

REQUEST FOR MAYORAL DECISION – MD2734

Title: Blackwall Reach Phase 4 – revenue costs associated with land assembly

Executive Summary:

The Blackwall Reach Regeneration Project (BRRP) is a partnership scheme between the GLA, London Borough of Tower Hamlets (LBTH) and Swan Housing Association to deliver 1,575 new homes, 50% of which will be genuinely affordable. The Principal Development Agreement and initial legal budget was approved by MD1504. Further approvals were secured under MD2128.

The scheme is enabled by a Compulsory Purchase Order (CPO) which was undertaken in 2014. This CPO was successful for Phases 1-3 of the development, but not Phase 4. Negotiations are therefore underway with the owners of leasehold interests in Phase 4 for a land deal to enable the project to continue.

Specialist external legal, consultancy and valuation advice is required in order to progress negotiations and represent the GLA's interests, with the intention of finalising a viable solution which will unlock the last phase of the scheme.

Decision:

That, further to MD1504 and MD2128, the Mayor approves:

1. Up to £200,000 of additional revenue expenditure on legal and professional costs associated with securing a viable delivery strategy for Phase 4 of the Blackwall Reach Regeneration Project; and
2. Expenditure of up to £75,000 per annum (to a total of £300,000) from 1 April 2021 until 31 March 2025 to cover ongoing Blackwall Reach legal fees.

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:

5 January 2021

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

Decision required – supporting report

1. Introduction and background

- 1.1. The Blackwall Reach Regeneration Project (BRRP) is a partnership scheme between the GLA and the London Borough of Tower Hamlets (LBTH) as landowners and Swan Housing Association as developer, on land adjacent to Blackwall DLR station.
- 1.2. Under the currently consented masterplan, the BRRP will deliver 1,575 homes, of which 50% will be genuinely affordable. Phases 1a and 1b are completed, Phase 2 is underway, and Phase 3 is entering detailed design stage. The scheme is award-winning (Award for Planning for Housing Growth at the Planning Awards 2015) and currently delivering within projected programme timescales.
- 1.3. In order to enable the project, LBTH undertook a Compulsory Purchase Order (CPO) process in 2014. The CPO was granted for Phases 1-3 but the then Secretary of State excluded Phase 4 on the grounds that the Borough had not exhausted negotiations with existing leaseholders to identify alternative solutions for the scheme.
- 1.4. Arvin & Sons Ltd (Arvin) is a business with a long leasehold interest on a part of the site which is owned freehold by GLA Land & Property Limited (GLAP), the GLA's land holding subsidiary company, and which forms part of Phase 4 of the BRRP.
- 1.5. Negotiations with Arvin have been ongoing for some time (on and off since the CPO in 2014), and have reached a point where a scheme which would deliver on the BRRP masterplan and enable residential development on Phase 4 could be brought forward, subject to more detailed scrutiny and negotiation, including a separate agreement between the GLA and Arvin.
- 1.6. MD1504, signed in 2015, provided initial approval of the Principal Development Agreement (PDA) and provided for subsequent entry into the requisite leases, as well as approving £150,000 to cover legal fees in respect of entry into the PDA and ancillary agreement.
- 1.7. MD2128, signed in 2018, approved amendments to the PDA and £75,000 per annum until March 2021 (up to £225,000) for legal fees, and up to £40,000 for external technical advice.
- 1.8. These revenue approvals were to enable legal changes to be made under the requisite delegations and as necessary, rather than for detailed negotiation of a bespoke land deal.
- 1.9. This is because the PDA envisaged LBTH being responsible for land assembly at Phase 4, rather than the GLA. However, the GLA is the main public sector landowner and landlord at Phase 4, and Arvin have expressed a strong preference for negotiations with the GLA rather than LBTH.
- 1.10. This Decision seeks continuation of that ongoing revenue budget of up to £75,000 per annum up to 31 March 2025, by which time Phase 4 will be underway. This is a continuation of prior approvals and will cover ongoing legal support for the project. This includes drawdown of land for each phase by Swan on the basis of building leases, and advice regarding ad hoc issues relating to the development.

Legal support

- 1.11. Legal advice is required regarding the proposed structure of a land sale or long lease with development obligations. This will be a bespoke contract, and outside of the scope of anything imagined under the previous approvals.

- 1.12. Legal support is required to provide clarification on any arising procurement concerns and provide state aid advice where required, along with drafting of the initial structure of the proposed agreement together with progression of the documents to contract.
- 1.13. Such advice would then provide sufficiently reliable information for a formal recommendation to be made to the Mayor, via a Mayoral Decision in 2021 on how to proceed with the development of this site.
- 1.14. As outlined above, ongoing legal support is also needed in order for the GLA to discharge its responsibilities as landowner, as well as to make any necessary changes to existing agreements.

Property consultant support

- 1.15. In addition to the proposed legal advice, further property consultant support is required in regard to valuation advice and scrutinising commercial proposals. This will help inform decision-making around whether any deal represents market norms and value for the public sector.

2. Objectives and expected outcomes

- 2.1. The main objective of securing this initial legal and property advice will be to ensure that Phase 4 of the BRRP can come forward and deliver as outlined in the masterplan. Within the masterplan, Phase 4 delivers 661 homes at 50% affordable housing by habitable room.
- 2.2. These services can be delivered under pre-existing agreements with the providers who are currently advising the GLA on this long running and complex project, and up to £200,000 is being sought on the basis of quotes from those providers.
- 2.3. These organisations (and the individuals assigned to the project from those organisations) have extensive existing knowledge of the scheme and the project, as well as the parties involved, having been part of the public sector advisory team for the GLA and LBTH since 2014. They would therefore be invaluable to the negotiations regarding Phase 4.
- 2.4. Without a secure route to delivery, these homes stand to be delayed – possibly by up to 25 years – unless a deal can be reached with Arvin that enables residential delivery across Phase 4. Knowledge of the project to date, and the positions of the parties will be valuable in trying to secure a successful outcome.
- 2.5. Any other professional team would likely require significant additional time (and therefore budget) in order to get up to speed on the detail of the project.
- 2.6. On this basis, a Single Source Procurement Justification Request for the consultancy element has been completed and approved by TfL Commercial Procurement. The legal work can be treated as an extension of existing contracts.

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. When considering the needs of the existing community and those that will be affected by the proposed development (both currently and in the future development scheme), any development

activity will look to minimise disadvantages to all protected characteristic groups within society. This decision is therefore expected to have positive impacts on persons with a protected characteristic under the Equality Act, as increasing the supply of housing in London will help to address problems such as overcrowding and homelessness, which evidence indicates disproportionately affect specific groups, including Black and Minority Ethnic groups and women.

- 3.3. The BRRP is in Poplar ward, within the London Borough of Tower Hamlets. Poplar is amongst the 20% most deprived neighbourhoods in the country, according to the Indices of Deprivation study 2019. In 2018, there were 18,814 households on the LBTH housing waiting list, and less than 2,000 available homes each year¹.
- 3.4. The delivery of high-quality affordable housing will make a contribution to improving this situation. The high-quality public realm and amenity delivered as part of this scheme will also promote better health and wellbeing.

4. Other considerations

Risks and issues

- 4.1. Should the GLA need to forgo professional advice this project would not proceed. This would also present legal, reputational and financial risks to the GLA.
- 4.2. There are risks associated with this project, for example reputational risk from a deal with a private sector entity with limited delivery track record, and a risk that Arvin pull out of negotiations. However, this revenue expenditure serves to mitigate those risks by ensuring that any deal represents value for the public sector and demonstrating that the GLA is keen to see progress on this site.
- 4.3. Services will be charged on an ongoing basis and therefore if Arvin (or the GLA) chooses to walk away at any stage of negotiation only the costs incurred to that point would be billed.

Links to Mayoral strategies and priorities

- 4.4. The London Housing Strategy sets out the policy rationale for this intervention, which will enable the delivery of homes in London.
- 4.5. Incurring these professional fees will enable optimisation of the delivery of affordable (and market) housing on Phase 4 of the BRRP and ensure that the GLA's legal position is robust.

Conflicts of interest

- 4.6. There are no known conflicts of interest to note for any of those involved in the drafting or clearance of this decision.

Consultations and impact assessments

- 4.7. There has been no formal consultation or impact assessment carried out.

5. Financial comments

- 5.1 This decision requests approval for funding of up to £500,000:
 - a) Up to £200,000 revenue expenditure to be incurred over two years including 2020-21 and 2021-22 on legal and professional costs associated with securing a viable delivery strategy for Phase 4 of the Blackwall Reach Regeneration Project; and

¹

- b) Up to £300,000 to cover ongoing Blackwall Reach legal fees, to be incurred over 4 years from 1 April 2021 to 31 March 2025 at up to £75,000 per annum.

5.2 This expenditure will be funded from the GLA Land & Property revenue budget. The spend profile is noted in Part 2 of this decision.

6. Legal comments

- 6.1. 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 proposed purpose 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.
- 6.2. 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) including the impact on health, health inequalities, sustainable development and climate change and its consequences.
- 6.3. In taking the decision requested of him, the Mayor must have due regard to the Public Sector Equality Duty, namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010, and to advance equality of opportunity between persons who share a relevant protected characteristic (race, disability, gender, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it (section 149 of the Equality Act 2010). To this end, the Mayor should have particular regard to section 3 (above) of this report.

7. Planned delivery approach and next steps

Activity	Timeline
Continued negotiations with landholders	Ongoing
Mayoral Decision on proposals	Q2 2021/22
Target date to sign a legal agreement	Q2 2021/22
Start on site for Phase 4	Q4 2022/23

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: The request is commercially sensitive.

Until what date: 1 June 2021.

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:

Shadi Brazell has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Neil Hook 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.

✓

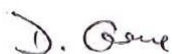
Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 21 December 2020.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature



Date:

24 December 2020

CHIEF OF STAFF:

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

Signature



Date:

24 December 2020