GREATER**LONDON**AUTHORITY

REQUEST FOR DIRECTOR DECISION – DD2661

Edgware Road Housing Zone, City of Westminster – Contract Changes

Executive summary:

MD1545 designated an area within Westminster as a Housing Zone and indicatively allocated GLA funding for interventions to unlock or accelerate the delivery of housing within the zone. Pursuant to DD2079, the GLA subsequently entered into a Borough Intervention Agreement (BIA) with Westminster City Council to provide £2m of recoverable grant funding for infrastructure works (utility diversions) to unlock homes at two key sites: Lisson Arches and Lisson Grove (now referred to as Orchardson Street).

Initially, the Lisson Arches proposal comprised a mix of private and affordable tenures. However, in 2022, the council opted to deliver a 100 per cent affordable project. Without any cross-subsidy from private sale at Lisson Arches, there is now a resulting need for additional grant funding to support the tenure conversion. Orchardson Street will also be subject to review, to deliver a policy-compliant tenure mix.

This decision seeks approval to convert the £2m of recoverable grant to non-recoverable capital grant for affordable housing (social housing assistance), and to remove Orchardson Street from the BIA – vesting the £2m grant in the 44 community-supported homes for older people, which will be let at affordable rents. It is anticipated that the affordable homes at Orchardson Street will now come forward via the Mayor's 2021-26 Affordable Homes Programme.

Decision:

That the Executive Director, Housing and Land approves:

- the conversion of £2m of recoverable grant funding committed to Westminster City Council under a Borough Intervention Agreement (BIA) (dated 22 June 2017, and pursuant to DD2079) to non-recoverable capital grant for affordable housing (social housing assistance) in respect of 44 affordable community-supported homes for older adults at Lisson Arches
- the removal of Orchardson Street from the BIA
- associated changes to the number, tenure, and start and completion dates for the delivery of the Housing Zone outputs, as detailed in this report.

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: Tim Steer	**Position:** Executive Director, Housing and Land
Signature:	**Date:** 15/01/2024

PART I – NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

1.1. MD1545 (November 2015) designated an area within Westminster as a Housing Zone; and indicatively allocated GLA funding for interventions to unlock or accelerate the delivery of housing within the zone.

1.2. Following legal and financial due diligence, DD2079 (February 2017) approved the allocation of £2m recoverable grant funding to Westminster City Council (WCC) to support utility infrastructure works; and unlock the delivery of two schemes located within the Church Street ward at Lisson Arches and Orchardson Street. This funding was contractually committed via a Borough Intervention Agreement (BIA) between the GLA and WCC, which completed on 22 June 2017. The infrastructure works at Lisson Arches started on site in June 2016, and completed in August 2020.

1.3. The original approval for Lisson Arches was to provide 44 new, modern sheltered housing units to be let at affordable rents; and 14 units for private sale with restricted leases for over-55s. The approval also included enterprise space to support the local economy, which will now incorporate an additional 350 sqm of mezzanine space.

1.4. The 44 sheltered homes at Lisson Arches completed in August 2023. There will be priority allocations for residents of neighbouring Penn House – which will then be demolished and replaced with a mixed-use development (including office space for WCC). This allows for the offices at Lisson Grove (now referred to as Orchardson Street) to be decanted and replaced with new homes.

1.5. Orchardson Street was originally expected to include at least 100 homes with 35 First Steps homes for affordable home ownership. The Orchardson Street and Lisson Arches homes were required outputs under the BIA. The original approval requires WCC to return the £2m recoverable grant to the GLA by March 2025 using revenues from private sales receipts.

1.6. WCC approached the GLA with a request to convert the £2m recoverable Housing Zone grant to non-recoverable capital grant. This would help support the delivery of 100 per cent affordable homes in the Lisson Arches development, following a section 78 planning amendment, to convert the 14 private homes on the site to London Affordable Rent (LAR) homes. Furthermore, one additional LAR home is being provided because of efficiencies in the design and the removal of overnight visitor accommodation. The project will also deliver a scheme manager unit, but this unit is not eligible for GLA grant funding.

1.7. Removing the 14 private sale homes from the scheme means there is no longer any opportunity for cross-subsidy from market sale, creating a viability gap in the Lisson Arches development. This will be partially mitigated by converting the recoverable grant to non-recoverable capital grant. WCC also secured grant funding under the Mayor's Care and Support Specialised Housing (CASSH) programme for the 15 additional LAR homes in January 2022, to further mitigate the viability gap. WCC will fund the remaining gap. The Lisson Arches scheme completed on 31 August 2023.

1.8. Orchardson Street is now expected to deliver a total of 148 homes, rather than the original capacity estimate of 100. The tenure mix is currently subject to review by WCC. A policy-compliant tenure mix now requires 50 per cent affordable homes, in the ratio of 70 per cent social rent and 30 per cent intermediate. But changing the tenure mix will reduce cross-subsidy from private sale and require additional grant funding to support scheme viability. Retaining the 35 affordable homes within the Housing Zone would result in a non-compliant tenure mix as, under a compliant tenure mix, only 22 intermediate homes would be provided. Furthermore, the low levels of grant funding available through the Housing Zone would undermine overall scheme viability and act as a barrier to delivery. It is therefore recommended that the 35 affordable homes at Orchardson Street are removed from the BIA, with the £2m grant funding being vested in the 44 community-supported homes (those not being funded by CASSH) at Lisson Arches. This will result in an average grant rate of £45,454 per affordable home for the community-supported homes that are being unlocked via the Housing Zone intervention. This has been assessed by the Area team in Housing and Land as offering good value for money.

1.9. Orchardson Street is now expected to start on site in December 2025. It is anticipated that the tenure mix will be adjusted to align with the new administration's policy to maximise affordable housing across council-owned sites and achieve a 70:30 mix in favour of social rent. WCC has already secured an allocation for 17 social rent homes at Orchardson Street under the Mayor's Affordable Homes Programme (AHP) 2021-26. An additional bid for the remaining eligible units is expected to come forward under continuous market engagement to help support scheme viability.

1.10. Changes to the delivery programme for the housing outputs associated with the GLA's intervention are detailed in Tables 1 and 2 below. Table 1 shows the programme approved in DD2079; Table 2 shows the proposed revised position of the programme. It is recommended that the Housing Zone project will now consist of 44 community-supported homes at Lisson Arches, which started on site in 2020-21 and completed in 2023-24.

Table 1: Initial approved programme

Direct homes delivery (starts)	**2018-19**	**2019-20**	**2020-21**	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**2025-26**	**Total**
Market Rent homes	0	0	0	0	0	0	0	0	**0**
Affordable Rent homes	44	0	0	0	0	0	0	0	**44**
Market Sale homes	14	0	0	0	0	65	0	0	**79**
First Steps homes	0	0	0	0	0	35	0	0	**35**
Total homes	**58**	**0**	**0**	**0**	**0**	**100**	**0**	**0**	**158**
Direct homes delivery (completions)	**2018-19**	**2019-20**	**2020-21**	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**2025-26**	**Total**
Market Rent homes	0	0	0	0	0	0	0	0	**0**
Affordable Rent homes	0	44	0	0	0	0	0	0	**44**
Market Sale homes	0	14	0	0	0	0	0	65	**79**
First Steps homes	0	0	0	0	0	0	0	35	**35**
Total homes	**0**	**58**	**0**	**0**	**0**	**0**	**0**	**100**	**158**

Table 2: Revised programme

Direct homes delivery (starts)	**2018-19**	**2019-20**	**2020-21**	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**2025-26**	**Total**
Market Rent homes	0	0	0	0	0	0	0	0	**0**
Affordable Rent homes	0	0	44	0	0	0	0	0	**44**
Market Sale homes	0	0	0	0	0	0	0	0	**0**
First Steps homes	0	0	0	0	0	0	0	0	**0**
Total homes	**0**	**0**	**44**	**0**	**0**	**0**	**0**	**0**	**44**
Direct homes delivery (completions)	**2018-19**	**2019-20**	**2020-21**	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**2025-26**	**Total**
Market Rent homes	0	0	0	0	0	0	0	0	**0**
Affordable Rent homes	0	0	0	0	0	44	0	0	**44**
Market Sale homes	0	0	0	0	0	0	0	0	**0**
First Steps homes	0	0	0	0	0	0	0	0	**0**
Total homes	**0**	**0**	**0**	**0**	**0**	**44**	**0**	**0**	**44**

1.11. In accordance with the Housing Zone Change Management Process (DD1485), the changes to the affordable housing tenure and delivery timescales as detailed above were considered and recommended for approval by the Housing Zones Steering Group in June 2023.

1.12. This decision form seeks approval to: convert the originally approved Housing Zone recoverable grant funding to non-recoverable capital grant, in respect of 44 affordable sheltered homes at Lisson Arches; and remove the 35 intermediate homes, and 65 market sale homes, at Orchardson Street from the BIA. Overall, a total of 60 homes will be provided at Lisson Arches – of which 44 will be direct Housing Zone units. The Housing Zone funding will be vested in the direct delivery of 44 community-supported homes at Lisson Arches, at an average grant rate of £45,454 per unit. This has been assessed as good value for money.

1.13. This change will be implemented via a Deed of Variation to the Overarching Borough Agreement (OBA) for the Edgware Road Housing Zone and the BIA with WCC. External legal consultants have been instructed to prepare the Deed of Variation to the OBA and the BIA. The GLA's costs will be recharged to WCC on completion of the deed.

1.14. The converted grant funding will be subject to the recovery and recycling arrangements set out in the Recovery of Capital Grants from Registered Providers and Recycled Capital Grant Fund (Greater London) General Determination 2017.

1.15. WCC has supplied a financial viability assessment, which confirms the funding viability gap for Lisson Arches. The £2m GLA Housing Zone grant together with the CASSH allocation will help mitigate the funding gap. The remainder of the shortfall will be funded by the Council. Further details are included in the Part 2 report.

2. Objectives and expected outcomes

2.1. The Lisson Arches scheme will provide 59 affordable sheltered homes for people over 55 and 1,650 sqm of enterprise space.

2.2. This decision will also help remove barriers to delivery at Orchardson Street by enabling WCC to bid for additional grant funding under the AHP 2021-26 to support the revised tenure mix.

3. Equality comments

3.1. Under section 149 of the Equality Act 2010 (the Equality Act), as a public authority, in carrying out his functions the Mayor must have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; and to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not. This known as the Public Sector Equality Duty. Protected characteristics under the Equality Act are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage or civil partnership status (the duty in respect of this last characteristic is to eliminate unlawful discrimination only). In line with best practice, the impact on groups who also have the potential to be socially excluded, in this case, people on low incomes or from deprived communities, has also been considered notwithstanding that these specific attributes are not protected under the Equality Act but are likely to be more prevalent amongst people with protected characteristics.

3.2. The housing shortage in London has a disproportionately negative effect on people with certain protected characteristics. Increasing the supply of affordable housing will help to achieve positive impacts for people in those groups. The proposal will increase the number of affordable homes in the City of Westminster; and help to implement the policies set out in the current London Housing Strategy. Groups with protected characteristics stand to benefit from an increase in affordable housing where they are disproportionately over-represented in markers of housing need.

3.3. According to the 2011 Census, Black, Asian and Minority Ethnic groups comprise over two-thirds (68 per cent) of the local population in Church Street ward. These groups are disproportionately likely to experience poverty and associated housing constraints. They will therefore benefit from an increased supply of affordable housing, particularly homes for low-cost rent.

3.4. The proposals in this report will help to implement the objectives of the Mayor's Equality, Diversity and Inclusion (EDI) Strategy, Inclusive London. They will deliver against his commitments to make London a great place to live, where all Londoners have a good quality home at a price they can afford.

3.5. WCC has produced and published an EDI Plan as part of the contractual requirements set out in the AHP 2021-26 funding guidance. It is intended that the Action Plan will provide a roadmap for WCC to develop and improve its approach to EDI across, but not limited to three themes: organisational equality, diversity and fairness; sustainable and diverse supply chains; and working with Londoners, including those that are under-represented or face significant housing-related inequalities.

4. Other considerations

Key risks and issues

4.1. Following a section 78 planning amendment to the extant planning permission, 14 private homes in the Lisson Arches scheme have been converted to LAR homes – with one additional LAR home being provided as a result of changes to the scheme design.

4.2. Delivery milestones at Orchardson Street have slipped. Planning permission for this scheme is now expected in November 2024. Start on site is anticipated December 2025, and completion in December 2027. These milestones fall within the availability period for AHP 2021-26.

4.3. There are two approved schemes included in AHP 2021-26 that depend on the Lisson Arches completions unlocking a sequence of sites. These are Lilestone Street (including the decanted Penn House) and Orchardson Street. It is anticipated that additional bids for these sites will also be submitted under continuous market engagement. The Lisson Arches scheme completed on 31 August 2023; therefore, the risk to WCC's AHP 2021-26 delivery is considered low.

4.4. Lack of demand for the proposed enterprise space on the Lisson Arches site, as a potential risk, may result in unused space or WCC taking on the leasing arrangements. The council has engaged a market expert to assess the shift in appetite for the current management proposals to mitigate this risk.

4.5. The GLA's legal advisers have provided subsidy control advice in relation to this intervention. Further information on this is included in Part 2.

Links to Mayoral strategies and priorities

4.6. The London Housing Strategy (2018) sets out the Mayor's long-term strategic target for half of all new homes to be genuinely affordable. The Mayor is working with WCC to bring forward surplus and underused land to support the development of more genuinely affordable homes. Repurposing recoverable Housing Zone grant from this legacy project into grant will result in the direct delivery of 44 affordable homes; and the indirect delivery of a further 15 affordable homes.

Consultations and impact assessments

4.7. WCC has undertaken several separate consultations with the Church Street community, including residents and businesses located within the sites.

4.8. A resident ballot was undertaken on the Futures Plan, which was designated the renewal plan for the Paddington Green, Church Street and Lisson Grove (Orchardson Street) area for the period through to 2030. The ballot was undertaken prior to the introduction of the resident ballot funding condition by the GLA in July 2018. The Futures Plan was published in 2012. Several consultations were subsequently undertaken, including consultations on a Masterplan for Church Street in 2017. The Masterplan took full account of and built on the Futures Plan.

4.9. WCC has confirmed that the consultations were undertaken in accordance with the requirements of Section 105 of the Housing Act 1985.

4.10. A section 73 planning consultation was undertaken in 2020 to convert 14 private homes to affordable homes, and deliver one additional unit, together with certain other amendments to the Lisson Arches scheme.

4.11. WCC has continued to engage with residents at Penn House who are relocating to Lisson Arches following practical completion. It plans to carry out further consultations and community engagement regarding the Orchardson Street development.

4.12. GLA officers have engaged with WCC in relation to the proposals recommended in this report. It is not considered necessary or appropriate for the GLA to consult with any other persons or bodies, including those specified in section 32(2) of the Greater London Authority Act 1999 (GLA Act) for the purposes of this Director Decision.

Declarations of interest

4.13. The officers involved in the drafting or clearance of this form do not have an interest to declare in accordance with the GLA's policy on registering interests that might, or might be seen to, conflict with this Director Decision.

Conclusions and recommendation

4.14. Following the foregoing assessment, it is recommended that the GLA proceed with converting the £2m recoverable grant to grant. The viability gap at Lisson Arches will be partially mitigated by the conversion and, together with the approved CASSH allocation, the Housing Zone funding unlocks the delivery of 59 affordable sheltered homes.

4.15. The overall proportion of affordable housing to be provided across the two original Housing Zone sites is expected to increase from 50 per cent to 64 per cent, as a result of converting the £2m to grant funding combined with allocations under CASSH and AHP 2021-26. Therefore, this decision results in an element of affordable housing additionality that will benefit older adults and other Londoners with protected characteristics in Westminster.

4.16. If the conversion were not approved and/or the 35 affordable homes at Orchardson Street were to remain in the BIA as a delivery obligation, there is a significant risk that the Orchardson Street site would be considered unviable. This would result in the loss of around 74 affordable homes from WCC's programme. There would also be wider implications for future capacity within WCC's housing revenue account if the conversion is not approved.

4.17. WCC is committing significant financial and project management resources to ensure that Lilestone Street and Orchardson Street are delivered by March 2028 to align with the AHP 2021-26 backstop. The GLA will continue to manage the risks – including through formal quarterly review meetings.

5. Financial comments

5.1. The decision is seeking approval to convert £2m recoverable grant, which was paid to WCC, to capital grant. The capital grant (£2m) will be applied to meet the funding gap for the delivery of 44 community-supported homes for older people at Lisson Arches only. The decision is also seeking approval to remove the 35 intermediate and 65 market sale homes at Orchardson Street from the BIA. These changes will be affected through a variation to the BIA.

5.2. The team has sought legal advice on the conversion of the recoverable grant to non-recoverable capital grant, which would contribute to the funding gap. The legal costs incurred will be recovered from WCC. Further information on the decision in provided in part 2.

6. Legal comments

6.1. Under section 30(1) of the GLA Act, the GLA has the power to approve the proposals recommended in this report, provided that doing so will further one or more of the GLA's principal purposes of promoting economic development and wealth creation, social development, and the improvement of the environment in Greater London. The proposals will enable the delivery of affordable housing. It is open to the GLA to take the view that this will promote both social and economic development and is therefore within its power contained in section 30(1) of the GLA Act.

6.2. In exercising the power in section 30(1), the GLA must have regard to the matters set out in section 30(4-6A) of the GLA Act, and the Public Sector Equality Duty in section 149 of the Equality Act 2010. Reference should be made to section 3 above in this respect.

6.3. In addition to the above, where the GLA is proposing to use the power conferred in section 30(1) of the GLA Act, the GLA must consider consulting in accordance with section 32 of the GLA Act (see paragraph 4.12 above).

6.4. External lawyers have been instructed to prepare and negotiate the Deed of Variation for the GLA, including the incorporation of any provisions required to ensure compliance with subsidy control rules. Further comments are in Part 2.

7. Planned delivery approach and next steps

7.1. The project will be delivered according to the following timetable:

Activity	**Timeline**
Infrastructure works completed	August 2020
Lisson Arches start on site	August 2021
Lisson Arches practical completion	August 2023
Enter a Deed of Variation to OBA and BIA with WCC	January 2024

Appendices and supporting papers:
None.

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) 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 be published either within one working day after it has been approved <u>or</u> on the defer date.

Part 1 – Deferral

Is the publication of Part 1 of this approval to be deferred? YES

If YES, for what reason: negotiation of detailed contract terms with WCC.

Until what date: 31 January 2024.

Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under the FoIA should be included 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: <u>Charlene Williams</u> has drafted this report in accordance with GLA procedures and confirms the following:	✓
Assistant Director/Head of Service: <u>Dan Maton</u> 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.	✓
Corporate Investment Board This decision was agreed by the Corporate Investment Board on 15 January 2024.	✓

INTERIM CHIEF FINANCE OFFICER:

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

Signature:	**Date:**
	15/01/2024