

REQUEST FOR DIRECTOR DECISION – DD1348

Title: Conclusion of the Demo One river wall damage dispute

Executive Summary:

GLA Land and Property Limited (GLAP) wishes to recover costs from a demolition contractor responsible for damage to GLAP's property during works on Greenwich Peninsula in 2009.

The GLA has now agreed an out of court settlement with the contractor Demo One and this paper sets out the terms of the agreement.

Decision:

That the Executive Director of Housing and Land approves the financial and legal settlement with respect to the dispute between GLA Land & Property Ltd and Demo One on the terms set out in the Part 2 confidential section of this paper.

AUTHORISING DIRECTOR

I have reviewed the request and am satisfied it is correct and consistent with the Mayor's plans and priorities.
It has my approval.

Name: David Lunts

Position: Executive Director of Housing and Land

Signature:

Date:

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

- 1.1 English Partnerships, the National Regeneration Agency, made The English Partnerships (Greenwich Peninsula) Compulsory Purchase Order in 2005 to assemble land to facilitate the comprehensive regeneration of the Greenwich Peninsula. The land acquired included a range of plots on the northwest part of the peninsula which would be reconfigured to create development plots and infrastructure to serve the new development. The Order was confirmed in October 2006.
- 1.2 Following the confirmation of the Greenwich Peninsula CPO and the vesting of the land at Tunnel Avenue, the GLA's predecessor, the Homes and Communities Agency (HCA), elected to demolish a number of vacant warehouses in order to reduce estate management fees and the requirement to pay Empty Property Rates. It was also intended at the time that the land would form an early phase of development and therefore it was preferable to provide the development partner with a prepared site.
- 1.3 A procurement exercise was run and the contractor Demo One was selected to undertake the works. In November 2009 the HCA received notification from the Environment Agency that works had damaged the Thames river wall (under HCA ownership) and that works should be stopped to prevent any further damage being created.
- 1.4 A dispute then followed between the contractor and the HCA's agent, Capita Symonds, as to whether the works that had caused the damage had been instructed by the Contract Administrator or if Demo One was working without instruction
- 1.5 The dispute led to delays to the original contract works being completed and the liability for the costs has not been resolved to date. In order to complete the urgent repairs to the river wall the HCA appointed Atkins to advise on the scope of works and then ran a procurement exercise to secure a contractor to complete them. As the responsibility for damage had not been resolved the HCA was required to pay for the works upfront and expended a total of £390,000.

2. Objectives and expected outcomes

- 2.1 Following the completion of the works and the issue of the Practical Completion Certificate HCA wrote to Demo One to confirm that the retention on the contract would be withheld against the costs of the repairs to the river wall. Demo One wrote to the GLA in December 2013 requesting that the retention sum of £125,000 be returned to them.
- 2.2 The GLA's solicitors Berwin Leighton Paisner replied to the letter to explain that the GLA was withholding the amount against the costs that it had incurred in repairing the damage to the river wall and that the GLA would not release the sum as the costs were still outstanding.
- 2.3 The GLA invited Demo One to participate in a Pre-Action meeting to discuss a negotiation of the costs and liability.
- 2.4 Following an exchange of information and a further meeting, Demo One has offered a sum, in addition to the held retention, as an insured contribution to the costs. There is no admission of liability attached but this is a positive step forward and allows the GLA to resolve the outstanding dispute and remove the contingent liability.

3. Equality comments

- 3.1 The contract resolution does not have any equalities impact issues.

4. Other considerations

- 4.1 It is in the GLA's interest to resolve the dispute to ensure that the contingent liability is removed and that costs are recovered as far as possible.

5. Financial comments

- 5.1 The GLA Finance team has been kept informed of the progress of the negotiations and final comments are made in Part 2 of this paper.

6. Legal comments

- 6.1 Legal comments from the GLA's solicitors Berwin Leighton Paisner are contained in Part 2.

7. Investment & Performance Board

- 7.1 This paper was not considered at Housing Investment Group

8. Planned delivery approach and next steps

Activity	Timeline
Finalise legal agreement structure	May 2015
Sign off settlement	June 2015

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary.

Note: This form (Part 1) will either be published within one working day after approval or on the defer date.

Part 1 Deferral:**Is the publication of Part 1 of this approval to be deferred? NO**

If YES, for what reason:

Until what date: (a date is required if deferring)

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – YES

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Philippa Bloomfield has drafted this report in accordance with GLA procedures and confirms that:

✓

Assistant Director/Head of Service:

Simon Powell has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Financial and Legal advice:

The Finance and Legal teams have commented on this proposal, and this decision reflects their comments.

✓

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature

Date