

Date: 27 September 2017

Item: Southwark Station Development - Special Purpose Vehicle

This paper will be considered in public

1 Summary

- 1.1 TfL has the opportunity to deliver an office-led development at Southwark Station comprising at least 160,000 sq ft of office, retail, cultural space, public realm and to facilitate the delivery of a net increase of affordable homes. The new homes, which are likely to be rented out at a social rent, will be constructed and owned by London Borough of Southwark (LBS) partly on land currently owned by TfL.
- 1.2 To capture the maximum value for TfL, full control of the land is required to deliver the development prior to submitting a planning application. It is proposed that this is achieved via the acquisition of the Company.
- 1.3 The Company is a special purpose vehicle owned by Development Securities (Investment Ventures) Limited, which is itself a subsidiary of U+I Group Plc (U+I), which owns the land necessary. Following the acquisition of the Company there will be a full options analysis undertaken to ensure that TfL optimises the development opportunity and obtains best value.
- 1.4 Under Standing Orders, the authority sought in this paper is reserved to the Board. On 19 September 2017 the Board delegated to the Finance Committee authority to approve those matters reserved to the Board in relation to any extension of the RCC.
- 1.5 A paper is included on Part 2 of the agenda, which contains exempt supplemental information. The information is exempt by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972 in that it contains information relating to the business affairs of TfL. Any discussion of that information must take place after the press and public have been excluded from this meeting.

2 Recommendations

The Committee is asked to:

- 2.1 **Note this paper and the supplemental paper on Part 2 of the agenda and to:**
 - (a) **approve the entry by TfL or any of its Subsidiaries into a share Sale and Purchase Agreement with Development Securities (Investment Ventures) Limited (a wholly owned subsidiary of U+I Group Plc) to acquire the entire issued share capital in Development Securities Southwark Limited (“the Company”) for the amount and costs set out in the Part 2 paper; and**
 - (b) **authorise the TfL Officers and Subsidiaries (as described in paragraph 2.3 below) to:**

- (i) finalise the terms of the Sale and Purchase Agreement referred to in this report and any other documentation related to the acquisition of the Company and the work relating to the OSD;**
- (ii) authorise the execution (whether by deed or otherwise) of any documentation to be entered into in connection with the completion and implementation of the Sale and Purchase Agreement and any of the matters referred to in it, including the land swap referred to in this paper and, without limitation, all agreements, deeds, guarantees, indemnities, announcements, notices, contracts, certificates, letters or other documents; and**
- (iii) do all such things as they consider necessary or desirable to facilitate the execution of the Sale and Purchase Agreement and the matters referred to in it.**

2.2 Authorise the TfL Officers and Subsidiaries (as described in 2.3 below) to approve:

- (a) the identity of the TfL Subsidiary that should acquire and hold the Company;**
- (b) the amendment of the Articles of Association of the Company;**
- (c) the individuals to comprise the board of directors of the Company;**
- (d) the individuals to be appointed officers of the Company; and**
- (e) the new name of the Company is delegated to TfL Officers.**

2.3 Agree that the following TfL Officers and Subsidiaries shall have delegated authority:

- (a) TfL Officers: the Commissioner, Chief Finance Officer, General Counsel and Director of Commercial Development.**
- (b) Subsidiaries: Subsidiaries of TfL including Transport Trading Limited (TTL), TTL Properties Limited and any other subsidiaries (whether existing presently or to be formed) of TTL and of the directors of the relevant company shall be authorised to act for and on behalf of that company.**

3 Background

- 3.1 In 2015 TfL and U+I Group Plc (formerly Development Securities Plc) entered into a Joint Venture agreement for the development of Southwark Station (“the OSD”). This was approved by the Managing Director of Finance 27 January 2015 and signed by Director of Commercial Development on 27 February 2015.**
- 3.2 The Joint Venture did not reach the point which required the transfer of land into a single corporate vehicle and, as a result, TfL’s land interests remain with TfL and U+I Group Plc’s land interests with its wholly owned subsidiary, Development Securities Southwark Limited (“the Company”). Therefore, the Company owns land necessary to develop the OSD.**
- 3.3 The Company owns a freehold interest in Algarve House, rebranded for temporary use as the ‘Platform’ building, four residential flats in Styles House plus one**

residential unit in the 'Chalet' building fronting The Cut as shown on the plans at Appendix 1 and 2.

- 3.4 The Joint Venture Agreement which TfL entered into with U+I would have delivered a scheme that required additional land from LBS. The recommended strategy for the OSD was for a scheme of approximately 200,000 sq ft providing mostly high rise private residential with some office and cultural space. This scheme would have required the complete re-provision of ticket hall facilities.
- 3.5 In early 2017 it became apparent the proposed scheme was not financially viable. This was due to:
 - (a) a change in market conditions for private sale residential properties at the proposed price point since the Joint Venture agreement was entered into;
 - (b) the timing and cashflow impact of infrastructure requirements; and
 - (c) the complexity of funding the re-provision of station facilities.
- 3.6 Therefore, the Joint Venture did not have a viable proposal to proceed with development and forecast market conditions would make it challenging for TfL or U+I to deliver a commercially viable scheme in isolation with current landholdings.
- 3.7 Following further TfL led design study; an opportunity was seen to deliver a commercial office scheme, without private residential units and retaining existing station facilities, whilst facilitating a net gain in affordable homes. Consequently, TfL was able to negotiate the purchase of U+I's adjoining land interests and explore options for a land swap agreement with LBS.

4 Corporate acquisition and land swap

- 4.1 The acquisition of the Company is proposed to be under a conventional share Sale and Purchase Agreement. The agreement is currently being negotiated and the detailed terms will be reported to the relevant TfL Officer once finalised. The acquisition will be conditional on TfL, U+I and LBS agreeing a land swap to complete the assembly of land required for development ("the Condition"). If this land swap is not agreed, the acquisition of the Company will not happen (unless the Condition is waived by TfL).
- 4.2 The land swap will create two uniform plots of similar size (see plan attached as Appendix 2). LBS will be responsible for rehousing any tenants on its land before it is transferred to TfL, as it will be a condition of the land swap agreement that vacant possession is given on completion. The current proposals require that the empty Chalet building will then be demolished as part of the development scheme.
- 4.3 Ensuring that existing LBS tenants are rehoused appropriately and with their agreement will be a priority for all parties. TfL will work closely with LBS, the Tenant Management Organisation (TMO) and local residents to optimise both the rehousing proposals and any re-provision of affordable housing on the adjoining LBS land. LBS have clearly communicated that a land swap will not progress without sufficient input and buy-in from local residents.

- 4.4 The Company owns four homes in Styles House and one 'Chalet' unit, all of which are let on a short term basis under assured shorthold tenancies. The land swap will commit to the transfer of the properties in Styles House to LBS once TfL has purchased the Company and these tenancies have expired. The land swap will also create a building plot which would allow LBS to deliver an independent housing scheme of approximately 23 affordable homes.
- 4.5 The land swap and subsequent TfL development will provide LBS with four existing homes and the opportunity to construct 23 new homes. This will offset the reduction resulting from the transfer of seven existing homes to TfL and will generate a net increase of 20 affordable homes for LBS.
- 4.6 Upon the exchange of the Sale and Purchase Agreement the existing Joint Venture between TfL and U+I will automatically terminate. Therefore, if the Condition is not satisfied, it is possible that the existing Joint Venture will come to an end and TfL would not acquire the Company. As there have been no land transfers, there is no requirement for a repatriation of land to TfL and U+I as the former members.
- 4.7 To follow the existing structure for TfL's property holdings, it is proposed that the Company is acquired by TTL Properties Limited, a subsidiary of TTL.

5 Financial Considerations

Options analysis

- 5.1 Three options for the progression of the development opportunity have been considered.
- Option 1 - Maintain Joint Venture with U+I
- 5.2 There was not a viable development option in place that met the requirement in the Joint Venture agreement based on the agreed schedule, which was to have overcome the development constraints by November 2015.
- Option 2 - Terminate Joint Venture with U+I
- 5.3 This would not present the best value having regard to the design work completed and costs incurred through the existing Joint Venture agreement, some of which would become abortive. The land interests held by the Company are critical to support the scale required for a viable development. It would be challenging for TfL or U+I to deliver a commercially viable scheme in isolation with current landholdings.
- Option 3 - Buy land interests from U+I
- 5.4 This would allow TfL to have full control of the land required for development to proceed with the design and submit a planning application.
- 5.5 There are two possible methods to buy the land interests from U+I.
- (a) Land purchase, which is a simple transaction which could be completed with Finance Committee approval. However, this would incur 5 per cent Stamp Duty Land Tax and require TfL to effectively restart the development process and procure a new professional team.

(b) Corporate acquisition, which is a more complex transaction. This would be a more prudent approach to tax with an expected 0.5 per cent tax impact and this method would allow the professional team to maintain schedule, continuing to work on the development as the SPV transfers to TfL control.

5.6 After careful consideration of the options and negotiation with U+I, our recommendation is to proceed with option 3(b). On the basis of the advice of our property advisors, Cushman and Wakefield, and as a result of the analysis we have undertaken, this represent the best value, most efficient route to develop Southwark OSD.

Commercial position and due diligence

5.7 The Company will be acquired for an agreed sum, the details of which are set out in the supplemental paper on part 2 of the agenda.

5.8 The Company has been subject to an extensive due diligence process undertaken on finance, tax and legal issues, which is near to completion. The final report will be reported to the TfL Officers prior the entering into of the share Sale and Purchase Agreement. The Company will provide TfL with the usual warranties upon sale.

Best value – corporate acquisition

5.9 On the basis that the Company is a special purpose vehicle and its sole asset is its land, TfL’s advisors have valued the Company’s land and have advised that TfL is obtaining best value for the acquisition of the land within the corporate vehicle. TfL’s independent advisors have also considered State aid issues and, specifically, whether the transaction is State aid compliant. Our solicitors, Herbert Smith Freehills, have undertaken due diligence to ensure that TfL is not acquiring any ongoing liabilities for which TfL is not fully indemnified.

5.10 The valuation of the land interests, contracts and marriage value for the combined site commissioned from Cushman and Wakefield was conducted on an RICS red book basis, with consideration given to the existing use value and development risk.

Best value – land swap

5.11 Once the detailed terms of the land swap are settled, a report will be commissioned to ensure that the disposal of TfL land as part of the land swap with LBS will achieve best value and will be State aid compliant. The corporate acquisition of the Company will not take place unless that report is obtained.

6 Risk assessment

6.1 The key risks associated with this transaction have been carefully considered and mitigation plans prepared. These are set out below.

Risk	Mitigation
U+I, TfL and LBS are unable to agree terms for a land swap and the agreement is	Should the LBS land swap agreement not exchange by three months post exchange of the agreement, both TfL and U+I have the option to

Risk	Mitigation
unable to progress.	terminate the corporate acquisition and pursue independent schemes.
The land swap agreement is delayed by longer than three months.	Subject to agreement by TfL and U+I, both parties can continue to work on the land swap negotiation with LBS and extend the three month period should sufficient progress have been made.
Issues that incur cost are uncovered once the Company is under the ownership of TfL.	Extensive due diligence has been conducted prior to agreement of the acquisition terms and a market standard package of warranties will be provided to TfL on completion of the sale.
Local residents and stakeholders oppose the land swap.	We have already engaged with local residents and stakeholders through the U+I Joint Venture and will continue to ensure that communications are conducted on an open, transparent and productive manner. We have an engagement plan to ensure local stakeholders are involved and have a say.

7 Future Development

- 7.1 The intention of the remainder of this paper is not to provide a conclusion for the future OSD, more to highlight that the proposals provide viable options.
- 7.2 The proposed scheme will retain the existing Southwark station ticket hall. Minimising disruption to our customers and local residents during construction is, and will continue to be, our priority. We will therefore carefully manage interventions to the existing station and, if required, open a temporary access to ensure that Southwark station will remain operational.
- 7.3 The plans indicate that the existing Southwark station ticket hall may not need to close for a significant period of time. However, a temporary entrance at Waterloo East will be held as a contingency measure. The design for the temporary entrance was signed off by the London Underground Design Governance Board in August 2017. A planning submission to the London Borough of Lambeth will be made later this year to ensure that the temporary entrance can be provided if it is needed.
- 7.4 The height of the new OSD building design will be limited by the load-bearing capacity of the existing foundations of the retained ticket hall. This will be comparable to the Palestra building across Blackfriars Road from the Station.
- 7.5 The development proposals assume an institutional office specification in a local area with demonstrable tenant demand, as shown in published market reports, to enable a viable development.
- 7.6 The target schedule for the OSD is shown below.

Milestone	Target date
Completion of the corporate acquisition	January 2018
Submit planning application for Over Station Development	November 2018
Recommendation of funding development and delivery route	April 2019
Start of Construction	August 2020
Complete Construction and Occupation	January 2024

List of appendices to this paper:

Appendix 1: Site plan

Appendix 2: Land ownership plans

Supplementary exempt information is attached to Part 2 of the agenda.

List of background papers:

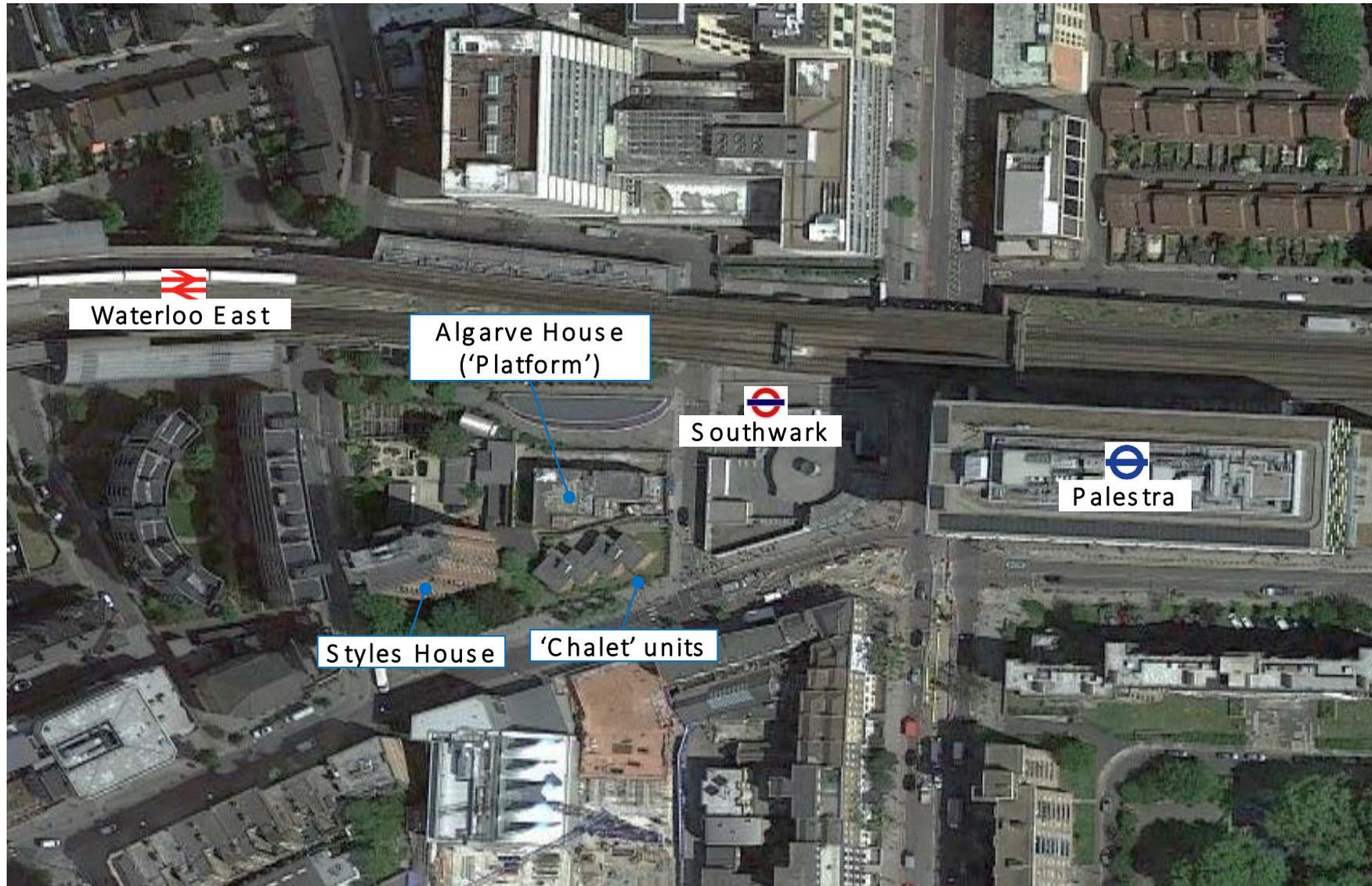
None

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Appendix 1: Site Plan

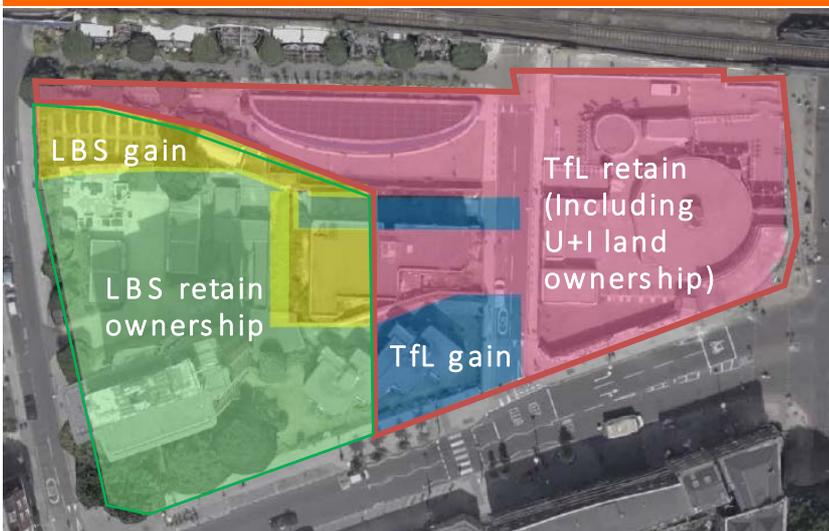


Appendix 2: Land Ownership plans

Current landholding



Target future landholding



-  LBS retain ownership: gaining four homes currently owned by U+I's SPV.
-  LBS gain leasehold from TfL: enabling the development of affordable homes
-  TfL gain freehold from LBS: requiring demolition of eight 'Chalet' units (one of which is currently owned by U+I's SPV).
-  TfL retain freehold of land above Southwark Station and the section of Algarve House currently owned by U+I's SPV.