

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD3209

Stephenson Street Development Agreement Deed of Variation

Executive Summary:

Stephenson Street is a major housing development site in West Ham owned by GLA Land and Property Limited (GLAP), a GLA subsidiary company. The site is subject to a Development Agreement (DA) between GLAP and Berkeley Homes South East Ltd (BHSEL) and Phase 1 has been under construction since 2020.

Due to recent changes in fire safety regulations, BHSEL are proposing to submit a revised planning application for a revised masterplan, embedding such requirements and increasing the overall density of the scheme. The increase in density, should the new application be approved, will result in an uplift in affordable homes across the scheme, including affordable rented homes.

Decision:

That the Mayor approves:

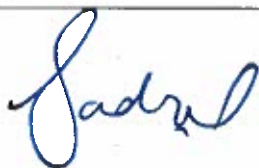
1. the principle of Berkeley Homes South East London Ltd. (BHSEL) proceeding to apply for a new hybrid planning application, including a new outline application for Phases 2-4 and a revised Reserved Matters Application (RMA) for Phase 2 of the West Ham scheme
2. GLAP entering into a deed of variation to the Development Agreement dated 26 April 2016 with Berkeley Homes South East London Ltd. (BHSEL), on terms materially as set out in this decision.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:



PART 1 - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. Introduction and background

Project facts and status

- 1.1. Stephenson Street is a 10.5 hectare former Parcelforce site owned by GLAP, located to the immediate west of West Ham Station, in the LB Newham (LBN). Berkeley Homes South East London Ltd (BHSEL) were selected as GLAP's development partner through a London Development Panel (LDP) procurement process in 2015 and a Development Agreement (DA) was entered into in 2016.
- 1.2. The historical Mayoral Decisions that provided consent to progress through previous project stages are listed below:
 - MD1626 (March 2016) – approval of selection of BHSEL as preferred development partner and signing of the DA with BHSEL
 - MD1645 (April 2016) – approval of project expenditure for the management of the DA
 - MD2276 (April 2018) – approval of project expenditure, approval of DA Variation, and approval of legal agreement to unlock delivery of a secondary school
 - MD 2550 (November 2019) – completion of legal agreements to unlock infrastructure delivery
 - MD2778 (March 2021) – approval of revenue expenditure for the ongoing management of the DA.
- 1.3. The initial hybrid consent for the scheme (outline masterplan and Phase 1 Reserved Matters Application (RMA)) was granted by LBN in August 2018, including 3,847 homes in total, 40 per cent AH by habitable room, dedicated community space, 1,000-pupil secondary school, 4.5-acre park (1.8ha) and four access bridges, including a new station access bridge, linking the site with West Ham Station. Additional off-site affordable housing provision was secured through an Affordable Housing Programme (AHP) grant from the GLA to LBN, which ensured an overall 50 per cent AH being provided for this site.
- 1.4. Infrastructure and transport interface requirements are regulated by a Master Interface Agreement (MIA), and a series of Bridges Adoption Agreements between BHSEL, GLAP, TfL and other parties.
- 1.5. The Long Stop date for Phase 4 (i.e., the last development phase) is 8 December 2033 (with other Phase Long Stop Dates falling between 2030 and 2033), by which time the construction works related to that phase must be completed. The Overall Development End Date is 18 July 2037.
- 1.6. Phase 1, comprising 1,057 homes, started on site in March 2020. This includes 69 per cent private homes (including 299 Private Rented Sector (PRS) homes), and 31 per cent affordable homes (of which 70 per cent intermediate). All four access bridges are under construction, with completions expected by 2025.
- 1.7. An RMA for Phase 2 was submitted in October 2022, alongside a section 73 application ("S73", a material amendment to the existing planning application) to vary the distribution of tenures on site and it has not yet been determined. Phase 2 includes 1,053 homes, of which 61 per cent are affordable housing (AH) by habitable room (70 per cent Shared Ownership (SO), 30 per cent London Affordable Rent (LAR)). Due to the new fire safety requirements and the substantial impacts these will have on design and programme, BHSEL are planning to withdraw the Phase 2 RMA and S73 applications above and submit revised applications, as detailed in section 2 of this Part 1 decision form. In addition, BHSEL are proposing to submit a revised masterplan for the remaining phases of the scheme (phases 2-4), and a revised Reserved Matters Application (RMA) for Phase 2.

1.8. This revised planning strategy and other proposed changes are set out in section 2 below.

2. Objectives and expected outcomes

2.1. The changes proposed in this decision form aim to achieve the following objectives:

- address regulatory changes which could not have been reasonably anticipated by BHSEL and GLAP at the time of the procurement
- ensure timely delivery of homes, particularly affordable homes
- ensure the proposals remain in line with GLAP's strategic objectives for the site, and the Minimum Requirements included in the Development Agreement (DA)
- ensure GLAP's commercial interests are safeguarded.

Support for a new masterplan

- 2.2. BHSEL is proposing to submit a new revised hybrid planning application, including a new outline application for the remaining development phases (2-4) and an RMA for Phase 2. This revised masterplan will include proposals to incorporate the new fire safety requirements for second staircasing on all buildings, as well as increased density which will result in additional affordable homes.
- 2.3. Officers recommend that a revised masterplan should be supported, pending a review of the proposed design approach, assessment against quality and commercial criteria, and ensuring alignment with the minimum development requirements included in the original Invitation to Tender (ITT) and the DA.
- 2.4. In terms of affordable housing, the DA (which predates the current London Plan) places a requirement on BHSEL to achieve a minimum of 40 per cent affordable housing, and this minimum requirement is being retained. Nonetheless, the new planning applications must meet the new London Plan, in line with the new Draft Affordable Housing London Plan Guidance. This places a requirement for 50 per cent affordable housing (by habitable room) on public land sites, with the caveat that where significant infrastructure is required (paragraph A.3.2), a lower level of affordable housing may be achieved, subject to inspection from the GLA's Planning viability team.
- 2.5. The DA requirements will remain unvaried and we will require that altogether, the combined affordable housing levels across the extant planning consent, any subsequent variations and any new planning applications achieve a minimum of 40 per cent affordable housing on site (by habitable room), including a minimum requirement of 43 per cent of the affordable homes (by habitable room) being low-cost rented homes, as defined under policy H6 of the London Plan (i.e., either London Affordable Rent or Social Rent). Therefore, any density increase achieved through a new planning consent will result in an increase in affordable housing provision, contributing to realising GLAP's strategic objectives.
- 2.6. Design proposals are still being developed by BHSEL and are subject to GLAP's sign-off ahead of the planning submission, currently expected in Quarter 2, 2024.
- 2.7. In addition to the new hybrid application, BHSEL are proposing a new S73 application to vary part of the existing RMA consent for Phase 1, namely for block S03, which includes the PRS homes. Although the new fire safety requirements do not apply to existing RMA consents, BHSEL have taken a commercial decision to incorporate a second means of escape in these buildings, to ensure best value can be achieved when marketing the homes to a PRS operator.
- 2.8. The submission of a new planning applications would result in a series of consequential changes being required to the Development Agreement, as detailed in Part 2 of this decision.

Extension of Time (EoT)

- 2.9. Under the terms of the Development Agreement BHSEL are entitled to seek an Extensions of Time (EoT) to delivery milestones where there has been a market downturn, as defined in the DA.
- 2.10. Having considered the tests set out in the DA for Market Downturn, officers agree with BHSEL that they should be granted an EoT on the basis of a market downturn. Details around these tests are set out in Part 2 of this decision.
- 2.11. Market recovery will need to be monitored and this timeframe revised if market recovery occurs within the next 12 months. This EoT can be granted within the current DA terms.

3. Equality comments

- 3.1. Under section 149 of the Equality Act 2010 (the "Equality Act"), as a public authority, the GLA 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. Protected characteristics under the Equality Act comprise age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation and marriage or civil partnership status.
- 3.2. The purpose of the changes set out above is to ensure that the scheme can continue to deliver much needed housing, including affordable housing and private rented housing, both in the medium and long-term. There is strong evidence that groups from minority ethnic backgrounds are more likely to rely on affordable housing and Private Rented Sector accommodation in London, compared to people that identify as White British (GLA Housing Research Note 8 – Housing and race equality in London, 2022).
- 3.3. Furthermore, the design of the new masterplan will be landscape led and this, together with the new pedestrian and cycle infrastructure being delivered on site, will promote enhanced access to open space for both new and existing residents in the area. The masterplan will also provide new community facilities, a new secondary school and retail offer around West Ham Station.
- 3.4. This decision is therefore expected to have positive impacts on persons with a protected characteristic under the Equality Act.

4. Other considerations

- 4.1. This decision outlines an opportunity to secure future delivery on a scheme which will comprehensively redevelop a significant brownfield site in East London and deliver much needed housing and affordable housing on GLAP land. In addition, supporting a revised masterplan will likely result in an enhanced affordable housing provision, should a new planning consent be secured.
- 4.2. The project supports a range of Mayoral policies and strategies, including Good Growth objectives, Mayor's policies, such as those outlined in the new London Plan 2021 (the Healthy Streets Approach, the London Housing Strategy, and the Transport Strategy) and is aligned with the Mayor's Equalities Framework to consider the requirements of relevant equalities groups. The residential development will be required to meet building safety standards that the Mayor has applied to GLA land.
- 4.3. As the project sits on GLA-owned land, when the GLA considers the planning application, the Mayor will delegate authority to the Deputy Mayor for Planning, Regeneration and Skills, as is the protocol in these scenarios.
- 4.4. There are no conflicts of interest involved in this decision form from any of the officers who drafted and cleared it.

Risks and issues

- 4.5. The main risks are summarised in the table below, with further information provided in Part 2 of this decision form.

Risk	Probability	Impact	Mitigations
Delays in submitting new planning applications and/or in achieving planning consent.	Medium	Medium	New planning milestones will be included in the DA Variation.
One or both new planning applications is/are refused.	Low	High	Extensive programme of preapplication meetings and Design Review Panel sessions has been agreed with LBN Planners. GLA officers will be attending these meetings to monitor progress and ensure DA requirements are met.

5. Financial comments

- 5.1. Early land drawdown on Phase 2 will not impact the already agreed land receipts from BHSEL.
- 5.2. Finance agrees with the overall principle of the Development Agreement variation. Furthermore, the overage mechanism will ensure that GLAP benefits from any additional returns over and above what is expected and agreed.

6. Legal comments

- 6.1. External legal advisors CMS have advised the GLA, alongside TfL Legal on the legal considerations connected to this decision. Additional legal comments are set out in Part 2 of this decision.
- 6.2. Section 30 of the Greater London Authority Act 1999 (as amended) (GLA Act) gives the Mayor a general power to do anything which he considers will further one or more of the principal purposes of the GLA as set out in section 30 (2) which are:
- promoting economic development and wealth creation in Greater London
 - promoting social development in Greater London
 - promoting the improvement of the environment in Greater London.
- 6.3. In formulating the proposals in respect of which a decision is sought, officers confirm they have complied with the GLA's related statutory duties to:
- pay due regard to the principle that there should be an equality of opportunity for all people
 - consider how the proposals will promote the improvement of the health of persons in Greater London, promote the reduction of health inequalities between persons living in Greater London, contribute towards the achievement of sustainable development in the United Kingdom and contribute towards the mitigation of or adaptation to climate change in the United Kingdom
 - consult with appropriate bodies.
- 6.4. Sections one to three of Part 1 of this report indicate that the Mayor has the power to proceed to make the decisions as requested within this report.

7. Planned delivery approach and next steps

7.1. The table below summarises an indicative timeline for the next steps.

Milestone	Target date
Complete Development Agreement Variation	Early 2024
BHSEL to submit S73 application for S03 in Phase 1	March 2024
BHSEL to submit revised hybrid application for phases 2-4	Q2 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 either be published within one working day after it has been approved or 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: Following submission of new hybrid planning application by BHSEL (expected Q2 2024)

Until when: 1 July 2024.

Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under 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:

Olga Di Gregorio has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Tim Steer has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Tom Copley has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 18 December 2023.

✓

INTERIM CHIEF FINANCE OFFICER:

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

Signature:



Date:

20/12/2023

CHIEF OF STAFF:

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature:



Date:

19/12/2023

