

GREATER LONDON AUTHORITY

REQUEST FOR DIRECTOR DECISION – DD1397

Title: Housing Zone Due Diligence sign off: London Borough of Ealing Southall –South Road Bridge and Toplocks/Havelock Estate

Executive Summary:

This Director Decision signs off the due diligence undertaken in respect of certain interventions the GLA proposes to fund in the Southall Housing Zone, and approves entry into contracts to provide such funding.

MD1457 approved a delegation to both the Executive Director of Housing and Land, and the Executive Director of Resources as below and therefore both approvals are required.

"DELEGATES authority to the Executive Director of Housing and Land and the Executive Director of Resources, in consultation with the Deputy Mayor for Housing, Land and Property, to approve the interventions that are to be funded following due diligence and to contractually commit funding of up to £251.1 million across the designated Housing Zones"

Decision:

That the Executive Director – Housing and Land, after consulting with the Deputy Mayor for Housing, Land and Property:

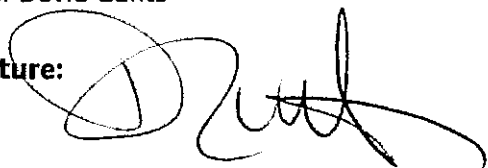
- agrees that the outcome of due diligence, detailed in this report (including Part 2), demonstrates it is appropriate for the GLA to contractually commit up to £14.125 grant funding to fund the two interventions specified below within the Southall Housing Zone; and
- notes that the deduction of £14.125m from the overall budget for Housing Zones, results in that budget being as follows:
- £185.875m being available for further grant funding;
- £200m Financial Transaction money being available for loan funding.

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

Signature:



Position: Executive Director, Housing and Land.

Date: 24.9.2015

Name: Martin Clarke

Signature:



Position: Executive Director, Resources

Date: 24.9.15

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

In MD 1457 the Mayor designated an area within Southall (London Borough of Ealing – “LBE”) as a Housing Zone, and agreed to indicatively allocate GLA funding to fund interventions for the purposes of unlocking or accelerating the delivery of housing within the zone. The funding was approved subject to the outcome of legal and financial due diligence on the proposed interventions. An Overarching Borough Agreement will be entered into between LBE and the GLA to record the indicative allocation of this funding.

Due diligence has now been undertaken in respect of two interventions within Southall’s Housing Zone. The conclusions of this due diligence are set out below and in Part 2 of this Director Decision.

Summary

The financial interventions to the London Borough of Ealing and Catalyst will deliver:

- The South Road Bridge widening by March 2018;
- 186 affordable homes by December 2018 – 120 Affordable Rent and 66 Shared Ownership (Ealing);
- 26 Affordable Rent homes by March 2018 (Catalyst).

Intervention 1 – South Road Bridge & Southall Gas Works (£11.875m grant funding)

It is proposed that the GLA provides funding to LBE to widen South Road Bridge which, further to other arrangements relating to this intervention, will accelerate the delivery of affordable housing at Southall Gas Works.

Proposition – The project is an infrastructure and residentially led regeneration scheme involving the remediation of the former National Grid Gasworks Site located in Southall and transport infrastructure. Southall is due to be serviced by a new Crossrail Station in 2018/19, and the developer of the former gas works (St James) proposes to deliver at least 3,750 new homes as well as retail, office, hotel and leisure use amongst new public open space and associated community uses including education facilities. The anticipated time period for the development is phased over an approximately 30 year period, with initial sales of the first phases expected in late 2017.

Funding – The London Borough of Ealing have requested up to £11.875m grant to fund the capital work of widening the western access of the South Road Bridge. This is State Aid compliant funding providing open access public infrastructure.

This funding includes a level of contingency set at 30%; the feedback from the cost consultants is that they would recommend increasing this contingency to manage the risk of delay or cost overrun. This is a risk to be managed by London Borough of Ealing and the GLA funding offer is not to be increased.

Planning – The whole of the Gas Works site benefits from an outline planning permission and each phase will obtain detailed permission as it is brought forward. The site is mentioned in both the Ealing UDP and Core Strategy as suitable for development and is within a strategic Opportunity Area and Area of Regeneration within London.

In order to meet the delivery timescales of December 2018 for the housing this brought forward affordable phase planning needs to be submitted and have all reserved matters agreed by March 2016.

Stakeholders / Contractual Arrangements – The London Borough of Ealing will receive the grant funding to deliver the bridge widening works and will also be required to procure the delivery of the 186 affordable units by the accelerated delivery date through a Borough Intervention Agreement between the GLA and the Borough.

Appraisal - The South Bridge East Elevation Widening Engineering Feasibility Report dated September 2014 by Parsons Brinckerhoff was reviewed along with a high level appraisal of the London Borough of Ealing (LBE) review of costs dated May 2015.

Jacobs PMCM (Project Management Construction Management) commercial team undertook a review of the cost estimate provided by LB Ealing. They concluded that the estimated costs are at a level representative of the middle of the range for this type of work. The costs should be uplifted to the current date (2014 costs assessed) and consideration should be given to the contingency allowance currently set at 30%

Project Milestones - Delivery of South Road Bridge works by March 2018. Delivery of 186 affordable units by December 2018.

Risks and Issues – The following three issues were raised during the assessment by Jacobs regarding the construction techniques and procurement of the bridge widening project:

- 1) The demolition of the pier extension bases may potentially cause disturbances to the nearby track structures. The existing middle two piers' above ground portion might cause access issues for the construction of the new pier and might need to be removed.
- 2) Support of the crash desk and temporary loading of structure due to construction works.
- 3) Safe load assessment of the existing bridge during the construction of the east widening. There is a concern that the loading of the existing deck might exceed the assessed load capacity of the structure when the lorry loaded with the new composite bridge steel girder is parked on top of the existing bridge.

These issues will be fed back to LB Ealing prior to a physical start on site. GLA officers consider that they are not risks that prevent the GLA from providing the funding for the works to the bridge.

Governance - LBE will be responsible to the GLA for procuring the delivery of the scheme. They will appoint engineering consultants to undertake further site surveys and assessment, prepare the detailed design and tender package. LB Ealing will appoint suitable contractors to undertake the works. LBE will be responsible for liaison with Network Rail to ensure the programme is met.

There is a project team that meets monthly to discuss all the necessary infrastructure projects that are running on similar timetables focused around the arrival of Cross Rail. This group feedback updates to the Southall Big Plan meeting which meets quarterly and acts as the Housing Zone Board meeting.

Conclusion – The consultants consider that the Housing Zone application meets the requirements of the GLA to unlock or accelerate housing but, prior to procuring the works for the bridge, advise sharing for discussion with LBE the three areas identified by Jacobs relating to the construction of the bridge. This will be done, and the issues identified are not considered to be risks that prevent the GLA from providing the funding for the works to the bridge.

The costs for the bridge widening works are viewed to be reasonable for a technical infrastructure project of this scale. The three pieces of technical and procurement advice regarding the bridge works will be cascaded to the borough

Having had regard to the consultants' findings, GLA officers have concluded that the grant award to the London Borough of Ealing should be agreed and contracted via a Borough Grant Agreement.

Intervention 2 – Toplocks / Havelock Estate (£2.25m grant funding)

It is proposed that the GLA provides funding to Catalyst Housing Association to develop affordable housing on the Toplocks site, which will also support and accelerate the Havelock Estate Regeneration decant programme.

Proposition – The proposal is for Catalyst Housing Association to develop an industrial site known as Toplocks for 26 larger family homes to support the Havelock Estate Regeneration decant programme. These would be net new additional units outside the current agreed estate regeneration programme. This not only provides additional larger family rented accommodation but speeds up the overall estate regeneration by providing decant stock to move those currently in situ in Havelock and releases the pressure to find decant properties. The estate regeneration scheme relies on decanting all residents prior to demolition and redevelopment.

Funding – £2.25m Housing Zone affordable housing grant funding has been requested. This represents a grant rate per home at £86,538.

Stakeholders – The London Borough of Ealing and Catalyst Housing Association have a long term agreement to deliver the Havelock Estate in phases as each phase is given to Catalyst by the council with full vacant possession. Catalyst will then redevelop the stock increasing the density and diversifying the largely mono tenure estate.

Appraisal – In order to support the decant programme for social housing these new homes must also be offered at Social Rent. The target rent level assumed in 2017/18 is £166.37 per week for a 3 bed plus service charge. The proposed £86,538 grant per unit is high when compared to the average grant rates within the 2015-18 Affordable Homes Programme however this equates to £17K per person based on all properties being 3bed 5 person homes

The Havelock estate regeneration has not relied on any previous housing grant from the GLA or predecessor bodies. The model is self-sufficient relying on land value at the end of the project to reimburse the Borough along with affordable housing use value at point of vacant possession.

The request for £86,538 per home is considered reasonable when viewed across the whole scheme and the impact of speeding up the estate regeneration scheme by circa 18-24 months. The Housing Zone Grant contract will mean that any grant subsidy invested will be captured under the Recycled Capital Grant Fund and Disposal Proceeds Fund clauses, and therefore will be reinvested if at any point these homes are disposed.

Dependencies –

The site is constrained as it is currently designated as industrial land and is a site of Special Interest for Nature Conservation (SINC). Initial discussions with LB Ealing planning have indicated that the site could be suitable for residential housing if this can be designed to act as a buffer between the large Toplocks housing

estate to the South and the industrial area to the North and can provide enhanced access to the green space at Glade Lane park, while also supporting ongoing nature protection and conservation. As a result a cost of £750,000 for additional site infrastructure has been estimated in order to deliver the scheme as residential. This cost will be met by Catalyst.

In addition, the site has been bought by Catalyst subject to overage clauses applied by the previous owners. The effect of these clauses is that on receipt of planning consent Catalyst must pay land value uplift equal to the residential market value of the site. This means that, rather than being able to develop market housing to cross subsidise the larger 3-bed social rented homes, any permitted market housing on the site would simply increase the overage payment. It is therefore not in the interest of the scheme – and not financially viable – for Catalyst to generate cross subsidy on the site by developing for sale or shared ownership.

Project Milestones –

September 2014 – land purchase completion / tenders invited for planning

November 2014 – Planning team appointed

April 2015 – planning application submitted

December 2015 – planning application determined

April 2016 – construction start on site

March 2018 – practical completion

Planning – Planning consultants have been appointed. Catalyst will be using the engineering team responsible for the main Havelock Estate in addition to architects. The architects' brief includes an options appraisal for site optimisation including a review of whether any further cross subsidy for these units can be made available.

Risks and Issues – There are mainly planning risks associated with a project of this kind as it relies on the planning authority to grant de-designation as it is currently listed as industrial land (which is why there were overage clauses with the previous land owner).

This is largely mitigated by the fact that the council are fully committed to this scheme have supported Catalyst directly with Havelock estate and see this as positive impact to the estate decant process and providing net new housing for the borough.

Governance – Catalyst will be responsible for the delivery of the scheme. They will appoint the necessary team of consultants, architects and contractors that they have existing working relationships on Havelock.

There is a project team that meets regularly to discuss all the necessary elements of the project. This group feedback updates to the Southall Big Plan meeting which meets quarterly and acts as the Housing Zone Board meeting.

Conclusion – The assessment focused on the impact of speeding up the decant of the estate adjacent to the Toplocks site and the level of remediation and impact of charging rents equivalent to those for the existing tenants on the estate. It is considered an appropriate level of grant funding to provide to the project, which will deliver 26 large family homes by the March 18 long stop and speed up the overall estate regeneration by a minimum of 18 months.

The grant required to accelerate the decant at Havelock Estate by developing the Toplocks site with grant is deemed good value for money meeting the objectives of the GLA, and LB Ealing's Housing Zone bid.

It is considered that the outcome of due diligence, as detailed above and in Part 2, demonstrates it is appropriate for the GLA to contractually commit the funding in respect of the two interventions.

2. Objectives and expected outcomes

Accelerating the delivery of a bridge, and 186 affordable homes (by December 2018), and 26 affordable rent homes (by March 2018).

3. Equality comments

3.1. The designation of these nine areas as Housing Zones is aimed at implementing the Mayor's policies set out in the Mayor's London Housing Strategy. In January 2014 the GLA published an integrated impact assessment ("IIA"), including an equalities impact assessment, of that strategy. The policies related to increasing housing supply, of which this paper relates, were covered by the Integrated Impact Assessment (IIA) for the Further Alterations to the London Plan.

3.2. The IIA concluded that updating housing projections and targets would support the delivery of sufficient housing and may help stabilise housing prices, supporting equal opportunities throughout communities. Furthermore, the provision of housing, including maximising the delivery of affordable housing would be in line with other policies of the Plan (e.g. Policy 3.5), ensuring that the needs of different groups are taken into account in the housing design.

3.3. The delivery of new and additional homes within the Housing Zones will help to implement Objectives 1, 2, 3 and 4 of the Mayor's Equalities Framework "Equal Life Chances for All" (June 2014) through the creation of new homes, housing products and well-designed housing schemes.

3.4. The designation of a Housing Zone within an area is designed to identify a site or sites as an area for housing growth and delivery within London, often partnered with a series of funding streams and non-financial assistance to deliver these new homes, and therefore the decision within this report will facilitate these goals and ultimately ensure that the needs of different groups are taken into account in the design and development of housing.

3.5. In order to access this funding and designation, any bidding party, be that private sector developer or Local Authority, will be required to enter in to contract with the GLA and / or GLALP to deliver these interventions. Whilst there is a statutory obligation for parties to take account of the impact of schemes under the Equality Act 2010, in order to reinforce these obligations the GLA / GLALP have included the following specific contractual clauses in each and every development agreement which will be in force for every intervention undertaken in the respective Housing Zones, as noted below:

- The Developer shall comply in all material respects with all relevant Legislation, including but not limited to legislation relating to health and safety, welfare at work and equality and diversity, and will use reasonable endeavours to enforce the terms of the Scheme Project Documents to ensure compliance with this clause.
- The Developer has, and is in full compliance with, a policy covering equal opportunities designed to ensure that unfair discrimination on the grounds of colour, race, creed, nationality or any other unjustifiable basis directly or indirectly in relation to the Works is avoided at all times and will provide a copy of that policy and evidence of the actual implementation of that policy upon request by GLA / GLALP.

4. Financial comments

Intervention 1 South Road bridge and Southall Gas Works are covered in detail within part 2 – Confidential Facts and Advice.

Intervention 2 Toplocks /Havelock Estate –

The allocation of a grant amount that was previously estimated as £2.5m and is now £2.25m, is for the provision of large family units to enable the decanting of the Haverstock Estate; this again will boost housing supply in London. Grant levels for these homes will be larger than normal, but grant level for this development is best considered per person and this is found to be reasonable. The properties will be delivered by Catalyst.

5. Legal comments

Under section 30(1) of the Greater London Authority Act 1999 (as amended) (“GLA Act”), the GLA has the power to provide the funding for the two interventions providing it considers that doing so will further one or more of its principal purposes of: promoting economic development and wealth creation, social development, and the improvement of the environment in Greater London.

The interventions will accelerate the delivery of housing and affordable housing, and it is open to the GLA to take the view that funding them will promote both social and economic development, and is therefore within its power, contained in section 30(1) of the GLA Act. .

Section 31(1)(a) of the GLA Act prohibits the GLA from using its section 30(1) power to do anything which may be done by Transport for London. Whilst the provision of funding to widen a bridge is potentially something that TfL may do, section 31(5B) provides that the prohibition in section 31(1)(a) does not apply where the GLA incurs expenditure in doing anything for the purposes of, or relating to, housing or regeneration. The provision of funding to widen the bridge will accelerate the delivery of housing (and LBE will be legally required to procure the delivery of this housing), and is therefore for the purposes related to housing or regeneration, and is not therefore prohibited under section 31(1)(a) of the GLA Act.

In exercising the power contained in section 30(1) of the GLA Act, the GLA must have regard to the matters set out in sections 30(3-5) and 33 of the GLA Act, and also the Public Sector Equality Duty in section 149 of the Equality Act 2010, which are explained in paragraph 7.3 of the legal comments of MD 1457. As is noted in paragraph 7.4 of MD1457, the London housing strategy, which included a policy for Housing Zones, has been subject to an Integrated Impact Assessment, and GLA officers consider that the delivery of new and additional homes within the Housing Zones programme will help to implement Objectives in the Mayor’s Equalities Framework “*Equal Life Changes for All.*” (See also sections 4 and 5 of MD1457).

The GLA has engaged with LBE and Catalyst Housing Association in relation to the interventions that are the subject of this Director Decision. 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 GLA Act for the purposes of this Director Decision.

The GLA funding for the interventions is grant funding. It is not being provided on a commercial basis and is not therefore a specified activity under section 34A of the GLA Act that is required to be provided through GLA Land and Property (GLAP).

External lawyers have advised the GLA as to whether providing grant funding to LBE for the bridge widening works is compatible with State Aid rules. In a publicly published European Commission Memorandum (European Commission – Note from DG Competition to DG Regio[ions] dated /03/2011) the Directorate in the European Commission responsible for competition and State Aid acknowledged that public roads which are not operated by a private concessionaire and are open to the general public are likely to be excluded from the application of State Aid law. Further, there is an EU Commission decision to support the proposition that, even though the intended bridge widening works are intended to promote investment and housing development in the area and may incidentally benefit a private developer, those works are not State Aid provided that the infrastructure will be open to the whole community on a free,

non-discriminatory basis. GLA officers should note that, in the event that neither the GLA nor LBE are able to have the bridge adopted as a public highway, then it will be necessary for them to ensure by legally enforceable means that, irrespective of who owns the bridge, it shall be open to the general public without a fee on a non-discriminatory basis.

External lawyers have been instructed to prepare and negotiate the funding contracts for the GLA, including the incorporation of any provisions required to ensure compliance with State Aid rules.

7. Planned delivery approach and next steps

Activity	Timeline
Overarching Borough Agreement signed	Mid September
Direct Investment Agreement signed	Mid September
Housing Zone Agreement signed	Mid September
Joint press announcement	30 th September

Appendices and supporting papers:

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:

Nick Taylor has drafted this report in accordance with GLA procedures and confirms that:

✓

Assistant Director/Head of Service:

David Lunts 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

M. D. Ellis

Date

24.9.15

