PART 2 – CONFIDENTIAL FACTS AND ADVICE

DD2171
Title: Kingston Housing Zone, Royal Borough of Kingston

The information below is not for publication until the stated date, because: It contains commercially sensitive information, the disclosure of which might prejudice the commercial and business interests of the GLA.
Date at which Part 2 will cease to be confidential or when confidentiality should be reviewed: 31st March 2026

Legal recommendation on the grounds of keeping the information confidential:
Under section 43 of the Freedom of Information Act information is exempt 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 contains information relating to confidential assessments of the scheme and unit costs of housing relating to the intervention and proposed GLA funding; the proposed structure and terms of GLA funding; and confidential information relating to the proposed recipient of the funding. This is all commercially sensitive information, the disclosure of which would, or would be likely to, prejudice the commercial interests of GLA, and other organisations. 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 information below also contains legally privileged material, including legal advice relating to the commercially sensitive information, which it is in the public interest to withhold.

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

Name *Michael Mullin* **Date** 28 September 2017

Confidential decision and/or advice:

1. Funding and Repayment:

1.1 Without GLA recoverable grant investment, the Cambridge Road Estate scheme will not proceed as the Royal Borough Kingston is not able to fund the estimated costs (£26.6 million) of acquiring all 173 of the leasehold interests, nor is it able to borrow enough funding from other sources in order to do so.

1.2 The GLA's Housing Zone funding will cashflow the first phase of acquisitions (totalling £25.7) and early ad-hoc acquisitions for subsequent phases (totalling £1.0m). More than £70m of acquisitions are likely to be required across the whole scheme, but the first phase of acquisitions planned for 2017 and 2018 is critical in ensuring that RBK can provide reassurance to their future development partner that vacant possession can be gained for these land parcels.

1.3 RBK have stated that any further costs associated with a compulsory purchase order (CPO) would be borne by RBK and/or their development partner, through the joint venture agreement.

1.4 The first tranche re-payment (totalling £10m) is anticipated on the 1st December 2025, upon completion of the first market sale unit. The remaining £16.6m re-payment is scheduled for December 2028, when the final market sale units are due for completion. If the RBK fail to appoint a development partner by 31 December 2018, the contract states that: "all agreed intervention funding paid to the Borough prior to this date will be repaid to the GLA within 10 business days of the 31 December 2018"

1.5 There is an early re-payment clause in the contract which triggers if the total profit on costs of the prospective Outturn Dwellings Developer exceeds 15%. In this instance the Borough would be required to notify the GLA and discuss early repayment or possible recycling of the agreed intervention funding.

2. Appraisal:

2.1 Project due diligence for the GLA was undertaken by Cushman and Wakefield (C&W) through a review of a Housing Zone Development Appraisal Toolkit and supplementary information provided by RBK.

2.2 Although, it is too early in the design and procurement process for a scheme appraisal with definite inputs about the scheme that will come forward, RBK commissioned Savills to appraise the preferred option for delivery. The appraisal found that the scheme was just viable with both the recoverable grant and the affordable housing grant, but was not viable without them; however there remains scope to value engineer the scheme through the developer partner procurement, master planning and planning processes. The viability position of the scheme is likely to change as it evolves. The GLA will retain its right to monitor this position to ensure that, as acquisitions commence, the proposed scheme remains deliverable.

2.3 There are two key due diligence questions for the affordable housing grant funding.

(a) Is there a funding gap that justifies grant? The Savills report demonstrates that there is such a gap (see paragraph 2.2 above).
(b) Does the amount of grant allocated represent value for money in comparison with other grant-funded affordable housing schemes? The recommended grant rate in part 2 of the original MD (1632) was £50,000 per home for affordable rent and £25,000 per home for shared ownership. Those rates are unchanged, so this project remains acceptable in value for money terms.

2.4 Having reviewed the assessment report, GLA Housing and Land officers approved its findings and deem them to be sufficiently robust to justify GLA Housing Zone investment into the project.

3. Key risks, issues and mitigation of these

C&W's report highlighted the following key risks associated with the project as well as recommendations on how to mitigate these:

3.1 Vacant Possession - there is a risk that acquisition 'hold-outs' in enough blocks prevent one or more phases proceeding or significantly delay the development

3.2 Recoverable Grant Repayment - there is a risk that the specified repayment dates are not met, due to the project's cashflow requirements and need to minimise debt interest costs (as project peak debt is after the nominated repayment dates)

3.3 Unknown site costs (utilities, ground conditions) - additional unforeseen costs arise from unexpected ground conditions, demolition or other site preparation issues

3.4 Off-site decant - acquisitions required to allow off-site decant are too expensive or can't happen quick enough thereby delaying the initial phases of the scheme

3.5 Viability - given the current marginal viability of the scheme, there is a real risk that unknown costs, delays to any phases once the scheme has started on site or depressed sales values make the scheme unviable.

3.6 Joint Venture - terms cannot be agreed without affecting the outputs agreed with the GLA to receive the Housing Zone funding.

3.7 Need for CPO or CPO delay - should a CPO(s) be required, this could cause delay to the project and delivery of housing units, or not be successful. This would undermine the comprehensive nature of the scheme and the number of housing units delivered.

3.8 Planning - there is a risk that successful planning permission will not be achieved, or will be delayed

The risk to the GLA's investment is mitigated in the BIA through the long-stop date of December 2018 to appoint a JV partner. If RBK fail to meet this milestone deadline, then a default clause is triggered in the agreement and the Borough is required to re-pay any funding paid prior to this date.