

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD1434

Title: Cane Hill – Agreement for Lease

Executive Summary:

This Mayoral Decision approves entry by GLA Land and Property Limited into various legal agreements relating to the obligations under the conditional Agreement for Lease.

Decision:

That the Mayor:

- Approves the entry by GLA Land and Property Limited into a Deed of Surrender, a Short Term and a 125 year lease, two freehold transfers and a Licence to carry out works relating to the relocation of the agricultural tenant currently on the Cane Hill site.
- Approves Expenditure of £93,000 related to legal fees and costs associated with the ongoing delivery of the project.

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:

15/1/15

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

Decision required – supporting report

1. Introduction and background

- 1.1. The 83 hectare Cane Hill site, previously occupied by a hospital complex (12.5ha) and surrounded by 70ha of agricultural land, occupies a prominent position adjacent to Coulsdon Town Centre, to the west of the A23 in the London Borough of Croydon. The site is a 10 minute walk from Coulsdon South Station and is a key component of Croydon Council's aspiration to revitalise Coulsdon Town Centre. The hospital complex was almost entirely demolished by the HCA in 2010-2011, save for the three buildings which have been locally listed.
- 1.2. The site was acquired by English Partnerships ('EP') from the Department of Health in 2005 as part of the Hospital Sites Programme. The site was transferred to GLA Land and Property Limited ('GLAP') from the HCA (as EP's successor) as part of the devolution of power to the Mayor under the Localism Act 2011.
- 1.3. Following a procurement process to select a development partner and the subsequent approval in December 2011 by the HCA London Board of Barratt as the preferred bidder, in July 2012, an Agreement for Lease ('the Development Agreement') between GLAP, BDW Trading Ltd ('Barratt Homes') and Barratt Developments Plc was entered into. On satisfaction of the conditions under the Development Agreement, Barratt Homes will be granted a Build Lease by GLAP.

Planning

- 1.4. In July 2013, Barratt Homes submitted a planning application for up to 675 new homes, of which 25% are affordable and 60% are larger homes. The application also included provision for: 3000 sq.m of office development; flexible planning use within the three locally-listed buildings to allow the most viable use to come forward; new access and connections with Coulsdon Town Centre; and new public open space.
- 1.5. On 3 April 2014 Croydon Council granted planning permission subject to referral to the Mayor and Secretary of State and the resolution of the Section 106 agreement.
- 1.6. On 18 June 2014 the GLA planning department considered that application and decided that it was content for Croydon Council to determine the application itself, subject to any action the Secretary of State may take, and it did not wish to direct refusal. The Secretary of State confirmed on 21 August 2014 that he did not wish to call the application in for his own determination.
- 1.7. On 21 October 2014, Croydon Council granted planning permission for the redevelopment of the former Cane Hill Hospital Site to accommodate up to 677 residential units (net increase of 675 units and 2 existing units exit on the site).

Project Budget

- 1.8. The cumulative spend for the Cane Hill project since it transferred to the GLA is £93,000 including £19,000 previously approved and committed. The remaining £74,000 is profiled as £44,000 in 2014-15 and £30,000 in 2015-16. For 2014-15, the expenditure has been committed and relates to legal fees and development activity, including the initial work of Design for Homes in the role of 'Design Champion' for the scheme.

Vacant Possession

- 1.9. Under the terms of the Development Agreement, GLAP and Barratt Homes are to use their reasonable endeavours to agree a Vacant Possession Strategy on the basis of certain principles set out in the Development Agreement. Under these principles Barratt are responsible for securing possession of the agricultural land from the existing agricultural tenant and negotiating a new agricultural lease. If Vacant Possession was not achieved, this would result in less developable being released and a reduction in much needed new homes being delivered at Cane Hill.
- 1.10. As landowner GLAP is required to assist in obtaining vacant possession, *"to the extent that such assistance is necessary from it as landowner and it needs to serve legal notice or agree legal provisions."*
- 1.11. Furthermore GLAP is required to make available the remainder of the site, not required under the Building Lease, to enable the relocation of the agricultural tenant on the basis of a 125 year lease at a nominal rent. GLAP is also required to make the former Medium Secure Unit available for use by the Tenant in association with the agricultural lease mentioned above on a freehold or long leasehold basis. The surrender of the land currently under tenancy will be in consideration for the grant of the new Farm Business Tenancy land and transfers of the Glen Cairn and former Medium Secure Unit.
- 1.12. The Vacant Possession Strategy has been finalised (and is reflected by the legal documents described in paragraph 1.12 below) and Barratt and the agricultural tenant will finalise the surrender of the current lease and signing of the new agricultural tenancy and related documents shortly. As Landowner, GLAP is required to be party to the new agricultural tenancy. Barratt are responsible for all reasonable legal costs of GLAP. GLAP has agreed to pay £4,000 towards the agricultural tenant's legal costs associated with the relocation. Given that comparable agricultural land in London is not available, the market value for purposes of the transfer and the rental income has been determined on the terms of the existing tenancy. Best consideration is determined by virtue of the procurement undertaken and that the tenders received were evaluated, with Barratt offering the highest and best bid.
- 1.13. The documents to be entered into with the agricultural tenant provide for:
 - 1.13.1. the surrender of existing interests held by the agricultural tenant in relation to part of the site and returning it back to the GLA, with vacant possession to enable the redevelopment of the land as required under the Agreement for Lease with Barratt Homes;
 - 1.13.2. a short term tenancy to allow the agricultural tenant to remain in occupation of part of the land for a period of one year, and thereafter month to month for a nominal rent;
 - 1.13.3. a 125-year lease (the main holding) at a nominal rent;
 - 1.13.4. a licence to carry out works to enable the tenant to relocate and erect certain buildings;
 - 1.13.5. a transfer of land, including an existing derelict building, to enable the agricultural tenant to convert the building into two private residential dwellings; and

1.13.6. a transfer of land for the erection of replacement farm buildings, replacement farm shop and conversion of the existing ex-Medium Secure Unit into stables with staff accommodation.

- 1.14. This Mayoral Decision agrees the relevant legal agreements required to facilitate and obtain vacant possession.

Contract status and legal agreements

- 1.15. Under the Development Agreement, Barratt Homes have assumed control of the site and is wholly responsible for securing planning (and all other necessary consents), construction and sales. The Development Agreement set out a number of conditions precedent, which Barratt are required to fulfil prior to the Building Lease being signed, allowing Barratt to commence works.
- 1.16. Barratt are seeking some minor variations to the conditions precedent in the Development Agreement and the Build Lease, which it is proposed will be dealt with pursuant to delegated authority.

Section 106 agreement and receipt adjustment

- 1.17. As freeholder, GLAP will be party to any planning agreement required by Croydon Council. Under Schedule 6 (3.2.2) of the Development Agreement, Barratt is required to indemnify the GLA in respect of liability under such planning agreement. The S106 was signed in October 2014 and a separate Deed of Indemnity was entered into by Barratt to safeguard GLAPs interests. Barratt is responsible for all reasonable legal costs of GLAP.
- 1.18. Whilst Barratt is required by the Development Agreement to indemnify GLAP in respect of the planning agreement, Clause 8.3 of the Development Agreement requires that if the total costs of all works and contributions required pursuant to any planning agreement and/or CIL contributions resulting from the planning permission exceeds £6000 per unit, the GLAP receipt will be reduced on the basis of half of the costs above £6000 a unit.
- 1.19. Whilst the exact CIL and S106 contributions cannot be calculated at this stage, the CIL requirement will be in the approximately £9.7 – £10.1 million and the S106 obligations will be in the region of £1.4 million.

2. Objectives and expected outcomes

- 2.1. The Cane Hill development will deliver up to 675 new homes in London, including 25% affordable housing which will contribute to achieving the Mayoral housing objectives. The successful refurbishment of the retained buildings is important to creating a sense of place and community for the wider development.
- 2.2. The development will release public sector land for wider regeneration activities, stimulate economic growth and promote job creation. On the assumption that for every home built two jobs are created, the redevelopment of the site is expected to create circa 1,300 construction jobs.
- 2.3. The development will also deliver a land receipt which will contribute to supporting Mayoral objectives for jobs and growth.

3. Equality comments

- 3.1 Positive contributions to equality have been considered through the design process of the wider Cane Hill project and the proposed development will increase physical accessibility to the site and all residential units have been designed in line with Lifetime Homes Principles.
- 3.2 The tenant's needs were considered during the re-location process given their elderly age. Additionally, through the planning process, the equality needs have been considered carefully in the design and use of the buildings.

4. Other considerations

Links to strategies and Mayoral and corporate priorities

- 4.1. The disposal of the former Cane Hill hospital site, including the buildings, will contribute to the wider Mayoral priorities for bringing publicly owned assets into use, enabling housing regeneration, growth and job creation, as set out in the Mayor's London Housing Strategy and Economic Development Strategy.

Key risks and issues

- 4.2. Should the agricultural tenant not have agreed to surrendering the lease this would have impacted on the scale of land available to be developed. However by virtue of these agreements, the tenant has accepted the surrender of the land and re-location terms. This has been addressed within the relevant legal documents. GLAP also retains the right to terminate the arrangement and is not required to pay any costs in respect of the relocation, should the other party be unable to fulfil the obligations under the agreement.

Impact assessments and consultations

- 4.3. LB Croydon and the local community have been consulted throughout the planning process on the application for the redevelopment of Cane Hill.

5. Financial comments

- 5.1. This MD requests approval to enter into two leases and a licence in respect of land at the Cane Hill Site and the freehold transfers in respect of the Glen Cairns and Medium Secure Unit sites, for a £2 consideration.
- 5.2. The first lease is a Short Term (1 year) lease allowing the current tenant to remain on site for a period of one year at a rental of £1, in order to allow the tenant time to relocate to the new site.
- 5.3. The second lease is for a term of 125 years at the new site, at a rental of £6,790 plus VAT per annum and nil premium.
- 5.4. The Licence allows the tenant to relocate an existing building and erect two new buildings subject to obtaining the necessary consents. The Licence also provides compensation to the tenant for the costs of the works at the Cane Hill site, in the event that the 125 year lease is terminated by the Landlord. The compensation has not been quantified.

- 5.5. The Development Agreement between GLAP and Barratt relates to the redevelopment of the main hospital site, which includes the land currently under the agricultural tenancy and the heritage buildings. These are included in GLAP's accounts as part of the wider Cane Hill site's net book value.
- 5.6. The site currently occupied by the agricultural tenant will eventually pass to Barratt Homes under the existing development agreement via a building lease. This is not expected to occur until around March 2015.
- 5.7. VAT will be chargeable on any land (and buildings) sale.
- 5.8. The requirements of best consideration have been met in that the proceeds exceed the unrestricted value of the land being disposed.
- 5.9. Expenditure of £93,000 required for fees relating to the sale includes £19,000 previously approved and spent. The remaining £74,000 is expected to be profiled as £44,000 in 2014-15 and £30,000 in 2015-16. The additional £74,000 budget requirement will be met from within the current approved Land & Property portfolio budgets where underspends in other projects have occurred.

6. Legal comments

- 6.1. GLAP has been advised by its external lawyers in relation to the terms of the legal documents relating to the relocation of the agricultural tenant on the Cane Hill site.
- 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. The principal purposes, as set out in section 30(2) of the GLA Act are:
 - (1) promoting economic development and wealth creation in Greater London;
 - (2) promoting social development in Greater London; and
 - (3) promoting the improvement of the environment in Greater London.
- 6.3. Given the above and section 34 of the GLA Act, which allows the Mayor to do anything which is calculated to facilitate or is conducive or incidental to the exercise of any of his functions, the foregoing sections of this report indicate that the Mayor has the power to make the requested decisions.
- 6.4. Section 333ZC of the GLA Act provides that the GLA may not dispose of land held by it for the purposes of housing and regeneration for less than the best consideration which can reasonably be obtained unless the Secretary of State consents. In this case, GLA Finance have confirmed it is considered that the consideration for the disposals to the agricultural tenant as envisaged under this Mayoral Decision is the best consideration that can reasonably be obtained in compliance with Section 333ZC of the GLA Act and therefore the Secretary of State's consent is not required.

7. Housing Investment Group

- 7.1 The Housing Investment Group considered the commercial terms related to the obligations under the Development Agreement. Members requested a robust legal and contract management arrangement to be put in place to ensure the timing, quality and delivery of the proposal. This paper is specific to the Vacant Possession and therefore does not address the arrangements in respect of the wider scheme, which are contained within the Development Agreement.

7.2 The legal agreements to be entered into by GLAP were noted.

8. Planned delivery approach and next steps

Activity	Timeline
Mayoral Decision – Vacant Possession	January 2015
Build lease signed (post JR period)	May 2015
Initial receipt (on signing of build lease)	May 2015
Start on Site development	May 2015

Reserved Appendix 1 – Summary of Farm Tenancy documents

Appendix 2 – Site Plans

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? Yes

If YES, for what reason: May 2015 until terms have been finalised.

Until what date: (a date is required if deferring) 31 May 2015

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 – No

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Amena Matin has drafted this report in accordance with GLA procedures and confirms the following have been consulted on the final decision.

✓

Assistant Director/Head of Service:

Lucy Owen has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Sponsoring Director:

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

✓

Mayoral Adviser:

Richard Blakeway has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

M. D. Lelle

Date

13.1.15

CHIEF OF STAFF:

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

Signature

Edmund Hill

Date

14.01.2015