

PART 2 – CONFIDENTIAL FACTS AND ADVICE

REQUEST FOR DIRECTOR DECISION – DD2221

Feltham Housing Zone, London Borough of Hounslow – Feltham Station Quarter

Information may have to be disclosed in the event of a request under the Freedom of Information Act 2000. In the event of a request for confidential facts and advice, please consult the Information Governance team for advice.

The information below is not for publication until the stated date, because:

Under section 43 of the Freedom of Information Act 2000, information is exempt from publication if its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the GLA). Under section 42 of that Act information is exempt if its disclosure would, or would be likely to, involve the disclosure of information that is legally privileged.

These are both qualified exemptions, meaning that information captured under sections 42 and 43 can only be withheld if the public interest in withholding it outweighs the public interest in releasing it.

The information below and attached contains details of the proposed GLA funding; confidential assessments of build costs; and confidential appraisals of the viability and deliverability, and risks relating to, the intervention. This is therefore commercially sensitive information, the disclosure of which would, or would be likely to, prejudice the commercial interests of the GLA and London Borough of Hounslow. Whilst there is a public interest in understanding the circumstances in which public money is provided to other bodies, it is considered that in these circumstances the public interest lies in maintaining the exemption and withholding the information.

If this information is considered for release pursuant to the provisions of the Environmental Information Regulations 2004, this information should be considered exempt information under regulation 12(5)(e) – where disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.

The below also contains legally privileged advice relating to the above, particularly in connection with State Aid rules. It is also considered that, in the circumstances, the public interest lies in maintaining the exemption and withholding the information.

Date at which Part 2 will cease to be confidential or when confidentiality should be reviewed:

30 September 2019, although specific consideration should be given as to whether the legally privileged advice contained herein should be withheld for a longer period.

Legal recommendation on the grounds of keeping the information confidential:

The above assessment is legally sound and a rational basis for keeping the information confidential for the period specified

Legal Adviser - I make the above recommendations that this information should be considered confidential at this time.

Title: Senior Associate - Property & Planning Law

Date

08 March 2018

Once this form is fully authorised, this should be circulated with the Part 1 form.

Confidential decision and/or advice:

1. Project Milestones and Outputs

1.1 The intervention is expected to deliver 500 units across three sites as shown in the table below

Site	Output Type	Affordable Rent	Shared Ownership	Market	Total
Sue Ryder	Direct		50		50
Station Estate Road	Direct	100	67	167	334
New Road Triangle	Indirect	20	13	83	116
Total	-	120	130	250	500

1.2 Site delivery milestones are set out in the table below

Site	Site Acquisition	Start on Site	Practical Completion
Sue Ryder	31 March 2019	31 March 2020	31 March 2022
Station Estate Road	30 September 2021	31 March 2022	31 March 2025
New Road Triangle	31 December 2020 (Vacant Possession)	31 March 2021	31 March 2025

2. Due Diligence

Findings

2.1 Project due diligence was undertaken by Lambert Smith Hampton (LSH) using the Housing Zone Development Appraisal Toolkit, supporting development appraisals and other supplementary information provided by London Borough of Hounslow (LBH) in respect of two interventions proposed.

Site Assembly BIA - Sue Ryder Site Acquisition

2.2 LBH are seeking £2M to acquire a retail unit (currently occupied by Sue Ryder, with a 999-year lease to Flodrive) to allow a residential scheme comprising of 50 shared ownership units to be delivered by March 2022. The Council will take on the responsibility for negotiating the site acquisition and

securing vacant possession with the intention to dispose of the site to a Registered Provider to deliver the scheme.

- 2.3 Overall, LSH concluded that providing grant funding will unlock the delivery of housing and support the regeneration of the wider Housing Zone. The key delivery risks relate to negotiations with Flodrive and Sue Ryder, scheme viability, planning and procurement of a development partner. The Council will forego any land receipt in exchange for 100% affordable housing provision but with the profit level currently on the margin of what a Registered Provider will require to deliver the scheme, there is a risk that any cost increase could result in a deficit. These delivery risks could be further exacerbated by deteriorating market conditions. However, the proposal should bring forward 50 affordable homes and act as a catalyst for regeneration in the area.
- 2.4 The site is currently held under a 999-year headlease to Flodrive, subject to an occupational lease to Sue Ryder. The development appraisal indicates a site acquisition cost of £1.8M (excluding purchaser's costs). The Council has agreed to acquire the long leasehold interest from Flodrive Ltd for £1.8M (plus VAT) on an unconditional basis subject to an overage provision under which LBH will have to pay the vendor an overage payment of £15,000 per private residential unit developed on the site, although the proposed scheme is 100% affordable. The existing use value of the site as a retail unit is £1,400,000. To estimate the acquisition price, the Council appraised the site on a Market Value basis with 35% affordable housing to demonstrate its potential value to a private developer if the site was taken to the market. This formed the basis of the offer price to Flodrive for the headlease. LSH consider this is reasonable.
- 2.5 Sue Ryder has a 10-year lease from 10th October 2014 paying a rental of £85,500 p.a. subject to a rent review in October 2019. Sue Ryder may break their lease in October 2019 but, as this is untested and in the gift of Sue Ryder, a surrender premium of £100,000 has been included to incentivise Sue Ryder to move. LSH consider this estimate to be acceptable, with the final amount to be agreed through negotiation.
- 2.6 The profit that is generated by the scheme is around 10%. Typically, LSH would expect an affordable profit on cost to be in the region of 6%. However, in this case, the scheme is exclusively shared ownership and it is anticipated that a Registered Provider will deliver the units. A 10% profit is considered to be the required level for a Registered Provider to deliver the site given the heightened market risk. In view of this, the development appraisal demonstrates that the site would not be viable without the assistance of the grant funding.
- 2.7 LSH benchmarking indicates that other inputs to the appraisal are acceptable, however, as viability is marginal, any alterations in inputs will have a significant impact. LSH are of the view that there are some opportunities to improve the viability, particularly in relation to the marketing costs (considered high for a shared ownership scheme) and the sales period. However, any gains on a marginally viable scheme could be quickly eroded by cost increases. LSH conclude that the appraisal and cashflow show that without grant funding the Council would not be able to acquire the site to deliver the affordable housing scheme.
- 2.8 LSH state that an allowance for Mayoral CIL has not been made. If Mayoral CIL was applied to all the proposed area this would equate to £125,937. This additional cost may impact on the viability of the appraisal
- 2.9 The acquisition of this site will directly deliver 50 one and two-bedroom new shared ownership units by 2022 as well as contributing to the delivery of 50% affordable housing across the Station Quarter.
- Site Assembly BIA – Station Estate Road Site Assembly*
- 2.10 The Council is seeking £6M to part fund land assembly. The total cost to acquire the site and achieve vacant possession is estimated at £8.025m and the Council will fund the costs above £6m. Station Estate Road is a highly fragmented site predominantly made up of interests held by Showpeople. The Council has commissioned a Needs Assessment. The Council wishes to undertake land assembly initially through private treaty to secure acquisition and vacant possession but, ultimately, it is likely to require the use of CPO powers and provision of an alternative relocation site. Once VP is secured

the Council will enter into an agreement with a developer (assumed to be a Registered Provider) who will be responsible for securing the planning permission and undertaking all the technical due diligence for the site. The proposed scheme comprises 334 residential units of which 50% are affordable.

- 2.11 LSH advise that GLA funding will unlock and accelerate the delivery of this site. The site requires large scale land assembly to achieve VP, and is likely to involve CPO of residential interests. Once completed the site will be redeveloped, delivering 334 units of which 50% will be affordable units. The Council's target is to achieve a higher proportion of affordable housing units and it will accept a lower capital receipt for the site to achieve this. This is a key site within the Housing Zone which is visible from the train station. Therefore, it is expected to act as a catalyst for regeneration in the area. It is adjacent to the New Road Triangle site which is also earmarked for redevelopment.
- 2.12 The Council provided a development appraisal and cashflow which demonstrates a land value of £8.025m on the assumption of vacant possession and a £6,000,000 grant from the GLA to support this land value. This demonstrates that if left to the market, in a 'no grant scenario' the land value would be negative and the site would not be brought forward for redevelopment.
- 2.13 LSH benchmarking exercise has highlighted that overall the inputs in the appraisal are acceptable, however, CIL may have been calculated at a lower rate than may be applicable, values are marginally higher than indicated in the benchmarking exercise and opportunities to improve cashflow through off-plan sales have not been factored in to the appraisal.
- 2.14 The main delivery risk is if the Council cannot secure a CPO. Another risk is that the acquisition costs may escalate and the Council will be required to fund this. The site does not have planning consent and, whilst allocated in the Housing Zone and West of Borough Plan this is still considered to be a risk. The Council has set a target date of 2018 to secure planning consent which LSH believes to be ambitious. The softening market and construction cost inflation also pose a risk to scheme viability.
- 2.15 The acquisition of this site will directly deliver 384 homes by 2025 as well as contributing to the delivery of 50% affordable housing across the Station Quarter sites.

Infrastructure BIA – Utility Relocation Works

- 2.16 Overall, LSH concluded that, without grant funding the capital works programme would not be undertaken causing delay in overall delivery of housing within the zone. A key risk identified by LSH was in relation to construction cost inflation eroding the buffer provided by GLA funding. But LSH considered that the benefits of the scheme outweigh any perceived risk.
- 2.17 LSH identified two direct impacts on the Housing Zone arising from the provision of grant funding to support this intervention:
- (i) **Feltham Housing Zone:** the zone as a whole is reliant upon the upgrading of Feltham station to address an increase in population growth. Before Network Rail can implement the level crossing closure to extend the platforms, LBH must deliver the Highway Mitigation Works. As part of this, there is a major unknown cost for utility diversions that will not become apparent until works have commenced. Network Rail have advised the Council they will not commit to the project until this risk is mitigated. Therefore, LBH have requested grant funding up to £1M to act as a contingency for any potential unknown utilities diversion costs that may occur during the site preparation phase. Without this utility underwriting, Network Rail will delay the start of the Station works until the necessary funding is secured. It is estimated that this could delay commencement of the infrastructure works by 2 to 3 years which would delay the delivery of homes until after 2021. The underwriting enables Network Rail/LBH Highways to place the contract to start the capital works in May 2018 and complete them in 2020. This will kickstart the regeneration of the underutilised sites surrounding Feltham Town Centre.
 - (ii) **New Road Triangle and Station Estate Road:** both LBH Highways and Network Rail require the New Road Triangle site as a compound site. It will be released once works are completed for future housing in the regeneration area. This site is, in effect, safeguarded until the station and highway mitigation works are completed. Therefore, in addition to providing a contingency

to Network Rail to deliver the required infrastructure, the delivery of this infrastructure will allow the New Road Triangle to be released. If the New Road Triangle site is not released for development, this will impact upon the development potential for the Station Estate Road site as the two sites are interlinked.

3. Response to due diligence report

- 3.1 LSH has highlighted potential opportunities for cost savings in relation to the named sites which may reduce the requirement for GLA grant funding. Officers will continue to explore such opportunities with the Borough to ensure that the delivery of affordable homes is optimised. The BIA for site assembly will require the Council to provide a Valuation Report and associated Letter of Reliance with a Duty of Care owed to the GLA. This will ensure that the GLA does not overcompensate the Borough in relation to the land acquisition costs.
- 3.2 GLA officers acknowledge that the total costs of site assembly at Station Estate Road will exceed the £6M grant funding requested by the Council. Hence, the BIA will require the Council to provide evidence that it has (and continues to have) sufficient funds whether from its own resources or otherwise to complete the Agreed Intervention and to deliver or procure delivery of the Borough Zone Outputs.
- 3.3 To evidence the deliverability of the Agreed Intervention, the BIA will require the Council to submit an Acquisition Plan for both sites. Furthermore, the Council will be required to commence CPO proceedings for Station Estate Road in September 2019, if they have not secured all outstanding land interests by private treaty by this longstop date. To support the CPO, the Council has set a target date of December 2018 to secure planning consent. GLA officers agree with LSH that this is an ambitious target and will work with the Council to procure a development partner (presumed to be a Registered Provider) as soon as possible (and prior to securing VP).
- 3.4 GLA officers note LSH comments on Mayoral CIL but consider that, as the Sue Ryder scheme is 100% affordable, it will be exempt from Mayoral CIL. However, the implementation of MCIL2 in April 2019 could inflate scheme costs at Station Estate Road.
- 3.5 GLA officers acknowledge the risk of cost overruns in delivery of the highway mitigation works. Hence, the BIA requires LB Hounslow to provide evidence that they have sufficient funding to complete the scheme before GLA funding can be drawn down.
- 3.6 LSH has recommended that to prevent the scheme from slipping, the BIA for utility relocation works should incorporate a longstop date for the delivery of housing outputs. This BIA incorporates an Availability Period (ends 31 March 2021) for the contingency funding and Milestone Failure is an Event of Default which may result in the repayment of grant funding. However, delivery obligations in relation to direct and indirect housing outputs have been confined to the BIA for site assembly which includes contractual provisions to recover funding if the project does not proceed in the format anticipated.
- 3.7 The BIA for site assembly includes provision for Alternative Site Proposals to be submitted to the GLA if sufficient progress is not made in relation to the named sites. A longstop date (31 March 2020) for site changes has been agreed by the parties. The BIA for utility relocation works includes provision to apply any underspend to alternative schemes at the GLA's absolute discretion.
- 3.8 GLA officers are of the view that the progress made to date and the corporate and political support afforded to the Housing Zone from LBH provide comfort that the projects will proceed. GLA will continue to be represented on project and programme boards and will monitor the use of its investment via the contractual arrangements set out above and through the agreed governance structure.

4. Other Considerations

4.1 Where traveller communities are affected by major development projects, local planning authorities are required to work with the affected community to identify a site or sites suitable for relocation of the community. If the development of the original site is authorised an alternative must be provided. The Borough has been engaging directly with affected communities and has commissioned consultants to undertake a detailed assessment of alternative sites.

5. Legal Comments

5.1 See part 1.

6. Finance Comments

6.1 The £8m to support the acquisition of key sites is divided into:

- £2m to acquire a retail unit currently occupied by Sue Ryder. The development appraisal indicates a site acquisition cost of £1.8m (excluding purchaser's costs). In addition, a surrender premium of £100,000 has been included as an incentive to Sue Ryder to move as their lease runs to October 2024. The development will deliver 50 affordable homes (shared ownership);
- £6m to part fund land assembly on Station Estate Road for the construction of 334 units of which 50% will be affordable.

6.2 No allowance has been made for a potential £126k of Mayoral CIL on the Sue Ryder site. There may be no charge due to the site delivering 100% affordable homes.

6.3 Without grant funding, LSH conclude the sites would not be viable and the homes would not be delivered.

6.4 LSH concluded that without the £1m to support the utility relocation works, the programme would not go ahead causing delay in overall housing within the zone.