historic environment and natural heritage
- P22 - Borough views
- P23 - Archaeology
- P26 - Local list
- P27 - Education places
- P28 - Access to employment and training
- P30 - Office and business development
- P31 - Affordable workspace
- P32 - Small shops
- P33 - Business relocation
- P34 - Railway arches
- P35 - Town and local centres
- P36 - Development outside town centres
- P37 - Protected shopping frontages
- P38 - Shops outside protected shopping frontages, town and local centres
- P39 - Shop fronts
- P42 - Pubs
- P43 - Outdoor advertisements and signage
- P44 - Broadband and digital infrastructure
- P45 - Healthy developments
- P46 - Leisure, arts and culture
- P47 - Community uses
- P48 - Hot food takeaways
- P49 - Public transport
- P50 - Highways impacts
- P51 - Walking
- P53 - Cycling
- P54 - Car Parking
- P55 - Parking standards for disabled people and the physically impaired
- P56 - Protection of amenity
- P57 - Open space
- P58 - Open water space
- P59 - Green infrastructure
- P60 - Biodiversity
- P61 - Trees
- P62 - Reducing waste
- P64 - Contaminated land and hazardous substances
- P65 - Improving air quality
- P66 - Reducing noise pollution and enhancing soundscapes
- P67 - Reducing water use

P68 - Reducing food risk
P69 - Sustainability standards
P70 - Energy

Relevant Supplementary Planning Documents (SPDs)

Heritage SPD (2021)
Development Viability SPD (2016)
Technical Update to the Residential Design Standards SPD (2015)
Section 106 Planning Obligations/CIL SPD (2015)
Elephant and Castle Opportunity Area Planning Framework/SPD (2012)
Affordable housing SPD (2008 - Adopted and 2011 - Draft)
Residential Design Standards SPD (2011) Sustainable Transport SPD (2010)
Sustainable design and construction SPD (2009) Sustainability assessments SPD (2009)
Statement of Community Involvement (2008)

APPENDIX D**THE PROGRESS OF THE SCHEME SINCE APRIL 2020**

1. On 29 July 2020, planning permission 20/AP/0681 was granted for some connecting London underground tunnels. The construction of the connecting tunnels by LUL will be required to successfully bring into operation the new underground station box as part of the Scheme. The need for this planning permission was expressly referred to in the April 2020 Cabinet report (Agenda Item 24).
2. Highways stopping-up orders under the Town and Country Planning Act 1990 in respect of the Scheme were also made in summer 2020, one for the East Site (30 July 2020) and one for the West Site (4 June 2020). Those orders came into effect when demolition began on site (as to which see below). No challenge was brought to the orders.
3. On 27 July 2020, EC's group company, Elephant and Castle Development UK Limited ("EC Dev UK"), entered into an asset protection agreement with Network Rail, with EC guaranteeing its group company's obligations. This was a requirement of Network Rail, to safeguard the railway infrastructure during the redevelopment.
4. On 5 August 2020 EC and its group companies entered into conditional agreements with UAL for (i) the relocation of UAL to a new university campus building to be built on the East Site and (ii) the purchase of the current LCC site by Elephant Three Properties Ltd (EC's group company). UAL is the anchor tenant for the East Site and without the acquisition of the current LCC site the West Site cannot be delivered. The entry into such agreements was a pre-requisite to the Council making any CPO or entering into any arrangements to override third party rights under the April 2020 CPO resolution.
5. The overriding rights mechanism approved by Cabinet as Agenda Item 25 in April 2020 was put in place for the large majority of the Scheme on 6 August 2020. The Council took interests in both the LCC site (from UAL) and in the large majority of the East Site (from EC). On 30 April 2021, the remaining areas to be built upon as part of the Scheme, owned by LUL and TfL, were also the subject of similar transactions. On each occasion, public notices were published in the Southwark News, advertising the intention and effect of the process. No complaint or challenge was raised to the use of those procedures. The interests held by the Council have been surrendered. As required by the Cabinet resolution, prior to the arrangements being entered into, indemnities were given in favour of the Council by EC with Get Living Plc providing a guarantee for any default liability the Council may have to pay compensation to affected parties. Accordingly, the objective of the Cabinet in overriding third party rights which may otherwise frustrate the Scheme has been achieved.

6. EC procured the discharge of the pre-demolition conditions on the 2019 permission and any pre-demolition obligations under the related section 106 planning agreement during 2020.
7. In September 2020 the affordable replacement retail units in Elephant One (50 New Kent Road, owned by a group company of EC), Perronet House (owned by the Council) and the temporary retail units at Castle Square (adjacent to 50 New Kent Road, on Elephant Road) were opened.
8. Following the opening of the Perronet House, Castle Square and other replacement retail units, on 24 September 2020 the Shopping Centre and the adjacent external market area within its grounds closed to the public.
9. The section 106 relocation fund (provided by EC) and the additional £200,000 fund made available by the Council to local independent traders from the East Site have largely been expended. The Council concentrated its additional £200,000 fund on making grants in 2020 to eligible local independent traders from the East Site without an offer of an affordable unit.
10. At the time of the April 2020 Cabinet meeting the High Court had dismissed (on all grounds) a judicial review claim against the Council's grant of the January 2019 planning permission for the Scheme. It was noted in the Cabinet report, though, that there might be an appeal of that decision by the claimant. On 22 October 2020 the Court of Appeal gave permission to appeal to the claimant on all grounds. The substantive appeal was heard by three Court of Appeal judges on 16-17 March 2021. The Court of Appeal judgment was given on 28 May 2021 and it unanimously rejected all grounds of the claim, upholding the High Court's decision. The unanimous decision of the Court of Appeal further vindicated the Council's (and EC's) position on the matter. The Council's consideration of the planning application was entirely lawful.
11. On 29 October 2020, EC and the Council agreed a variation to part of the section 106 agreement, so that EC would be allowed to demolish the existing buildings on the Shopping Centre without first entering into a development agreement ("DA") with LUL. The requirement to enter into the DA with LUL was left in place in the section 106 agreement but was relaxed so that demolition could take place beforehand. This variation of the section 106 agreement meant that no "Implementation" of the Scheme (ie works of piling or other substantive construction works) could take place pursuant to the section 106 agreement until the DA with LUL was in place, and that the DA had to contain (among other items) a requirement on LUL to enter into a further section 106 obligation, prior to Implementation, as to the fit-out of the station box and an agreed programme for the phasing and completion of the station box works. As explained below, this position was further amended.
12. On 1 October 2020, EC Dev UK entered into a funding and co-operation agreement with the Thameslink train operator, Govia Thameslink, to fund the required operational changes to the railway station, including the provision of a new surface level access to the new town centre scheme on the western boundary of the railway station.

13. In October 2020, a demolition contractor took possession of the Shopping Centre and the immediately surrounding land owned by EC. Demolition work on the Shopping Centre and the immediately surrounding buildings began in January 2021, implementing the 2019 permission.
14. On 27 October 2020, EC entered into an agreement with Network Rail to release existing easements over the Shopping Centre site. This allowed EC to remove the then existing footbridge from the railway station into the Shopping Centre.
15. On 1 December 2020, EC entered into an agreement with London Power Networks PLC, the electricity undertaker, for the surrender and re-grant of electricity sub-station leases on the East Site. The existing sub-station leases on the East Site were surrendered pursuant to that agreement on 27 September 2021.
16. In December 2020, a further planning application was submitted to amend the permitted Scheme under the 2019 permission, to allow for an enlarged station box, with enough capacity to potentially accommodate both Bakerloo and Northern Lines. This application, made by EC, was agreed in advance with LUL. The Council granted the permission (reference 20/AP/3675) on 12 March 2021. Again, the need for such a permission to further the Scheme was expressly envisaged in the April 2020 Cabinet report.
17. On 8 April 2021, a non-material amendment approval (reference 21/AP/1064) to the 12 March 2021 planning permission was granted. This simplified the description of development and removed references to building heights and unit numbers in that description. The purpose of this approval was to pave the way for a further planning application, for further minor material amendments to the East Site of the Scheme (reference 21/AP/1104), submitted on 25 March 2021. Those further amendments can be summarized as follows:
 - Additional office accommodation within Building E2;
 - Reduction in cinema area and provision of additional leisure area at basement level;
 - Reduction in retail area in East Site, offset by an increase in retail area in West Site;
 - Four additional residential units (representing a 0.4% increase);
 - Reconfiguration of residential unit mix to provide additional 2-bed and 3-bed units;
 - Amendments to residential communal amenity space;
 - Provision of additional UAL floorspace;

- Minor alterations to building heights (reduction of up to 670 mm) and positioning (up to 700 mm);
 - Alterations to pedestrian routes and walkways; and
 - Reconfiguration of internal layouts and elevational changes.
 - Amendments to conditions 1 (approved drawings – to reflect revised drawings), 19 (detailed construction drawings of the East Site), 20 (detailed construction drawings of the proposed new UAL building on the East Site), 25 (green roof –condition deleted as there is no green roof on Building E1), 26 (basement access design), 27 (western railway viaduct boundary –condition deleted as there is no proposed boundary treatment along the west-facing viaduct), 29 (public toilet), 31 (landscaping scheme), 45 (sound insulation in the proposed UAL building – condition deleted), 48 (external noise levels in private amenity areas – condition deleted), 51 (opening hours of cafes/restaurants/bars) and 54 (wind microclimate).
18. Some of these changes were the result of further discussions with UAL as to their requirements and had been discussed with the Council's planning officers and the GLA prior to submission. All of the changes are minor in nature. All of the main constituent parts of the Scheme (as envisaged in April 2020) are still present. The 35% affordable housing provision by habitable room was maintained. On 6 July 2021 the Council's Planning Committee resolved to grant planning permission for these changes, subject to completion of a section 106 deed of variation and no call-in by the Mayor. This further planning permission was granted on 29 July 2021. Works pursuant to this permission have now been implemented on the East Site.
19. On 7 May 2021 the Council received an application from EC (reference 21/AP/1581), supported by TfL, to further amend the section 106 agreement to remove the requirements for details of the timescales for the fit out and opening of the station box to be provided in the development agreement with LUL. TfL had advised in writing that owing to the long term funding uncertainty that TfL faces as a result of the global pandemic, which has had a significant impact on TfL revenue, TfL/LUL were unable to commit to the funding of the fit-out (and consequently the opening) of the new underground station box. That means that the DA could not be entered into, which would mean that Implementation of the Scheme could not take place once demolition had finished. EC therefore requested, with TfL support, that the terms which LUL could not commit to at this stage were removed from the section 106 agreement, thus enabling the DA to be entered into and EC to proceed with works beyond demolition.
20. This request was carefully considered by the Council's planning officers and they concluded that: the changes remove the certainty as to the fitting out and opening of the new station box; there is no guarantee that LUL will have the necessary funds in the future; it is possible that the entire site could be occupied without the new station box being opened, and if that happened it is likely that access to the existing underground station would need to be

managed more frequently; whilst the delivery of the new station box was a factor in the grant of planning permission, EC has no control over LUL funding; if the Scheme cannot be Implemented that will lead to a vacant site at the heart of the town centre, which would not bring the various other benefits of the Scheme; TfL/LUL do have funding for the enlarged station box (but not fit-out) and connecting tunnels; and when all of these factors are considered in the round, including the unprecedented situation that LUL finds itself in due to the pandemic, the amendment to the section 106 agreement was acceptable. The deed of variation to implement these changes was completed on 29 June 2021.

21. On 18 December 2021, EC Dev UK entered into a building contract with the major building contractor Multiplex for the substantive construction (ie beyond demolition phase) of the East Site.
22. On 23 December 2021 a further important milestone was reached when EC and EC Dev UK entered into the DA with LUL and TfL, with Get Living Plc providing a guarantee of the development obligations. The DA deals with the construction of the enlarged Underground station box on the East Site by EC Dev UK, which when completed will be handed over to LUL for fit-out. As can be seen from the preceding paragraphs, there is not absolute certainty that TfL/LUL will have the funds to fit-out the station once it is handed over, though there is a high likelihood that the station will be fitted out within a reasonable timescale of handover. In addition, the DA brings TfL's landholdings adjacent to the Shopping Centre site on the East Site into the Scheme by agreement, with EC having acquired several plots from TfL.
23. Also on 23 December 2021, EC entered into a debt facility agreement with Starwood Property Trust Inc, to provide the necessary debt funding (£365 million) to continue and complete the East Site redevelopment. This gives further confidence that the funding of the East Site is secured.
24. Following the entry into the facility agreement, notice to proceed with the substantive construction of the East Site redevelopment was given to Multiplex under the building contract on 23 December 2021.
25. On 18 January 2022, T3 Residential Limited, a group company of EC which has been set up to become a for profit registered provider of the affordable housing on the Scheme, entered into an affordable housing grant funding agreement with the GLA. This secured £9,631,750 of grant funding from the GLA to facilitate the provision of the 172 affordable housing units on the East Site.
26. On 17 March 2022, piling works began on the East Site, marking the commencement of the substantive construction of the East Site redevelopment. This also triggered the payment of the East Site grant funding to T3.
27. In May 2022, LUL and TfL granted crane oversail licences to facilitate works on part of the East Site.

28. In late 2021 and during 2022 the Council has granted several non-material amendment approvals under the July 2021 planning permission, permitting non-material amendments in respect of submissions under conditions 10, 24, 25 and 28 of that planning permission.
29. On 10 June 2022, the Council granted planning permission (reference 21/AP/4628) for the installation of underground heating pipework and associated works, to run from 50 New Kent Road to the East Site under Elephant Road and the railway station. The proposed connection will enable the East Site to benefit from heating produced at the 50 New Kent Road site. On 5 August 2022, Network Rail granted an easement in favour of EC to allow the heating pipework to run under the railway station.

Arches 113A, 120, 113B and 121 (vacant, required for relocation opportunity for nightclub)

FORMER SHOPPING CENTRE SITE

6 and 7 Farrell Court (in mixed use, required for the approved Park Route)

4 and 5 Farrell Court (nightclub, required for relocation opportunity for occupiers of 7 Farrell Court)

CASTLE SQUARE

ELEPHANT ROAD

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P1	12.07.22	ISSUED FOR INFORMATION	EJ
P2	10.10.22	ISSUED FOR INFORMATION	EM
P3	07.11.22	ISSUED FOR INFORMATION	EM

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ELEPHANT AND CASTLE : TOWN CENTRE
ELEPHANT & CASTLE RAILWAY ARCHES
INDICATIVE LOCATION PLAN
ETC-AAM-EX-ZZ-DR-A-100023

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SCALE 1 : 250 @A1
SCALE 1 : 500 @A3

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P3
Revision

APPENDIX F

ELEPHANT AND CASTLE TOWN CENTRE - COMPULSORY PURCHASE ORDER

STATUS UPDATE

SUMMARY ON DISCUSSIONS WITH THIRD PARTIES

(PROVIDED BY DEVELOPER)

1. This document provides a summary of the current status of agreements with the key third parties whose land interests need to be acquired or over whose land new rights are sought to facilitate the redevelopment.

Transport for London (as regards crane oversail rights on the West Site)

2. TfL and LUL's land interests generally are brought into the Scheme by way of the December 2021 agreement with the developer; crane oversail licences were also granted in May 2022 to facilitate works on part of the East Site. It is hoped that similar crane oversail rights will be granted in respect of the West Site by TfL - EC has approached TfL to provide these and negotiations are ongoing.

Network Rail - new rights to be granted

3. Station change proposals and asset protection agreements are already in place. EC has sought additional new rights to be granted by Network Rail to facilitate the Scheme. These are considered to be minor in nature. Network Rail owns the viaduct structure. EC is therefore seeking new rights from Network Rail, including: the right to remove the existing shopfronts and rear elevations from 6 and 7 Farrell Court to create the Park Route pedestrian walk-through and the carrying out of various minor works to the sides and undersides of the relevant viaduct arches, including the affixing of a kiosk within the walk-through; the right to affix apparatus and frontages and rear elevations to the sides and undersides of Arches 113A/120 and 113B/121 to bring them into beneficial use as a relocation premises for the cultural electronic and dance music club); the ability to carry out works to facilitate the conversion of 4 and 5 Farrell Court into relocation premises for the tenant and occupiers of 7 Farrell Court; and a right of way across the Network Rail station entrance to ensure that users of the East Site can access to and from the railway station, with a related right to pave and maintain that area. Again, EC's intention is to reach agreement with Network Rail by private treaty if practicable and discussions with Network Rail are ongoing.

The Arch Company

4. Arch Co was granted a long lease of all of the Elephant & Castle railway arch units by Network Rail in 2019. Discussions are ongoing regarding commercial and title terms with the Arch Co, having commenced in 2019. EC began by offering for the arch units and adjacent land envisaged by the CPO, but following a specific invitation from Arch Co, EC then offered to acquire Arch

Co's long lease for the entire run of arch premises in the railway viaduct at Elephant & Castle, with three offers having been made for that larger area. Although that larger area is not required for the Scheme, EC offered for it in the hope that would avoid the need for compulsory acquisition of Arch Co's land, due to Arch Co's desire to deal with all of the arch units at Elephant & Castle. The parties remain apart in their valuations on that and in relation to the smaller area required for the Scheme as envisaged by the CPO. Offers have also been made in respect of that smaller area.

5. A further proposal was put to Arch Co in June 2022 which would involve the collaborative working together of EC and Arch Co to redevelop the arch units and land adjacent to the viaduct in Arch Co's ownership covered by the CPO, without the need for compulsory acquisition. That proposal, if taken forward, would however rely upon all parties, including Arch Co, Network Rail and the affected tenants, agreeing matters and so it is envisaged that the CPO would still be pursued even if such an agreement was to be reached, because if any one of the parties defaulted on their contractual commitments the proposal could unravel. In that scenario, the Council could undertake not to use confirmed CPO powers in respect of the arches if all relevant parties comply with their obligations. It is not clear to the Council and EC whether Arch Co will engage with that proposal. Since it was submitted to Arch Co there has been no positive engagement on it and Arch Co have again referred to the possibility of an outright sale.

Occupational tenancies in some of the railway arches on Elephant Road

6. The Scheme envisages the use of what are currently 6 Farrell Court (DistriAndina) and 7 Farrell Court (Beset International) as the new pedestrian link to Elephant Road. In addition, the Scheme envisages the redevelopment of 4 and 5 Farrell Court (currently occupied by Corsica Studios) for use as a relocation opportunity within the Scheme for Beset and their occupiers displaced from 7 Farrell Court (with the proposal to relocate DistriAndina within the Scheme, to a new unit within one of the new blocks on the East Site).
7. An offer from EC had been accepted by DistriAndina in 2020 but the requisite agreement was not completed. No offer has been accepted by Beset and there has been difficulty finding a relocation opportunity which is suitable for their requirements. 4 and 5 Farrell Court would, however, be a suitable relocation opportunity for them and their occupiers.
8. Discussions with Corsica Studios for some time focussed on retro-fitting 4 and 5 Farrell Court with noise insulation and consequential remodelling of the units, but through the detailed discussions that ensued it became clear this was not feasible and would in any event require Corsica to close for a significant period of time whilst the works were undertaken. Discussions are progressing with Corsica Studios in respect of the proposed relocation to the northern arches 113A/120 and 113B/121, though no commitment or agreement in principle to move has been reached.
9. Discussions are ongoing with all of these tenants.

London Power Networks (surrender of electricity substations)

10. The leases of the current substations on the LCC Site will need to be surrendered and the substations relocated in due course. Discussions have commenced in this regard with the electricity undertaker and it is hoped that this will be done by private agreement but the CPO is necessary as a backstop should this fail.

Metropolitan Tabernacle (new rights to be acquired)

11. The Tabernacle has appointed a surveyor to act on its behalf and the parties are in discussion to address various practical aspects that the Tabernacle has raised in respect of EC's request to obtain some relatively minor new rights to facilitate the demolition of the adjacent LCC building and crane oversail. Whilst it is hoped that these discussions will result in an agreement by private treaty, and EC is working towards that objective, the CPO is required in case agreement cannot be reached.

Other crane oversail (West Site)

Crane oversail rights over some highway areas and to a small extent over The Castle Centre and Perronet House. The highway areas are unregistered but some of them are presumed to be owned by the Council. Perronet House is owned by the Council.

APPENDIX G**ELEPHANT AND CASTLE TOWN CENTRE - COMPULSORY PURCHASE ORDER****THE COUNCIL'S POWERS AND THE LEGAL AND POLICY GUIDANCE FRAMEWORK**

1. It has been made clear repeatedly by the courts over the last few decades that special care needs to be undertaken when considering the justification for compulsory acquisition of land, given the draconian nature of the process of state appropriation of private property against the will of the owner. Compulsory purchase of land involves a serious invasion of the private proprietary rights of citizens. The power to dispossess a citizen of his land against his will is clearly not a power which should be exercised lightly and without good and sufficient cause. The use of statutory authority for the destruction of property rights in this way requires must be based on the right legal principles, adequate evidence and proper consideration. A CPO can only be confirmed when it is necessary in the public interest to do so and the public interest must demand the acquisition decisively. There must a clear case to justify depriving an owner of his land in the public interest.
2. Of central importance to the issue of whether CPO powers should be used are the provisions of Section 226(1)(a) of the 1990 Act, which give the Council power to acquire compulsorily any land in their area if the Council thinks that the acquisition will "facilitate the carrying out of development/re-development, or improvement on, or in relation to, the land". Not only must this test be met, but in addition the Council must have regard to and apply Section 226(1A) of the 1990 Act so the Council must not exercise the power under section 226(1)(a) unless it thinks that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects:
 - (a) The promotion or improvement of the economic well-being of their area;
 - (b) The promotion or improvement of the social well-being of their area;
 - (c) The promotion or improvement of the environmental well-being of their area.
3. Section 227 of the 1990 Act gives the Council the power to acquire by agreement any land which it requires for any purpose for which it may be authorised to acquire land under section 226.
4. Acquisitions of land under section 226 or 227 engage the provisions of sections 203- 205 of the Housing and Planning Act 2016 ("the 2016 Act"). Section 203 enables third party rights over that land (such as easements, restrictive covenants and rights of light) to be overridden so that development may proceed (provided it is carried out in accordance with planning permission), with the third parties who hold the rights being entitled to

compensation under section 204 of the 2016 Act, based on the diminution in value of their property once their rights have been infringed. These provisions prevent the third party who holds the rights from preventing development from proceeding, because their right to obtain an injunction is translated into a right to compensation only.

5. Section 203 enables a development to proceed in accordance with a planning permission even though in doing so rights over the development site which benefit adjacent properties may be infringed. The pre-conditions to the engagement of section 203 are (i) there is planning consent for the development, (ii) the land on which the development takes place has at any time on or after 13 July 2016 become vested in or acquired by the local authority for planning purposes, or been appropriated to planning purposes, (iii) the authority could acquire the land compulsorily for the purposes of the development and (iv) the work is for purposes related to the purpose for which the land was vested, acquired or appropriated. The rights which the adjacent properties enjoy over the proposed development site are overridden under section 203 and under section 204, the holders of the rights are entitled to statutory compensation based on the loss in value of their land as a result of the infringement. The claim for compensation would be against the person who infringed the rights but under section 204 the acquiring local authority has a residual liability to pay that compensation.
6. Where rights are overridden, the right to compensation for interference with the rights does not occur until the right is actually interfered with, which (depending on the nature of the right) is usually at some point in the construction process and not when the acquisition is made by an acquiring authority.
7. This is a powerful tool in enabling developments as it means that third party holders of the rights cannot prevent the development proceeding (by way of an injunction) - their right to obtain an injunction is translated into a right to compensation only. It also provides certainty for a developer in estimating the basis upon which any compensation is due, as the compensation will be based on a loss in value basis of the property which has the benefit of the right, rather than on any other basis which might fall to be negotiated i.e. it stops the developer being held to ransom or having to pay a share of the development profits.
8. Section 13(1) of the Local Government (Miscellaneous Provisions) Act 1976 provides that a local authority which may be authorised by a Minister of the Crown, by means of a CPO, to purchase any land compulsorily for any purpose may be authorised by that Minister, by means of such a CPO, to purchase compulsorily for that purpose such new rights over the land as are specified in the CPO; and "new rights" means rights which are not in existence when the CPO specifying them is made.
9. Once land has been acquired by the Council for planning purposes under section 226 or 227 of the 1990 Act, the land may then be disposed of to a third party pursuant to section 233 of the 1990 Act. Section 233(1) permits the Council to dispose of the land to such persons, in such manner and

subject to such conditions as appear to the Council to be expedient in order to:

- (a) secure the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out on it (whether by the Council or by any other person), or
- (b) secure the erection, construction or carrying out on it of any buildings or works appearing to the Council to be needed for the proper planning of its area.

In this case it is section 233(1)(a) that is relevant.

10. The consideration received by the Council for such disposals must be "the best consideration that can reasonably be obtained", unless the Secretary of State's consent is obtained to the contrary or unless the disposal is the grant of a lease of seven years or less or the assignment of a lease with seven years or less unexpired at the date of assignment. In judging what consideration can be achieved, account must be taken of the expediency as referred to in section 233(1).
11. The Council is required to exercise its powers of disposal under section 233 in a manner which, so far as practicable, secures that relevant occupiers of that land are provided with a suitable opportunity to obtain accommodation (section 233(5)). Relevant occupiers for these purposes means residents and those carrying on business on the land who wish to obtain accommodation on such land and are willing to comply with any requirements of the authority as to the development and use of such land (section 233(6)). A suitable opportunity for accommodation means, in relation to any person, an opportunity to obtain accommodation on the land in question which is suitable to his reasonable requirements, on terms settled with due regard to the price at which any such land has been acquired from him (section 233(7)).
12. Under section 66(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in the exercise of its powers of disposal under section 233 of the 1990 Act, a local authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings. The Metropolitan Tabernacle is a listed building and some minor works to that building are required and have received listed building consent. Those works would be the subject of the acquisition of new rights by the Council under the proposed CPO and those rights could be utilised by EC to undertake the redevelopment. The Faraday memorial is also a listed building and lies close by, though no works are planned to it and no new rights or acquisition of title by the Council are envisaged in respect of it as part of the CPO (and hence no disposal by the Council to EC of any such title or rights will occur). The same is true of Metro Central Heights (former Alexander Fleming House). Other designated heritage assets in the locality include listed buildings at West Square, and the West Square and Elliott Row Conservation Areas, though again no new rights over or acquisition of title to those areas is envisaged by the CPO and the Council will not be exercising powers of disposal over them under the CPO.

13. As regards human rights, the Human Rights Act 1998 incorporates into domestic law the European Convention on Human Rights. Article 1 Protocol 1 Convention rights have to be considered: every natural or legal person is entitled to the peaceful enjoyment of his possessions. This can cover, for example, enjoyment of existing assets with economic value, such as the marketable goodwill of a business. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law, and this must be done in pursuit of a legitimate aim. This does not impair, however, in any way the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties. In respect of this right under Article 1 of the Protocol, a fair balance must be struck between the public interest and private rights.
14. Article 6 Convention rights are also relevant: in the determination of his civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
15. Article 8 Convention rights may also apply and may be engaged i.e. everyone has the right to respect for his private and family life, his home and his correspondence; there shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. Any interference with this right must be proportionate. Article 8 covers family life and private social life enjoyed at a place of work or in professional, business or commercial activities. If children could be affected, then the best interests of the child shall be a primary consideration.
16. Consideration may also need to be given as to whether other Articles of the Convention are engaged, for example: Article 9 (freedom of thought, conscience and religion; Article 11 (freedom of peaceful assembly and association) and Article 14 (freedom from discrimination).
17. Section 149 of the Equality Act 2010 imposes a general equality duty on public sector authorities ("the PSED"), in the exercise of their functions, to have due regard to the need to:
 - Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act.
 - Advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it.
 - Foster good relations between people who share a relevant protected characteristic and those who do not share it.

18. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard to the need to:
- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
19. For the purpose of the PSED the following are "protected characteristics":
- Age
 - Civil partnership
 - Disability
 - Gender reassignment
 - Pregnancy and maternity
 - Race
 - Religion or belief
 - Sex and sexual orientation.
20. Case law has distilled a number of principles as regards the PSED. The duty is a continuing one. "Due regard" in the context of the PSED means the regard that is appropriate in all the particular circumstances, including the importance of the areas of life of the members of the protected group that are affected and the extent of the effects and such countervailing factors as are relevant to the function which the decision maker is performing. The PSED is not a duty to take specific steps - indeed the courts have warned against micro management of the PSED process - nor is it a duty to achieve results. It is a duty to have regard to the need to achieve the various objectives referred to above. A public body needs to be satisfied that it has sufficient information available to it to make informed decisions. It must be clear precisely what the equality implications are; there must be conscious directing of its mind to the obligations in the PSED, which requires consideration of the specific goals in play and consideration of the relevant materials with those goals in mind; and the "due regard" duty requires a proper and conscientious focus on the statutory criteria, which is more than simply giving consideration to the issue.

21. Policy guidance on the use of compulsory purchase powers is set out in the Minister for Housing Communities and Local Government's July 2019 Guidance on Compulsory Purchase Process and The Crichel Down Rules ("the Guidance"). The document's General Overview includes the following:
- Compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, environmental, and economical change;
 - Acquiring authorities should use compulsory purchase powers where it is expedient to do so;
 - However, a CPO should only be made where there is a compelling case in the public interest;
 - The Secretary of State, as confirming authority for the CPO, will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the CPO by agreement.
 - Compulsory purchase is intended as a last resort; but
 - It may be sensible for the acquiring authority to plan a compulsory purchase timetable as a contingency measure and initiate formal proceedings to mitigate loss of valuable time and to encourage those whose land is affected to enter into meaningful negotiations; and
 - When making a CPO acquiring authorities should be sure that the purposes for which the CPO is made justify interfering with the human rights of those affected.
 - In order to reach early settlements, public sector organisations should make reasonable initial offers, and be prepared to engage constructively with claimants about relocation issues and mitigation and accommodation works where relevant.
22. The Guidance advises that the acquiring authority must be able to demonstrate that there are sufficiently compelling reasons for the powers to be sought at this time and should have a clear idea of how it intends to use the land which it is proposing to acquire. It should be able to show that all necessary resources are likely to be available to achieve that end within a reasonable time-scale.
23. The Guidance also makes clear that an acquiring authority should provide substantive information about the sources of funding for acquiring any land and new rights and for implementing the scheme for which the land is required and that funding should be available now or early in the process. Evidence should also be provided to show that sufficient funding could be made available immediately to cope with any acquisition resulting from a blight notice.

24. The Guidance advises that acquiring authorities will need to demonstrate that the scheme for which a CPO is made is unlikely to be blocked by any physical or legal impediments. These include:
- the programming of any infrastructure accommodation works or remedial works which may be required; and
 - the need for planning permission for the scheme (or where planning permission has yet to be granted an acquiring authority should demonstrate that there are no obvious reasons why it might be withheld) or other consent or licence.
25. The Secretary of State, as confirming authority, has to be satisfied that the statutory procedures in respect of the CPO have been followed correctly, and so the Council will need to ensure these have been followed.
26. Paragraph 106 of the Guidance also gives an indication of those factors the Secretary of State can be expected to consider if the Council made a CPO and the Secretary of State was asked to confirm it. These include:
- whether the purpose for which the land is being acquired fits in with the adopted Local Plan for the area or, where no such up to date Local Plan exists, with the draft Local and the National Planning Policy Framework
 - the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area
 - whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means. This may include considering the appropriateness of any alternative proposals put forward by the owners of the land, or any other persons, for its reuse. It may also involve examining the suitability of any alternative locations for the purpose for which the land is being acquired
 - the potential financial viability of the scheme for which the land is being acquired. A general indication of funding intentions, and of any commitment from third parties, will usually suffice to reassure the Secretary of State that there is a reasonable prospect that the scheme will proceed. The greater the uncertainty about the financial viability of the scheme, however, the more compelling the other grounds for undertaking the compulsory purchase will need to be.

APPENDIX H

ELEPHANT AND CASTLE TOWN CENTRE - COMPULSORY PURCHASE ORDER

Further detail on CPO process and compensation

1. The ability to make compulsory purchase orders is limited to predominantly public sector organisations. EC does not have these powers, hence its approach to the Council to utilise its powers to facilitate the Scheme.
2. Section 226(4) Town and Country Planning Act 1990 makes clear that it is a perfectly legitimate use of compulsory purchase powers for a local authority to make a CPO for planning purposes even though it is not the Council itself who is to undertake the development.
3. Since EC will be the beneficiary of the CPO it is therefore appropriate that it indemnifies the Council against all the costs arising from its making and subsequent execution.

The measure of compensation available to owners/occupiers

4. If compulsory purchase takes place the property or rights owner will be compensated on the basis of the statutory "land compensation code", which is a mixture of statute and case law based rules and principles for compensation in compulsory acquisition. Disputes about compensation can be resolved by referring the matter to the Upper Tribunal (Lands Chamber).
5. The statutory compensation code provides that commercial leaseholders are entitled to the following compensation following a compulsory acquisition:
 - (a) The market value of the leasehold interest in the property;
 - (b) Statutory loss payments based on a fixed percentage of market value and/or a formula based on the area of the property
 - (c) Payment for loss of profits arising from the relocation or extinguishment of the business (as appropriate)
 - (d) a disturbance payment to cover the leaseholder's reasonable costs arising as a direct and natural result of the compulsory acquisition, this might include relocation costs, legal fees and surveyors fees
 - (e) where the lease is held as an investment rather than for occupation the reasonable costs of acquiring a replacement investment provided that is done within twelve months of the transfer of ownership of the asset
6. The freeholders of properties subject to statutory compensation are entitled to:
 - (a) The market value of the freehold interest in the property;

- (b) Statutory loss payments based on a fixed percentage of market value and/or a formula based on the area of the property
 - (c) Payment for loss of profits arising from the relocation or extinguishment of the business if the premises are occupied by the freeholder
 - (d) Where the freeholder is in occupation, a disturbance payment to cover the reasonable costs arising as a direct and natural result of the compulsory acquisition, this might include relocation costs, legal fees and surveyors fees
 - (e) Where the property is held as an investment rather than for occupation the reasonable costs of acquiring a replacement investment provided that is done within twelve months of the transfer of ownership of the asset.
7. Where part only of an interest in land is acquired the owner of the land has the opportunity to claim compensation under section 7 of the Compulsory Purchase Act 1965 for severance or injurious affection.
 8. Where new rights over land (as opposed to the title to the land) are acquired, such as an easement, the owner of the land over which the new right is acquired is entitled to compensation. For this purpose, section 7 of the 1965 Act is adapted so that in assessing compensation, regard shall be had not only to the extent, if any, to which the value of the land over which the right is purchased is depreciated by the purchase but also to the damage, if any, to be sustained by the owner of the land by reason of injurious affection of other land of the owner by the exercise of the right.

Outline of Compulsory Purchase Procedure

Resolution

9. The Cabinet passes a resolution to make a CPO. This is the purpose of this report.

Land Referencing

10. Final details are assembled of all owners, tenants and occupiers that have land interests in the CPO land and of parties that may have rights over the CPO land. This is to both identify what interests need to be acquired and who is entitled to receive a notice of the publication of the CPO. These relevant interests will be set out in a Schedule that will be incorporated into the CPO. Formal requisitions for information have been served on all known owners and occupiers of each property to be subject to the CPO but with the Council having made very clear that this does not in any way pre-judge any decision by Cabinet as to the merits or otherwise of any CPO. It is important that the Council takes all reasonable steps to ensure that all interests are identified and included in the CPO. This stage will also enable the precise details of the CPO areas to be determined. The boundaries shown on the draft CPO map

at Appendix A may need amendment in the light of this and it is recommended that the Director of Regeneration is delegated authority to set the extent of the CPO.

Making the CPO

11. The Council makes the CPO, to a defined format. A schedule goes with the CPO identifying ownership details of all land within it. A Statement of Reasons must also be prepared to accompany the CPO. This document sets out the Council's reasoning and justification for the CPO.

Publication of the CPO

12. The Council serves notice of making of the CPO on all freeholders, leaseholders, tenants and occupiers affected by it, which may include persons outside the CPO land who have (or potentially have) rights over the CPO land. A notice of the making of the CPO has to be published for two successive weeks in a local newspaper.
13. The notices will advise that any objections to it can be made to the relevant government minister and specify an address for this purpose. The CPO is then passed to the government minister for confirmation.

Confirmation of the CPO

14. The CPO does not become effective unless and until it is confirmed by the Secretary of State. Where there are objections to the CPO they must be considered before confirmation. This is usually done by way of a public inquiry but can sometimes be dealt with by written representations.
15. After considering the objections (if there has been a public inquiry there will be an Inspector's Report) the Secretary of State may confirm, modify or reject the CPO. If it is rejected that is the end of the process and EC and the Council will need to revisit the Scheme, unless it is considered that the Secretary of State has erred in his decision in which case a statutory judicial review can be requested.
16. Following confirmation or if applicable, modification and confirmation, a notice advising that the CPO has been confirmed must be published in the local newspaper and served on all freeholders, leaseholders, tenants and occupiers affected by the Order. A confirmed CPO can only be implemented within three years to retain its validity, though if there is a statutory judicial review this time period is extended by (a) a period equivalent to the period beginning with the day the review challenge is made and ending on the day it is finally withdrawn or finally determined or (b) if shorter, one year.

Implementation of the CPO and taking possession

17. Implementation of the CPO can be achieved by either Notice to Treat/Notice of Entry or by using the General Vesting Declaration procedure under the Compulsory Purchase (Vesting Declarations) Act 1981. The creation of new

rights under section 13 Local Government (Miscellaneous Provisions) Act 1976 can only be done using the notice to treat route.

18. Section 8 and Schedule 2A of the Compulsory Purchase Act 1965, and section 12 and Schedule A1 of the Compulsory Purchase (Vesting Declarations) Act 1981, address circumstances where the acquiring authority propose to acquire part only of a house, building or factory under confirmed CPO powers. Broadly, these provisions allow a landowner to instigate a process whereby it can seek for the acquiring authority to acquire the whole of the house, building or factory. In the event of a dispute on that point, the Upper Tribunal (Lands Chamber) has jurisdiction to resolve such a dispute. The Tribunal must determine whether the severance of the land proposed to be acquired would in the case of a house, building or factory cause material detriment to the house, building or factory. If the Tribunal determines that the severance of the land proposed to be acquired would have that consequence it must determine how much of the additional land the acquiring authority ought to be required to take in addition to the land proposed to be acquired. If the Tribunal does determine that additional land is required to be taken, the CPO has effect as if it included the owner's interest in that additional land. In certain circumstances the acquiring authority may be able to withdraw any notice to treat in respect of (and any vesting declaration is to have effect as if it did not include) the land proposed to be acquired together with the additional land required to be taken.

Indicative Timescale

- 19.
- Resolution to make the CPO *
 - Making the Order to Publication 6 weeks
 - Publication to Confirmation 40 weeks
 - Confirmation to taking Possession 18 weeks
- * will follow completion of prerequisite documentation, including the indemnity agreement.
20. It is therefore likely that it will take, say, around a year and a half between resolving to make a compulsory purchase order and obtaining possession but if there are complications it could be longer. It is assumed for the purpose of this indicative timescale that there will be objections to the CPO and that these will require protracted negotiations and/or a public inquiry to resolve. If a public inquiry is needed this will be called for and arranged by the Secretary of State, with an inspector presiding over the inquiry, so the Council has little control over this process. Resource availability at the Planning Inspectorate can cause this to be scheduled rather later than preferred and is a risk to be factored into project planning. If there are no objections or ones that are quickly resolved the period between publication and confirmation may be significantly reduced.

Property Acquisitions

21. Should the recommended resolution be passed, EC will continue to endeavour to acquire all interests by agreement. Once the CPO is confirmed the Council will have the ability to acquire properties by compulsion and any properties acquired compulsorily are vested in the Council. Again, these will be transferred to EC or its group company. Once the land vests in the Council, it becomes responsible for the payment of compensation. Any compensation agreed or determined by the Tribunal will be paid by the Council but funded by EC pursuant to the indemnity agreement. In certain circumstances, affected owners of land included in the CPO may be able to claim that their land is “blighted” because of the CPO that has been made and serve a “blight notice” on the Council, requesting that the Council purchases their interest. The costs of acquiring a property pursuant to a blight notice because of the making of the CPO (if appropriate) will be covered in the CPO indemnity agreement.

APPENDIX I**ELEPHANT AND CASTLE TOWN CENTRE - COMPULSORY PURCHASE ORDER****ADVERSE EFFECTS ARISING FROM PROPOSED CPO**

1. The use of CPO powers in relation to the two railway arches to the north of the railway station to which EC already has long leasehold title, so that control can be achieved to turn those two arches into a relocation premises for Corsica Studios and retail kiosk units, will deprive Arch Co of its long leasehold title to those arches. Similarly the acquisition by the Council under a CPO of 4 and 5 Farrell Court, and 6 and 7 Farrell Court, and the corridor of land to the immediate west of the railway viaduct, will deprive Arch Co of its long leasehold title to those premises. Arch Co is a large, commercial concern with many railway arch units across the country. It is not considered that the acquisition of these areas will cause serious detriment to it.
2. The occupiers of 6 and 7 Farrell Court will be displaced if their interests were compulsorily acquired to facilitate the creation of the Park Route. In a worst case scenario, they might cease trading as a result of an acquisition by CPO. However, the Council's and EC's intention is that 4 and 5 Farrell Court will be acquired and developed as a relocation opportunity within the Scheme for the tenant and occupiers of 7 Farrell Court, thus mitigating adverse impacts on them. The tenant of 6 Farrell Court, DistriAndina, is also being offered the opportunity to relocate within the Scheme, to a new unit on the East Site. Again, it is envisaged this would mitigate the adverse impact of the CPO on them.
3. The tenant of 4 and 5 Farrell Court, Corsica Studios, will be displaced if its interest was compulsorily acquired and in a worst case scenario might cease trading as a result of the CPO. However, the Council and EC's intention is that they should be offered the opportunity to relocate to the arches to the north of the railway station, which would be converted into a new space for them, thus safeguarding the future of this cultural electronic and dance music club in the locality.
4. Any party that has their interest acquired pursuant to a CPO is entitled to statutory compensation for the loss of their interest. Where only part of the land is taken, there is the opportunity to claim compensation for severance or injurious affection in respect of the retained part. Furthermore, and independent of statutory compensation, the section 106 agreement has a relocation fund for eligible local independent traders on the East Site.
5. The CPO would also see new rights created over the land shown shaded blue on the plan at Appendix A. The new rights of access to carry out works to the sides and undersides of the viaduct in connection with the creation of the walk-through in what is currently 6 and 7 Farrell Court (including removing the existing shopfronts) would apply against Network Rail but are considered to be relatively minor in nature. No works would be carried out which would affect the operation of the railway. The same is true of the new rights that are

sought in respect of (i) a right of way to/from the East Site over Network Rail's adjacent land to the railway station (and related right to pave hand maintain that area), (ii) the sides and undersides of the viaduct arches currently owned long leasehold by EC, so that they can be brought into beneficial use as a nightclub (including the right to install frontage and rear elevations) and (iii) the sides and undersides of the arches enclosing 4 and 5 Farrell Court for physical works associated with the change in use of those units to accommodate the tenants and occupiers of 6 and 7 Farrell Court. A right is also sought to pave under an external staircase adjacent to the railway station and to maintain such paving.

6. The rights being sought over the Tabernacle will result in some minor inconvenience to the Tabernacle for a relatively short period, as explained elsewhere in the report, but the Tabernacle will remain open to its congregation throughout the duration of any such works and disabled access will be maintained at all times whilst the Tabernacle is being used. It is considered that such an adverse effect (if mitigation cannot fully remove it) is minor.
7. The acquisition of crane oversail rights over various pieces of land is considered to be relatively minor in effect.
8. The owner of any land interest affected by the new rights will be entitled to statutory compensation in respect of those new rights.
9. As explained in Appendix D, in accordance with the Cabinet resolution of April 2020, the Council has already conducted a process which overrides rights of light and other rights held by third parties in respect of all areas of the East and West Site on which new buildings will be erected. This removes the ability of eg rights of light holders to obtain an injunction or to hold the developer to ransom, with the rights holders entitled to compensation on a diminution in value basis. It is not considered that there are any such rights in respect of the areas that will now be subject to acquisition under the CPO which would be problematic, but any such rights as exist will be overridden by way of the implementation of the CPO in any event.
10. The tall buildings proposed as part of the Scheme will result in adverse day light and sunlight effects on a number of nearby properties, including residential properties, particularly those in Oswin Street, Hayles Buildings and Metro Central Heights. The tall buildings on the East Site can be constructed without the CPO but the CPO is required to build those on the West Site. Cabinet is referred to the Planning Committee report in the background papers - the Planning Committee considered light amenity and overshadowing in detail as part of the planning application process and it was considered that those adverse effects were outweighed by the benefits of the Scheme.
11. As set out in the Planning Committee report, there would be harm to the setting of the Metropolitan Tabernacle. Cabinet will note, though, that notwithstanding the substantial weight given to that harm, the Planning

Committee concluded that such harm would be outweighed by the significant public benefits accruing from the Scheme.

12. Without mitigation, there are likely to be some adverse equality impacts as discussed in detail in Appendix K of this report in respect of the tenants and occupiers of the affected railway arches and the Tabernacle. However, as explained in Appendix K, mitigation is proposed by way of the proposed relocations for the affected arch tenants and measures will be taken to mitigate the effects of construction on the Tabernacle, including maintenance of disabled access. It is considered all that can reasonably expected to be done to mitigate impacts on these parties has been and is continuing to be done.

APPENDIX J**ELEPHANT AND CASTLE TOWN CENTRE - COMPULSORY PURCHASE ORDER****WHETHER THE USE OF THE COUNCIL'S POWERS IS JUSTIFIED**

1. Firstly, sections 226(1)(a) and 226(1A) of the 1990 Act are considered.
2. Section 226(1)(a) gives the Council power to acquire compulsorily any land in their area if the Council thinks that the acquisition will "facilitate the carrying out of development, re-development, or improvement on, or in relation to, the land". The making of a CPO will facilitate the carrying out of development, re-development, or improvement on, or in relation to, the land covered by the CPO. The Scheme has already begun on part of the East Site, adjacent to the CPO land, and EC has shown through all of its progress its continued intention to proceed with the Scheme so as to complete the East Site redevelopment and then carry out the West redevelopment if CPO powers are utilised. Without the use of the CPO powers, it will not be possible to deliver key areas of public realm on the East Site, nor to complete the East Site redevelopment of the Scheme, which will mean that EC could not comply with the approved phasing plan under the July 2021 planning permission to move onto the West Site redevelopment. Moreover, as explained in the main body of the report, the title and new rights sought in respect of the West Site are necessary to enable demolition and construction in respect of the West Site. Also as explained in the main body of the report, the acquisition of title to certain railway arch premises and related new rights over the viaduct structure is required to deliver the new home for Corsica Studios and the relocation opportunity for the tenant and occupiers of 7 Farrell Court. So the CPO will facilitate the carrying out of redevelopment on, or in relation to, the land included in the CPO and thus the test in section 226(1)(a) is satisfied.
3. In addition to section 226(1)(a), section 226(1A) applies, so the Council must not exercise the power under section 226(1)(a) unless it thinks that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects: (a) the promotion or improvement of the economic well-being of their area; (b) the promotion or improvement of the social well-being of their area; and (c) the promotion or improvement of the environmental well-being of their area. In this case, the Council thinks the development, re-development or improvement is likely to contribute to the improvement of all three well-being objects.
4. The Scheme is likely to result in *economic* well-being improvements, including a material increase in the quantity and quality of town centre uses, including providing additional and better quality retail, leisure, education and office provision, consistent with the long term strategy to regenerate the Town Centre and enhance its vitality and viability. The Scheme will create enhanced linkages, and assist in the regeneration of the wider centre. The Scheme includes the provision of affordable retail and office floorspace. The education facility will secure LCC's long-term future in the area.

5. The Scheme will create 1,230 construction jobs per year over the 10 year build programme. The completed Scheme will generate up to 2,085 gross new full time equivalent jobs, depending on the exact nature of the commercial uses which will ultimately come forward, an increase of over 600 when compared with the estimated 1,418 full time equivalent jobs on the East and West Sites before the development commenced. Measures to secure jobs for unemployed borough residents are contained in the section 106 agreement and will deliver significant economic benefits to the local population.
6. The Scheme will secure key new transport infrastructure, including a new station entrance, create enhanced linkages between existing transport provision, and provide a comprehensive package of measures to enhance the connectivity of the new town centre. These measures will make the town centre more competitive, better able to retain and attract trade from within its catchment, including meeting the needs of the additional local residents, workers and students, and encourage the use of sustainable means of transport.
7. As regards the fitting out and opening of the underground station box, the amendments made to the section 106 agreement due to TfL's funding position means that there is an increased chance (as compared to the position in April 2020) that the new station box will not be fitted out and come into operation, but the likelihood of the new station being fitted out and becoming operational at a reasonable point in the future is still high. Even if reduced weight was given to the new station box due to the TfL funding uncertainty, the CPO would still be justified for all the other economic, social and environmental well-being improvements that the Scheme would bring.
8. The new residential population (up to 1,880 people) is expected to have a total household expenditure in excess of £28 million per annum, some of which would be spent locally on goods and services, thereby contributing to the local economy and supporting new jobs locally. It is estimated that Council Tax revenue could be up to £2.1 million per annum, based on 2020-21 Council Tax bands and assuming all units are fully occupied and no rebates or discounts are offered. The Scheme will generate estimated CIL payments (assuming social housing relief is applied) of £4,278,679 Mayoral CIL and at least £11,230,308 Southwark CIL.
9. The Scheme will deliver significant *social* well-being improvements. These include the creation of a more balanced mix of uses, creating quality homes, offices, education and community facilities, including the provision of affordable retail, workspace and homes. The Scheme includes the provision of cultural and community facilities, including new and enhanced public realm and public toilets which will benefit all sections of the community. It will include a new home for Corsica Studios, thus giving the opportunity to safeguard the longer term future of this cultural electronic and dance music club on Elephant Road. It will also include relocation premises for the small, local businesses which will be displaced by the creation of the Park Route.

10. The Scheme will also deliver significant *environmental* well-being improvements. In addition to providing well designed buildings and well connected spaces, the Scheme will contribute to securing more sustainable travel patterns, by better serving the needs of current and future residents, workers and students. The Scheme includes improved pedestrian permeability, increased site wide cycle facilities and public realm improvements, including additional landscaping and tree planting. The Scheme also includes a new home for Corsica Studios which will have better sound insulation than the current premises, thus alleviating noise amenity concerns.
11. Notwithstanding that there will be some negative effects to those affected by the CPO, as referred to in this report, and having taken those negative effects into account, the development, re-development or improvement is likely to contribute to the achievement of all of the well-being objects in accordance with section 226(1A) of the 1990 Act.
12. The specific economic, social and environmental well-being improvements that the CPO will deliver directly are in themselves sufficient to satisfy section 226(1A) of the 1990 Act. Firstly, without the CPO, the Park Route as shown in the planning permission approved drawings cannot be delivered. It has been a key aspect of the Council's planning vision for a long time that the redeveloped Shopping Centre site should be opened up for pedestrians to what is now Elephant Park, thus facilitating the connection of these two key sites. EC is under an obligation in the section 106 agreement to use reasonable endeavours to open the Park Route prior to the East Site opening. Although the section 106 agreement allows for an alternative route for the Park Route through one of the arches that EC has some long leasehold to, or such other alternative route that the Council may approve, the July 2021 planning permission only shows the route through 6 and 7 Farrell Court, so that is the approved route under the permission. That route was chosen for the planning application, after analysis of likely pedestrian footfalls, and what would be the optimum route through the East Site because it forms a natural pedestrian "desire line", as it aligns with a boulevard from Elephant Park and so represents the optimum connection to Elephant Park and Lendlease's new redevelopment around it. From the chosen Park Route, pedestrians will be able to continue west through the new town centre to Elephant & Castle highway with its bus services (and Brook Drive beyond), or to move northwest to the new Underground station. This route is also close to Castle Square and Walworth Road. By contrast the arch EC has some long leasehold title to is situated further away from Walworth Road and Elephant Park and so would be inferior as a direct pedestrian link to those areas. In addition, it is located close to (and opposite) the proposed new building for the LCC, Building E1, and for pedestrians to emerge opposite Building E1 and close to the railway station, when considered along with users of the rail station, risked creating a pinchpoint. Building E1 would likely have had to have been smaller to accommodate additional pedestrian circulation space, losing mass from its south eastern corner. Reduced footprint of that building would be problematic, due to UAL's requirements for the new educational facility to achieve critical mass in order to retain the LCC at Elephant & Castle. Shifting

Building E1 to the west would have impacted on the Station Route, making it too narrow and affecting the clear and permeable route through the East Site to the Elephant & Castle peninsula.

13. Secondly, areas of new public realm adjacent to the railway viaduct are also at risk of not being delivered without the CPO, including the ability to complete the Station Route from the new Underground station box to the railway station for pedestrians, via the new right sought in that respect. Again, this is a key aspect of the East Site.
14. Thirdly, the use of the CPO powers will facilitate the only practical solution for the retention of the electronic and dance music use in this location, as explained in more detail in the main body of the report.
15. Fourthly, the use of the CPO powers will facilitate the redevelopment of 4 and 5 Farrell Court to provide a suitable and immediately adjacent relocation opportunity for the tenant and occupiers of 7 Farrell Court, thus mitigating adverse impacts on them.
16. Fifthly, without the use of CPO powers there is now a significant risk that the East Site will not be completed. The approved phasing plan under condition 3 of the planning permission requires the East Site to be completed prior to the West Site redevelopment taking place, save for the redevelopment of the current LUL Underground station, which will only be redeveloped after the new station box has been opened (so as to ensure continuity of Underground provision). So the completion of these areas of the East Site is necessary for the West Site to proceed in accordance with the approved phasing, thus the CPO unlocks all the benefits associated with the West Site, including 498 residential units (165 of which are to be affordable), new retail floorspace (including affordable retail) and a new cultural venue.
17. Sixthly, the CPO elements being sought in relation to the West Site itself are all necessary for the West Site redevelopment to proceed, as explained in the main body of the report.
18. The CPO is therefore essential to the successful implementation and completion of the Scheme and many of the well-being improvements it will bring.
19. Accordingly the statutory test in 226(1A) is met.
20. The key paragraphs from the Guidance are now considered.

Acquiring authorities should use compulsory purchase powers where it is expedient to do so

21. Given the conclusions in relation to the tests under section 226(1)(a) and section 226(1A) above, it is clearly expedient to make a CPO to facilitate this very important redevelopment. For the reasons explained above, the CPO is essential to the successful implementation and completion of the Scheme. The only change as to expediency (as compared to April 2020) is the fact that

redevelopment has begun, which makes it even more expedient than was previously the case that the CPO is made so that the Scheme can continue and be completed.

However, a CPO should only be made where there is a compelling case in the public interest

22. The Scheme will transform the town centre. Although there are some adverse effects, as referred to elsewhere in this report, it is considered that these are relatively minor and in any event need to be weighed against the very significant and numerous public benefits that will accrue from the Scheme. This is considered to be the case even in relation to the specific benefits that would be directly delivered through the use of the CPO powers (as detailed above). The CPO is necessary to unlock these benefits of the Scheme. The public benefits arising from the use of the CPO powers amount to sufficiently compelling reasons for powers to be sought and outweigh the loss and any overriding of property interests to individuals and businesses arising from the CPO. As vacant possession of most of the East Site was obtained by agreement, confirming the CPO will not have many of the potentially adverse impacts it could have caused as originally envisaged in April 2020, so there is now less private loss to be outweighed by the public benefits. There is an increased need for the redevelopment to proceed and be completed given that the large majority of the East Site has been demolished and cleared and the early stages of construction are underway. So, the case for a CPO is now more compelling than ever.

The acquiring authority will be expected to demonstrate that it has made reasonable offers to acquire land and rights by agreement

23. It is considered that this part of the Guidance has been satisfied to date and will continue to be so. EC, acting in collaboration with Council officers, has been making reasonable efforts to acquire outstanding land interests and new rights by agreement over a significant period of time. Council officers have been kept regularly apprised of, and have been consulted in respect of, the ongoing negotiations. The Council's officers have also been directly involved with discussions with Arch Co, seeking agreement. This approach has generally worked well, as evidenced by the fact that EC has concluded various acquisitions and agreements with third parties already, thus avoiding the compulsory acquisition of various interests, but as explained below a CPO is now required to give impetus to negotiations with the remaining affected parties. EC is continuing its attempts to acquire by agreement and will be obliged to continue to do so under the CPO indemnity agreement. The Council will take an active role, in collaboration with EC, to take those negotiations forward and in making offers to the remaining parties.

Compulsory purchase is intended as a last resort; but it may be sensible for the acquiring authority to plan a compulsory purchase timetable as a contingency measure and initiate formal proceedings to mitigate loss of valuable time and to encourage those whose land is affected to enter into meaningful negotiations

24. The making of a CPO will assist in the remaining negotiations as it will make all parties aware of the seriousness of the Council's intentions, as is recognised in the Guidance. The CPO is being used as a genuine last resort to ensure the land assembly needed to continue and complete the Scheme. The CPO will underpin the remaining negotiations that need to be concluded to enable the Scheme. The use of CPO as a last resort is evidenced by the considerable reduction in land that has been included in the CPO as compared to that in April 2020 (because much of the necessary land has been acquired by agreement). The fact that development has commenced makes it all the more important to have the CPO to complete the development. Delaying the CPO risks being unable to complete the Scheme in accordance with the development programme, or at all.

When making ... [a CPO] acquiring authorities ... should be sure that the purposes for which the CPO is made justify interfering with the human rights of those with an interest in the land affected.

25. The Council's purpose in making the CPO is to facilitate the development, redevelopment or improvement on or in relation to the CPO land, namely the Scheme. The Scheme represents a vital, comprehensive redevelopment of the town centre. The very considerable benefits that will arise from the Scheme have been summarised elsewhere in this report. These public benefits outweigh and justify interference with, human rights and such interference is proportionate to the large level of public benefits that would arise from the Scheme. The purpose to be achieved by the CPO justifies interference with human rights even if the interference was a lot wider or more severe than considered in this report, given the benefits of the Scheme. The public benefits of the Scheme outweigh the private losses. This is the case even if the specific benefits that would be directly delivered by the CPO are considered in isolation and weighed against the interference with the human rights of the affected parties.

In order to reach early settlements, public sector organisations should make reasonable initial offers, and be prepared to engage constructively with claimants about relocation issues and mitigation and accommodation works where relevant.

26. Please refer to paragraph 23 above as to offers to date and the intention for the Council and EC to actively pursue further negotiation. The Council has sought to engage constructively with those affected, as evidenced by Council officers addressing affected traders as to the proposals, the appointment of Tree Shepherd to assist affected parties with relocation advice and the other measures in the agreed relocation strategy under the section 106 agreement. The Council and EC are also seeking to constructively work towards 4 and 5 Farrell Court being redeveloped as a relocation opportunity for displaced occupiers of 7 Farrell Court as part of the Scheme, and to facilitate the relocation of Corsica Studios within the Scheme into a new home in Arches 113A/120 and 113B/121.

The acquiring authority must be able to demonstrate that there are sufficiently compelling reasons for the powers to be sought at this time... [the acquiring

authority should] have a clear idea of how it intends to use the land which it is proposing to acquire and [should be able to] show that all necessary resources are likely to be available to achieve that end within a reasonable time-scale.

27. The Council plans to use the CPO acquisitions and new rights to facilitate the carrying out of the Scheme to enable the Scheme to continue and be completed. The powers need to be sought now, otherwise the East Site will not be able to be completed in accordance with the development programme, or at all, and thus the West Site redevelopment could not begin in accordance with the approved phasing. The Council and EC, with the best of intentions, have sought to be patient in allowing time for private treaty negotiations to bear fruit but the CPO is needed to ensure the Scheme can continue and be completed. Resources are dealt with below.

The acquiring authority should address (a) sources of funding ... available for both acquiring the land and implementing [the Scheme] ... and (b) the timing of that funding - funding should generally be available now or early in the process ... evidence should be ... provided to show that sufficient funding could be made available immediately to cope with any acquisition resulting from a blight notice.

28. The Council will be entering into a CPO indemnity agreement with EC (backed by a guarantee from Get Living Plc) whereby the Council will receive a complete indemnity in respect of all compensation to be paid pursuant to the CPO and/or through blight notices under section 137 of the 1990 Act. All other costs associated with the CPO will be borne by EC too (again, guaranteed by Get Living Plc). The Council is satisfied that Get Living Plc has good covenant strength to meet its obligations in the unlikely event that EC defaulted.
29. In addition, further details of funding have been provided by EC which has been reviewed and officers are satisfied that the funding is either already available, for East Site, or is likely to be available in good time to commence the West Site redevelopment as envisaged. It is anticipated that around 40% of the West Site redevelopment cost (including land acquisition) will be financed by equity payments from the Triangle partners and a further affordable housing grant in respect of the West Site, with around 60% being provided through debt funding. Understandably, the developer will not seek that debt funding for the West Site until closer to the time that the West Site redevelopment is begun, otherwise it would incur significant and unnecessary interest charges in the interim period. (By way of example, the East Site debt funding for the construction of new buildings on East Site was put in place in December 2021, and piling began in March 2022.) As to whether the West Site debt funding is likely to be obtainable on reasonable commercial terms to the developer, it is considered that this is likely to be the case given: the identity of EC's backers; the central London location and prestige of the redevelopment, with which lenders are likely to wish to be associated; that Delancey, who advise EC, are experienced in and have obtained significant debt funding on other large scale redevelopment projects for their clients; and

the fact that EC was able to procure debt funding to fully fund the East Site redevelopment.

30. As regards non-financial resources, EC has procured a professional team from all disciplines to advise in respect of the Scheme. It is advised by Delancey, an experienced property development and asset management company. The Triangle partners (EC's backers) have developed large schemes before, as referred to in the April 2020 Cabinet report. Officers are satisfied the developer has the expertise and the ability to attract the funding to deliver the West Site. It has already demonstrated its commitment by at considerable expense securing a planning consent, acquiring much of the land needed to deliver the Scheme, securing funding for the construction phase of the East Site and commencing on the East Site. This is therefore not an impediment. There are no known external factors that may frustrate delivery of the Scheme.

Acquiring authorities will need to demonstrate that the scheme is unlikely to be blocked by any physical or legal impediments. These include:

(a) the programming of any infrastructure accommodation works or remedial work which may be required

31. It is considered there are no such impediments. LUL has planning permission for its connecting tunnel works for the new station box and the revised planning permission allows for the new station box to be larger, thus accommodating the Northern and potentially the Bakerloo Line too.

(b) any need for planning permission for the scheme or other consent or licence.

32. The vast majority of the Scheme has been granted planning permission. The new relocation premises for Corsica Studios and retail kiosk use envisaged for the arch units to the north of the railway station do not yet have the requisite consents. Subject to the imposition of suitable conditions, there is no reason why such consents would not be granted, as this would be in keeping with the current uses on Elephant Road and the policies applicable to the Opportunity Area. The proposed change in use of 4 and 5 Farrell Court to a commercial, business and services use as a relocation opportunity, with associated physical works, will also require planning permission. Given the proposed relocation of Corsica Studios further up Elephant Road as described, again, there is no reason why such planning permission would not be granted. In each case, EC has advised that it has instructed its planning consultants to prepare the necessary planning application.

33. The April 2020 Cabinet report stated that the listed building consent for the minor works to the façade of the Tabernacle only had a 3 year period in which to begin works. This was an error, the consent has, in fact, a 10 year implementation period and so there is no need to seek a longer consent as was envisaged in that report. This is beneficial.

34. Planning permission has also been obtained by EC on 10 June 2022 in respect of a heating network pipe which will run from 50 New Kent Road (owned by EC's group company) under Elephant Road into the East Site. An easement has been completed with Network Rail to facilitate this.
35. Highway stopping-up orders in respect of both East and West Sites have already come into operation and so there are no further stopping-up orders required in respect of the Scheme.
36. One or more agreements under the Highways Act 1980 with TfL and the Council, as highway authorities, will be required for highway works. Agreement will very likely be reached on these, as they are, routinely, on many different types of development. The section 106 agreement imposes restrictions on certain milestones in the development programme until the highways agreements, and their respective works, are completed. The Council's consent, as highway authority, would also be required if the highway layer is to be disturbed to facilitate the heating pipe network works referred to above. Again, there is no reason why that consent should not be forthcoming.
37. Licences will be required under the Highways Act 1980 for oversailing the highway, any scaffolding over the highway or hoarding affecting the highway. Again, though, such licences are routinely granted in all manner of developments. Such licences are already in place in respect of the works to date on East Site.
38. There are no physical impediments which are known which will prevent the Scheme from proceeding.
39. The CPO legislation affords special protection to statutory undertakers' operational land. Statutory undertakers can make representations to their appropriate minister (i.e. the minister who is responsible for that undertaker) against the inclusion of their operational land, as well as objecting to the Secretary of State in the normal manner. If such a representation is made and not withdrawn, generally the Secretary of State will not confirm the CPO as regards that interest in land unless the appropriate minister gives a certificate that the land can be taken without serious detriment to the statutory undertaker.
40. There is some operational land of statutory undertakers within the CPO area, notably the railway viaduct and the area of land immediately to the west of the railway station over which a new pedestrian right of way (and related right to pave and maintain that area) is sought. However, it is not the intention of EC or the Council to interfere with the operational running of the railway. Discussions are progressing between EC and Network Rail in these respects and EC is confident that agreement shall be reached on all matters. EC has been keeping the Council apprised of progress and given confidence that agreement can be reached, thereby bringing Network Rail into the Scheme by agreement. Nevertheless, the CPO is needed as a backstop. Although crane oversail will take place over some highway areas administered by TfL

and the Council, there should be no operational impact on TfL and the Council as highway authorities.

41. There are also electricity sub-stations within the CPO area, held by London Power Networks. Again, this is operational land and EC will work towards procuring their agreement to bring the leases to an end but the CPO is needed as a backstop.
42. The CPO land also includes statutory undertaker and telecommunications operator apparatus and EC is already in discussions with the utility companies and the telecommunications operators to reach agreement with them.
43. There are no areas of land which attract special protection under section 19 Acquisition of Land Act 1981 (common land, open space or allotments).
44. Therefore, there are unlikely to be any impediments to the Scheme if a CPO is made.

Acquiring authorities are expected to evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted.

45. This is addressed above.

Whether the purpose for which the land is being acquired fits with the adopted Local Plan for the area or, where such no up to date Local Plan exists, with the draft Local Plan and the National Planning Policy Framework.

46. The Council's purpose in making the CPO is stated above. It fits with the adopted development plan, which supports the regeneration envisaged by the Scheme. The CPO is necessary to implement the Council's and the Mayor's objectives as specified in the New Southwark Plan 2022 and the London Plan 2021. Both of these documents had been envisaged by the Cabinet report in April 2020 and the policies in both were considered by the Council at Planning Committee for the revised planning application on 6 July 2021.

The extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the area.

47. This is addressed at paragraphs 3 -19 above.

Whether the purpose for which the acquiring authority is proposing to acquire the land would be achieved by any other means. This may include considering the appropriateness of any alternative proposals put forward by the owners of the land or any other persons, for its reuse. It may also involve examining the suitability of any alternative locations for the purpose of which the land is being acquired.

48. The prospects of acquiring all the relevant land interests by agreement to enable the comprehensive redevelopment within a reasonable timescale are

unlikely. The Council has already, with the best intentions, allowed time for negotiations to reach fruition. If the Council does not act now then the completion of the East Site, and the West Site redevelopment, will be entirely dependent on the owners and occupiers of the outstanding land interests.

49. Consideration has been given to whether the Council's objectives might be achieved by individual landowners within the land separately carrying out development of their land. This would be likely to result in poorly co-ordinated redevelopment of parts of the CPO land, in a piecemeal fashion, which will contrast badly with the comprehensive vision of the Scheme. Any proper redevelopment needs the interests/rights covered by the CPO and certainly any redevelopment in line with planning policy does. The Scheme, as per planning policy, is an holistic concept which cannot be delivered on a piecemeal basis and any attempt by third parties to redevelop parts of the land on a piecemeal basis without the use of CPO powers would destroy the additional benefits that come from a co-ordinated, holistic regeneration in line with planning policy.
50. The Council has considered whether there are alternative proposals for this land and whether such proposals would be appropriate. There are no known alternative proposals that the Council is aware of, and even if there were, such alternatives would not (1) meet the objectives of planning policy for a comprehensive redevelopment of the Scheme Land and (2) provide the benefits of the Scheme.
51. Consideration has been given to if the Council's objectives in making a CPO can be achieved at a different location. The scope for any alternative location in the context of the particular objectives here is absent. The Scheme is to regenerate this area of land, which cannot be achieved on another area of land.
52. Consideration has also been given as to whether an alternative alignment for the Park Route, through Arches 113A/120 and 113B/121, to the north of the railway station, would have avoided the need to acquire the leasehold title to 6 and 7 Farrell Court and associated new rights. For the reasons given at paragraph 12, that alternative alignment would have been significantly inferior to the chosen route, such that 6 and 7 Farrell Court do need to be acquired. Consideration has also been given to whether it would have been practicable to retain Corsica Studios within 4 and 5 Farrell Court, thus avoiding the need to acquire Arch Co's long leasehold title to Arches 113A/120 and 113B/121 to relocate Corsica Studios. For the reasons explained in paragraphs 32 to 38 of the main body of the report, the only practical solution for retention of the venue on Elephant Road is to relocate it to Arches 113A/120 and 113B/121, and EC does not have the necessary title to bring that about, so the acquisition of greater leasehold title and associated new rights is necessary to achieve this. Consideration has also been given to whether it is necessary to acquire 4 and 5 Farrell Court to accommodate Beset and their occupiers. No suitable alternative relocation opportunity which meets Beset's requirements has been found. 4 and 5 Farrell Court would become vacant once Corsica move to the northern arches and they represent a suitable relocation premises for Beset and their occupiers.

The potential financial viability of the scheme for which the land is being acquired. A general indication of funding intentions, and of any commitment from third parties, will usually suffice to reassure the Secretary of State that there is a reasonable prospect that the scheme will proceed. The greater the uncertainty about the financial viability of the scheme, however, the more compelling the other grounds for undertaking the compulsory purchase will need to be.

53. Funding intentions are dealt with above. The potential viability of the Scheme has been examined as part of the planning application process in the context of the maximum level of affordable housing the Scheme can provide. Discussion took place during the original planning application process as to what the appropriate level of developer profit should be to reflect the risk and complexity of the Scheme. The relevant expression of profit level for a developer for a build to rent housing scheme is the internal rate of return ("IRR"). EC's target rate of return is 11%. Viability assessment work was carried out during the planning application process in the context of the maximum amount of affordable housing that can reasonably be supported by the Scheme. The viability experts appointed by EC concluded that the then current IRR was 7.51% but both they and the experts appointed by the Council nevertheless both agreed, as part of the viability work for the planning application, that a full target return of 11% is achievable over the lifetime of the development, having regard to market forecasts which have been adopted from residential and commercial agents, as well as costs advice from cost advisors. The advice from GVA (now Avison Young), advising the Council, was that all current forecasts at that time suggested that this growth in IRR over the construction period is achievable and possibly conservative.
54. In June 2021, as part of consideration of the revised planning application, DS2 (advising EC) concluded that there had been a notional increase in viability so that the ungeared IRR had risen to 10.23% but pointed out this was derived only from the fact that the East Site value had reduced due to the demolition of buildings, and that in real terms there was a reduction in retail values due to the COVID-19 pandemic, and the general decline in high street retailing, increased construction costs and the pandemic's effect meant that development economics were extremely challenging. Avison Young concurred that the target level of profit was not predicted to be met with the requisite level of affordable housing.
55. Some time has passed since the revised planning permission was granted in July 2021. Accordingly, the viability position has been the subject of further expert work by Avison Young for the Council. Avison Young have carried out a high level review of the viability of the Scheme. The exercise took the form of a review of the updated proposed Scheme appraisals and commentary upon whether the inputs are reasonable at this point in time. This high-level review has been undertaken on a desktop basis to inform the Council's decision making. Avison Young advise that this exercise would likely have to be reviewed again in the run up to a CPO inquiry. The review also included a sensitivity analysis of the IRR, commercial rents and yields.

56. On the basis of their high level analysis, Avison Young have concluded that the Scheme is viable. Avison Young advise that the following points further reinforce their conclusion that the Scheme is viable: the East Site works have been procured under a fixed price Design and Build Contract with a major building contractor, Multiplex; full funding for the East Site has been secured; the existence of the contractual agreement with UAL/LCC; the Scheme has commenced and is proceeding; whilst the current macro-economic situation is challenging, there nevertheless remains underlying demand for high quality professionally managed residential stock, and rental forecasts remain positive.
57. Viability is a moot point in respect of the East Site because EC has chosen to proceed, has funded it and has a contractor appointed and on site to build it (subject in the case of the CPO areas to being able to do so). As regards the West Site, the reality is that once the new university campus building has been completed on the East Site for UAL, the completion of the sale of the LCC site is triggered, albeit UAL will have some time in which to move across to the East Site. So, having paid a very considerable sum to acquire the West Site at that point, it is highly likely that EC's group company, Elephant Three Properties Limited, would then proceed with the West Site redevelopment (subject to the CPO enabling it to do so), to recoup a return on its investment. The Guidance points out that a CPO can still be confirmed if there is uncertainty over financial viability if the case for it is very compelling. In this case, the Council has the benefit of Avison Young's updated expert advice that they believe the Scheme is viable. Moreover, officers do not consider there is any real uncertainty that the West Site will proceed given the factors above but, even if there was such uncertainty, the confirmation of the CPO will still be justified because the case for the CPO is so very compelling.
58. In terms of the CPO indemnity agreement, all interests to be acquired by the Council, whether by agreement or by CPO, will be acquired for planning purposes. Under section 233(3) of the 1990 Act, the Council needs to achieve best consideration when disposing of land under this provision. This however needs to be judged in the context of the totality of the arrangements for the transfer of interests pursuant to the CPO indemnity agreement. The Council will only be acquiring interests from third parties or creating rights over their land on the basis that funding for the initial acquisitions or rights (at market value) is coming from EC and on the basis that it will thereafter dispose of any acquired land to EC or EC's group company. As such, there is no realistic prospect of the Council obtaining consideration in respect of the disposals to EC (or its group company) under the CPO indemnity agreement beyond the indemnity arrangements, such that these arrangements are the best consideration that can reasonably be obtained in the circumstances.
59. The Council is required to exercise its power under section 233 in a manner which, so far as practicable, secures that relevant occupiers of that land are provided with a suitable opportunity to obtain accommodation on the land in question (section 233(5)). Relevant occupiers for these purposes means residents and those carrying on business on the land that wish to obtain accommodation. As explained in the main body of the report, the Council

and EC's intention is to offer relocation opportunities to the affected occupiers of 4 and 5 Farrell Court (Corsica Studios), and 7 Farrell Court (Beset), to relocate within the arch units which are the subject of the CPO. It is not practicable to relocate both DistriAndina and Beset into 4 and 5 Farrell Court as the units will not fit both of them, and in any event DistriAndina are being offered the opportunity to relocate elsewhere within the Scheme, in a new unit on the East Site. As explained in the main body of the report, it is envisaged that none of the existing occupiers will need to cease trading nor suffer any material delays in re-opening. The indemnity agreement between the Council and EC will require EC to offer relocation opportunities in accordance with section 233 in respect of any land that is acquired by the Council and disposed of to EC pursuant to the CPO arrangements. Accordingly it is concluded that the duty under section 233(5) will be satisfied.

60. In addition, the section 106 agreement relocation strategy requires that 10% of the new retail floorspace pursuant to the July 2021 planning permission will be affordable retail floorspace and will be offered in the first instance to eligible businesses displaced from the East Site. Similarly, 10% of the commercial floorspace pursuant to the July 2021 permission will be provided as affordable workspace, again offered in the first instance to eligible businesses from the East Site displaced by the redevelopment.
61. In respect of the statutory duty under section 66(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have regard to the desirability of preserving features of special architectural or historic interest, and in particular listed buildings, in the exercise of the powers of disposal under section 233, the Metropolitan Tabernacle is a listed building and some minor works to that building are required and have received listed building consent. The Council will acquire new rights over the land under the CPO and EC will be able to utilise those new rights. Cabinet will note that notwithstanding the substantial weight given to harm to the setting of the Tabernacle, the Planning Committee concluded that such harm would be outweighed by the significant public benefits accruing from the Scheme. Any effects the Scheme may have on the other designated heritage assets in the locality, including the Faraday Memorial and Metro Central Heights listed buildings, listed buildings at West Square and the West Square and Elliott Row Conservation Areas, and any undesignated heritage assets, were fully considered by the Planning Committee. Officers consider that there is no breach of this statutory duty by reason of the proposals set out in this report.

That the correct statutory procedures have been correctly followed

62. It is considered that the relevant statutory procedures have been correctly followed to date. It will be necessary for the Council to follow the correct statutory procedures in making the CPO and publicising the same and serving notice of it on the affected parties, and to follow the Guidance policy on (among other things) providing a Statement of Reasons to affected parties. Thereafter the Council will need to adhere to the statutory procedures as regards the proposed confirmation of the CPO, including adhering to the inquiry rules.

APPENDIX K

Elephant & Castle Town Centre Redevelopment Proposed Compulsory Purchase Order Equalities Impact Assessment (EqIA)

1. Background

The Public Sector Equality Duty (PSED) created by the Equality Act 2010 imposes a continuing duty on the Council to consider equalities impacts to inform its decision making. Previous EqIAs were produced by AECOM in June 2016 prior to approval of the planning application for the development of the Elephant & Castle Shopping Centre and Town Centre area. Additional analysis was carried out by AECOM in March and August 2017 relating to the potential redevelopment of the Bingo Hall and Bowling Alley within the Shopping Centre and which helped to formulate the business relocation strategy and compensation package for affected businesses, which was put in place under the section 106 agreement. The developer (EC) has also carried out its own analysis as part of the planning application process.

A further report was commissioned by the Council in August 2019 with a detailed report being provided by AECOM in January 2020, to inform the Council's decision-making as to a Compulsory Purchase Order (CPO) at that time.

In line with the continuing duty, this report addresses the equalities impacts that may arise in the context of the now proposed CPO. It does not seek to duplicate the work done in connection with earlier reports. Rather, it addresses the potential equalities impacts on those businesses and stakeholders likely to be affected by the making and implementation of CPO should the Council's Cabinet resolve to approve this.

2. Legislative background

The Equality Act 2010, section 149 (Public Sector Equality Duty) sets out that a public authority must, in the exercise of its functions, have due regard to the need to –

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics for the purposes of the Act are –

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race

Religion or belief
Sex
Sexual orientation.

The EqIA aims to consider the effects of the Council's decision making (in this case to make a CPO) and whether these effects are likely to have a disproportionate or differential impact. A disproportionate impact will arise if an impact has a proportionately greater effect on groups who share a protected characteristic than on other members of the general population in a location. A differential impact will arise where members of a group sharing a protected characteristic are affected differently from the rest of the population because of specific needs, or a recognised sensitivity or vulnerability associated with their protected characteristic.

3. Current decision

The Council is proposing to make a CPO in order to acquire the remaining title and new rights required to facilitate the town centre redevelopment scheme. Further details of the remaining title and new rights required are set out in the main report to Cabinet seeking approval to the making and implementation of the CPO. The compulsory acquisition of these properties and new rights will directly impact the owners of the businesses and organisations thereby affected, their employees and their customers and clients. Mitigation measures will seek to reduce these impacts as far as possible.

The businesses and organisations that will be directly affected by the making and implementation of a CPO are those that currently occupy parts of the proposed order land who will need to relocate in order to enable redevelopment to take place, or, in the case of the Metropolitan Tabernacle, whose land will be the subject of new rights to facilitate the redevelopment. These have been identified as follows:

Units 4 & 5 Farrell Court – Corsica Studios

The business currently carried out in units 4 & 5 is that of a cultural venue hosting electronic and other genres of music and club nights and creative events, including techno and live alternative rock and art installations.¹ The business has a well-articulated inclusivity, equality and diversity policy whereby it aims to promote a positive environment where differences are respected and valued. It also aims to redress the gender, racial and sexuality balance within the industry. The venue welcomes disabled customers and aims to be accessible and inclusive.

The developer's proposal is to relocate the business to the railway arches to the north of the station, a short distance up Elephant Road, which will have been fitted out and soundproofed prior to the relocation taking place. In a worst case scenario of the business closing if the confirmed CPO does not include the acquisition of all necessary rights and interests in those northern arches for them to relocate to, it is not considered that any one group with protected characteristics would be disproportionately affected.

¹ Source : www.corsicastudios.com accessed 7 November 2022

The clear intention, though, is that Corsica would be relocated as envisaged. The replacement premises would be better designed and would benefit from better access internally (which would benefit all users, including those with disabilities) whilst still being in very similar arch premises. The proposal, if implemented, would mean that the business would not need to close, even temporarily. It is considered that the likely equalities impact of the proposed relocation would be positive in terms of disability due to accessibility improvements, but otherwise neutral as the changes would help secure the future of Corsica Studios and overcome the uncertainties in relation to the extent of their current demise and the use of the fire escape.

It should also be noted that compensation is available under the CPO legislation for costs/losses of needing to relocate, so that the effect with the proposed mitigation would not affect Corsica Studios financially.

To the extent that any adverse equalities impacts could arise, the proposed mitigation is relocation as proposed above. As to the prospects of that proposed mitigation occurring, discussions are underway with Corsica and it is considered that there are good prospects that the proposed relocation will take place.

Unit 6 Farrell Court – DistriAndina

Unit 6 Farrell Court is occupied by DistriAndina which operates as a café, delicatessen and a Latin American supermarket which sells groceries both retail and wholesale and also delivers around England, Scotland and Wales. They describe themselves as “Serving the UK’s Latin American Community”² which previous EqlAs have identified as being a section of the population likely to be disproportionately affected by redevelopment at the Elephant & Castle, as there are several Latin American businesses in the area serving a large local population. DistriAndina themselves are part of that Latin American community, and therefore the protected characteristic of race is relevant. Redevelopment may potentially impact disproportionately and differentially on groups who benefit from the provision of specialist goods and services.

The worst case scenario is the closure and loss of this Latin American business. However, the developer’s proposal and clear intention is to relocate DistriAndina into one of the affordable retail units being constructed as part of the redevelopment and fronting Walworth Road. The unit envisaged for the relocation would be of a similar size to their existing unit and would benefit from a large shopfront onto Walworth Road, where there is high footfall and a large number of bus stops, thereby enabling the unit to be easily accessed both on foot and by public transport. Although not in Elephant Road itself, the replacement unit is within the scheme and would be located only a short distance away from the current unit, in an area with other Latin American businesses nearby. It is considered that this would provide adequate mitigation from the closure of unit 6.

² www.distriandina.co.uk accessed 7 November 2022

Again, relocation of the business would be organised such that the business did not have to close and there would be continuity of operation.

As referred to in the context of Corsica Studios above, compensation is available under the CPO legislation for costs/losses of needing to relocate, so that the effect with mitigation would not affect DistriAndina financially.

Accordingly, the proposed mitigation is relocation as proposed above. As to the prospects of that proposed mitigation occurring, discussions are underway with DistriAndina and it is considered that there are good prospects that the proposed relocation will take place. It is considered that the likely equalities impacts would be neutral with that mitigation (ie relocation) taken into account.

Unit 7 Farrell Court – Beset International Limited

Beset International Limited occupies unit 7 and operates a shipping and air freighting business as well as providing business space for a number of small businesses of varying types which occupy areas within the railway arch. These include hairdressing, international money transfer, assorted retail and a café. In the survey undertaken on behalf of the Council, the proprietor of Beset identified as being of Black African ethnic minority. The other business owners within the arch identified as being Latin American. The worst case scenario of a closure of this unit and the loss of the businesses would be likely to disproportionately affect these BAME groups.

However, again, the developer's proposal is to relocate these businesses into units 4 & 5 once these have been vacated by Corsica Studios. This would enable the businesses to continue to trade in the same immediate locality as currently, in very similar premises, as part of the scheme, but in a newly fitted-out unit. As with the other proposals for relocation, the intention is to ensure continuity of provision so that no interruption to the businesses would occur.

As referred to in the context of Corsica Studios above, compensation is available under the CPO legislation for costs/losses of needing to relocate, so that the effect with mitigation would not affect Beset financially.

Accordingly, the proposed mitigation is relocation as proposed above. As to the prospects of that proposed mitigation occurring, discussions are underway with Beset and it is considered that there are good prospects that the proposed relocation will take place. It is considered that the likely equalities impacts would be neutral with that mitigation (ie relocation) taken into account.

Metropolitan Tabernacle

The Metropolitan Tabernacle is an independent reformed Baptist church which occupies the Grade II listed Tabernacle building on the west side of Elephant & Castle. It holds services on Sunday mornings and evenings, prayer meetings on Monday evenings, bible study on Wednesday evenings, and a Sunday School on Sunday afternoons for children and teenagers, as well as hosting a bookshop. That the Tabernacle serves a wide group of people and nationalities is evidenced by the fact that simultaneous translations of its Sunday services are available via

headsets into Spanish, French, Portuguese, Chinese and Farsi³. The numbers of people using the building vary according to the time of day and the events taking place but can be as many as 1,000 including 500 children attending the Sunday school.

The building has disabled access to the front (in one of the side arches) which can be accessed either from the Elephant & Castle highway to the front or from the rear parking area along the north flank of the building. Some of the members of the church's congregation are mobility impaired.

Information about the congregation and staff was requested, in order that any groups sharing protected characteristics can be identified and their needs met as far as practicable. Effects of the CPO on the congregation and staff of the Tabernacle could potentially disproportionately affect groups sharing the protected characteristics of religion, age, race, pregnancy and maternity, and disability.

However, the effect of the CPO on the Tabernacle and its congregation is limited to the need to carry out demolition works to the adjoining London College of Communication building, and the Tabernacle is only included in the CPO in order to secure rights to carry out that work, to erect scaffolding on part of the Tabernacle site and to oversail a crane. Any effects of the CPO will be temporary and works will be carried out in such a way that the Tabernacle can remain open at all operational times.

Some disruption will be caused by the erection of scaffolding which is necessary to carry out the works to de-couple the LCC building from the Tabernacle and to demolish the LCC building, which is immediately adjacent to the Tabernacle. This may need to stay in place for up to three months. However, it will be erected in such a way as to ensure that access to the front side entrance of the building (which contains the disabled entrance) is still available, with access to the disabled entrance being maintained during operational hours. It is possible that persons with mobility impairments or parents pushing pushchairs may not be able to use the side accessway under the scaffolding to reach the disabled entrance at the front side entrance if they approach from Pastor Street, and instead would need to go round the other side of the Tabernacle to reach it from Elephant & Castle highway. This would cause inconvenience to disabled persons, the elderly and families with young children. It might also hinder, and cause inconvenience to, pregnant women. As to the scale of such inconvenience, it is considered that this would be minor.

It is likely that the scaffolding will also have an impact on vehicular parking to the rear and side of the building, within the Tabernacle grounds. It is understood that the vehicles parking there include minibuses which are used to facilitate travel to the venue for (among others) those with mobility impairments, whether through disability or age. Therefore the loss of those spaces, though temporary and for a relatively short period, may give rise to inconvenience, particularly to disabled persons, the elderly, families with young children and possibly to pregnant women.

³ www.metropolitantabernacle.org accessed 7 November 2022

The developer is content to pay for alternative parking provision within the locality for the duration that spaces are not available due to the scaffolding. It may be that the minibuses would still be able to drop off visitors to the rear of the Tabernacle, without parking there, before then moving to the alternative parking provision, with drivers then returning to pick up later, in that way ensuring that those with mobility impairments would not need to move from the alternative parking to the Tabernacle. The movement of visitors dropped off at the rear of the Tabernacle to the disabled entrance in the front side arch would be as discussed above. Again, the scale of inconvenience arising is considered to be minor.

In terms of mitigation, the developer will need to submit a demolition management plan for the West Site in due course and so the Council will be able to assess and approve the detailed demolition methodology at that time. The Council will be seeking to ensure that disruption to the Tabernacle is kept to a minimum as part of that plan. Moreover, the developer will agree in the CPO indemnity agreement to procure that (a) the disabled entrance in the front side arch is available at all times when the Tabernacle is in operation and (b) reasonable endeavours are taken to keep open the side accessway route from the rear of the Tabernacle to that disabled entrance in the front side arch, under the scaffolding, for persons with (and without) mobility impairments if it is safe and practicable to do so.

The Council and the developer will continue to take steps to ensure that the adverse effects of the works on the Tabernacle building and its users are kept to a minimum. If it proves not practicable and safe to keep open the side accessway for those with (and without) mobility impairments during the period when the scaffolding will be in place, the residual equalities impacts of the temporary works are considered to be minor adverse. It is considered that, if the mitigation referred to above is put in place with the side accessway kept open, residual equalities impacts are unlikely to arise.

4. Other impacts arising from the CPO

East Site

There will be benefits to all users of the East Site from the creation of surface level public access to create the Station Route, the Park Route and further public realm adjacent to the railway viaduct. This is likely to be particularly beneficial to the elderly, disabled persons, pregnant women and families with young children. It will also ensure the permeability of the site for visitors to all parts of the East Site, including the replacement affordable retail floorspace and proposed replacement bingo facility, both of which are included in the East Site at least in part to address adverse equality impacts identified at the planning permission stage.

West Site

The approved phasing plan under the July 2021 Permission requires the East Site (other than the current LUL Underground station) to be completed prior to works beginning on West Site. So the CPO will unlock the ability to develop West Site, including the affordable retail floorspace, new dwellings (including affordable housing units, and 10% wheelchair accessible units) and job opportunities

associated with that phase of the Scheme, all of which are considered to have positive equality impacts.

It is not considered that the daylight and sunlight impacts which could arise from the construction of tall buildings on the West Site would disproportionately affect any one group with protected characteristics.

Consideration has been given to the potential adverse impacts on the local community during the demolition and construction phase on the West Site, particularly to those people with protected characteristics who may be more sensitive to safety, security and accessibility construction impacts, including people with disabilities, children, older people and pregnant women. Similarly, consideration has also been given to the potential noise impacts that the demolition and construction of the West Site may have on groups with protected characteristics, who may be more sensitive to noise increases including people with certain disabilities, children and older people. Whilst the scale of any such impacts is considered to be minor, the Council has already sought to mitigate these impacts through securing demolition management plans and construction environmental management plans in the section 106 agreement.

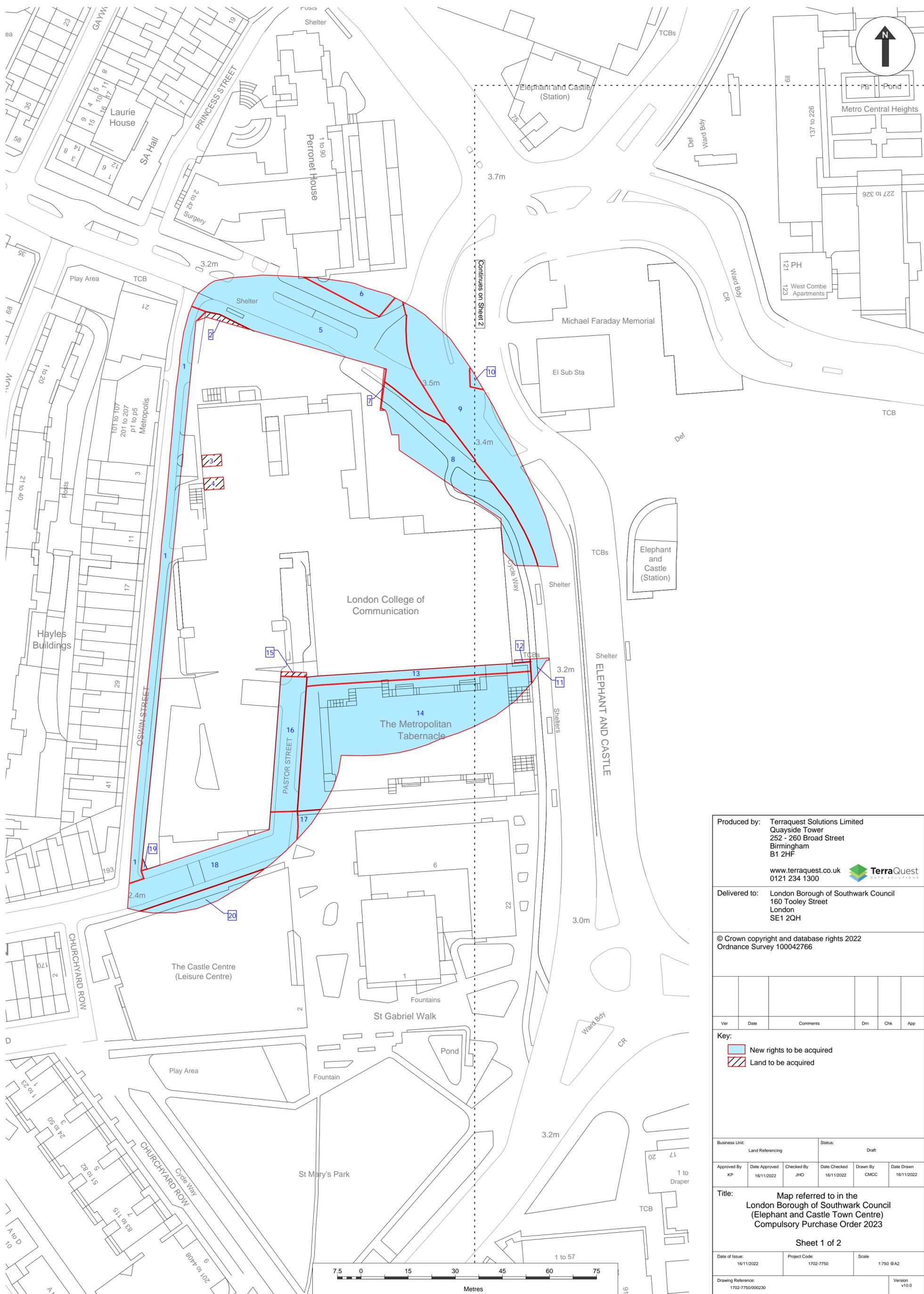
5. Summary

The making and implementation of a CPO, following a resolution of Cabinet to do so, will have effects on those directly affected by it, details of which are summarised above. The provisions of the Equality Act are engaged, in that certain groups sharing protected characteristics are potentially disproportionately affected by the proposals.

However, the mitigation measures that are proposed, as detailed above, will play a significant role in minimising the effects of the CPO on those groups such that any negative impacts on them are minimised as far as possible. With the proposed mitigation in place, any residual effects would be limited.

Previous EqIAs have concluded that the mitigation measures proposed by the Council and the developer were likely to prove effective in minimising residual negative effects, and pointed out that the scheme facilitated by the CPO will enable affected businesses to share in the benefits to be delivered, in particular the creation of jobs, new retail space, improved transport links, the new campus for the London College of Communication and the provision of affordable housing.

The Council will need to ensure that the developer commits to and implements the mitigation measures outlined above and that these are monitored in order to help minimise the adverse effects and realise the positive benefits of the redevelopment proposals.



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Key:
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Business Unit:	Land Referencing	Status:	Draft								
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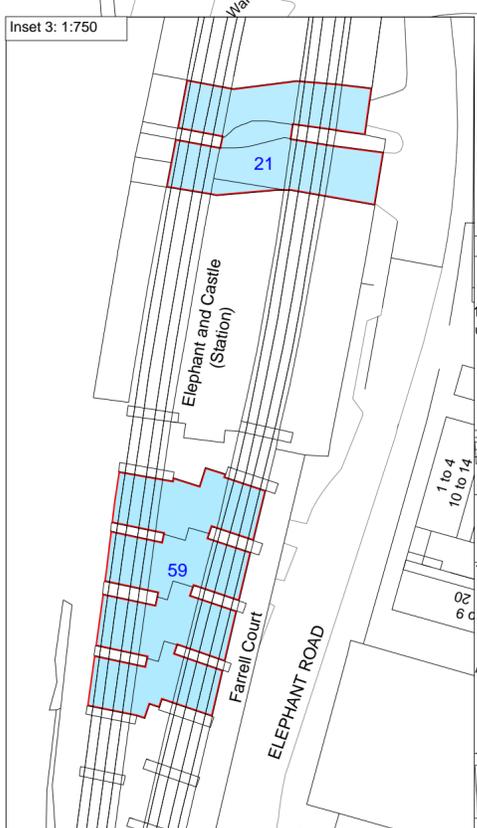
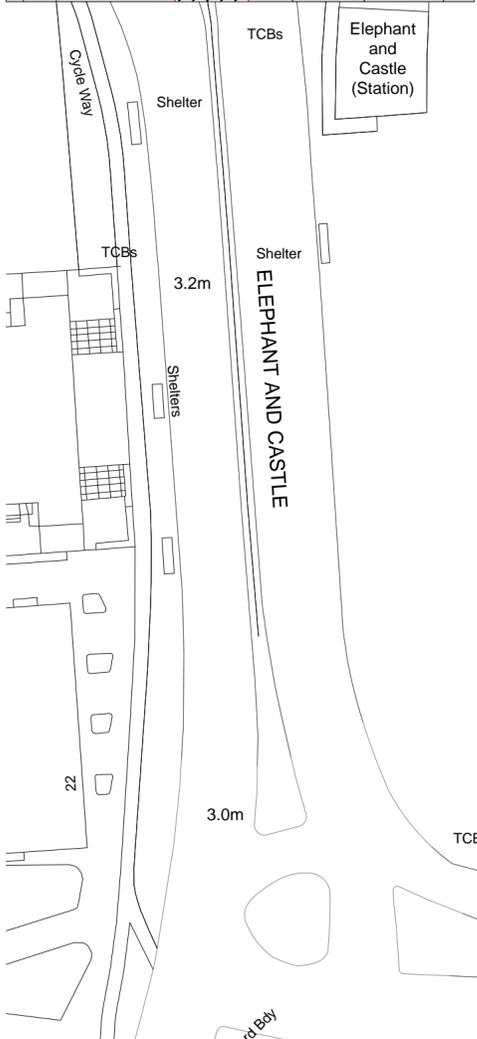
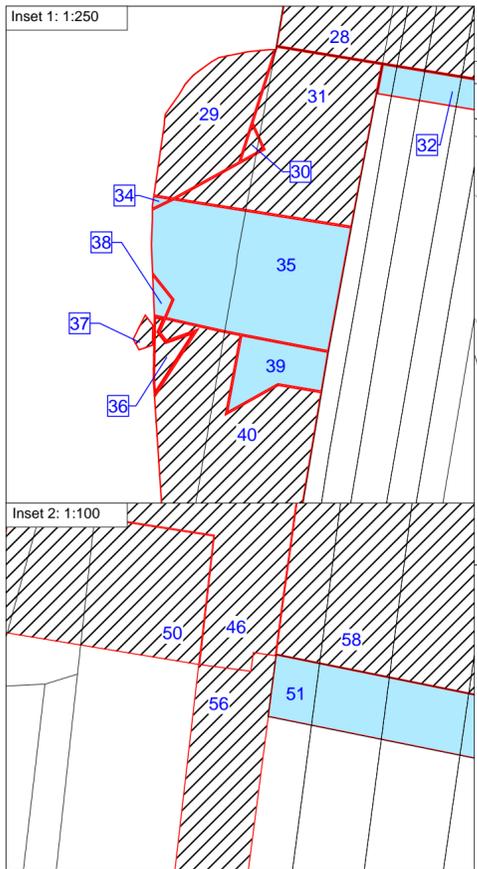
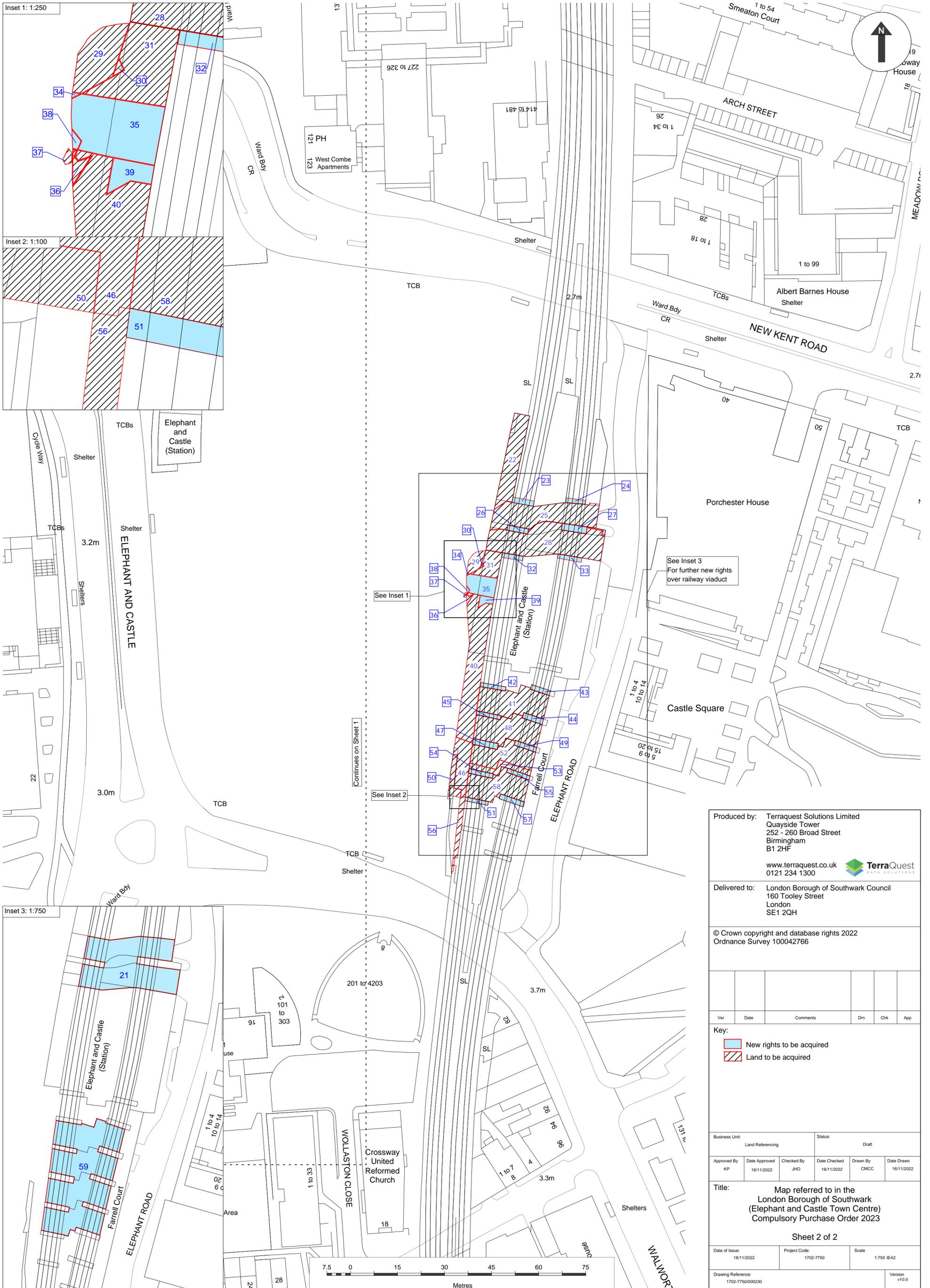
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Sheet 1 of 2

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APPENDIX L (2)



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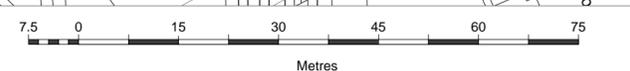
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- Land to be acquired

Business Unit:	Land Referencing	Status:	Draft								
Approved By:	KP	Date Approved:	16/11/2022	Checked By:	JHO	Date Checked:	16/11/2022	Drawn By:	CMCC	Date Drawn:	16/11/2022

Title: Map referred to in the London Borough of Southwark (Elephant and Castle Town Centre) Compulsory Purchase Order 2023

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