

## PART 2 – CONFIDENTIAL FACTS AND ADVICE

DD2199

**Title: Ailsa Street, Poplar Riverside (Phase 1) Housing Zone, LB of Tower Hamlets**

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**The information below is not for publication until the stated date, because:**

It contains commercially sensitive information, the disclosure of which might prejudice the commercial and business interests of the GLA and the London Borough of Tower Hamlets.

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

1 June 2019

### **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 schemes and unit costs of housing relating to the interventions and proposed Housing Zone funding; the proposed structure and terms of Housing Zone funding. This is all commercially sensitive information, the disclosure of which would, or would be likely to, prejudice the commercial interests of GLA/GLAP, and other organisations specified below. 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 advice relating to the above, particularly in connection with the contractual arrangements and State Aid. It is also considered that, in the circumstances, the public interest lies in maintaining the exemption and withholding the information.

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

**Title:** Senior Associate – Property & Planning Law

**Date** 03 / 01 / 2017

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

## Confidential decision and/or advice:

### 1. Funding and Repayment

- 1.1 As stated in Part 1 of this DD, £2,400,000 of GLA Housing Zone funding will be used as a non-recoverable grant. Additionally, £1,473,378 of GLA housing Zone funding will be used as recoverable grant. The £3,873,378 total grant funding is intended to enable works associated with a new pedestrian and cycle bridge at Lochnagar Street.

### 2. Appraisal

- 2.1 Project due diligence was undertaken by Lambert Smith Hampton (LSH) through a review of a Housing Zone Development Appraisal Toolkit and supplementary information provided by LBTH. LSH's due diligence incorporates project appraisal, a comparable analysis of the proposed development costs and a review of deliverable milestones. 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.
- 2.2 LSH was not given an appraisal of Phases 1 and 2 of the Ailsa Wharf Scheme. LSH has therefore undertaken its own high-level appraisal based on the information provided by the GLA. Overall, LSH's assessment of the development appraisal indicated that the scheme is viable and the developer will likely proceed with the development and that the project should succeed.
- 2.3 LSH highlighted that it had not had sight of all the pertinent information, therefore, GLA Officers requested an opinion from the GLA Viability Team, which had undertaken a separate indicative review. The GLA Development Viability (Expert) Advisor's opinion was that the scheme may not technically be viable from a planning assessment view, but from a developer's point would be. The reason for this is because the developer may be making assumptions about future trends in sales values and build costs, and the overall 'place making' uplift in values as the development matures. Importantly, the GLA Development Viability (Expert) Advisor agreed with LSH's comments that the scheme is viable and deliverable.
- 2.4 The total grant per home, calculated by dividing the total grant (£3,873,378) by the total number of homes (785) is £4,934. The grant per affordable home, calculated by dividing the total grant by the total number of affordable homes (233) is £16,624.
- 2.5 The grant per home, calculated by dividing the total recoverable grant (£1,473,378) by the total number of homes (785) is £1,877. The grant per affordable home, calculated by dividing the total recoverable grant by the total number of affordable homes (233) is £6,323.

		per home (785u)	per affordable home (233u)
Non-recoverable grant	£2,400,000	£3,057	£10,300
Recoverable grant	£1,473,378	£1,877	£6,324
Total Grant	£3,873,378	£4,934	£16,624

### 3. Key risks, issues and mitigation of these

- 3.1 LSH considers that providing grant funding towards the bridge will assist with accelerating and unlocking housing delivery at Ailsa Wharf. Overall, its report highlighted the following key risks associated with the project as well as recommendations on how to mitigate these.

#### 3.2 Viability

Given the information LSH have received in making their viability assessment, there is a risk that unknown costs or depressed sales volume make the scheme unviable. This risk will be mitigated as

best it can be through BIA requiring quarterly meetings with LBTH, which will be used to keep track of the success of the project. In addition, the BIA has a mechanism for clawback where outputs are not delivered.

### 3.3 Programme

There are a number of potential delays to the project identified, including; transfer of land for the bridge, the current developer selling its planning consent, all approvals related to the work and a possible CPO required for the land needed for the bridge landing in Newham. Within the contract, failure to achieve a certain milestone can constitute an event of default, following which the GLA has the right to act, including extending the milestone date, suspending or altering funding payments, requiring LBTH to repay funding or terminating the agreement.

### 3.4 Land Acquisitions

In order for the bridge to be built, land will need to be acquired on either side of the River Lea. One of the required parcels of land for the bridge landing point will be in the London Borough of Newham (LBN). Clearly there is a risk that the required parcel of land in LBN will not be made available for the bridge. To mitigate this risk there has been early engagement by LBTH and LBN, with full support by LBN for the intervention. Further, there are Conditions Precedent in the BIA which does not allow LBTH to draw funding until all relevant contracts are in place, relevant legal interest over all land required and planning permissions are in place.

### 3.5 Repayment Date

No security for the GLA's funding is currently proposed or in place, but the BIA contains a contractual obligation for LBTH to repay the GLA's recoverable grant totalling £1,473,378 in full by 31<sup>st</sup> March 2022. Moreover, LBTH's appraisal indicates that part of the repayment will be from an overage agreement it has with AWDL. Since this is not linked to a particular milestone and there is a chance that no overage may occur this is a risk to the GLA. The covenant strength of LBTH and the obligation placed within the BIA to make repayment regardless of the circumstances mitigate this risk.

### 3.6 Lochnagar Bridge infrastructure costs

At the time of LSH undertaking due diligence of the scheme, LBTH has not undertaken detailed design work or a detailed costing exercise for the bridge. As such, there is a risk that the GLA Housing Zone funding requested for the scheme may be insufficient to cover eventual costs. The GLA accepts that a detailed cost plan for the infrastructure works is not available. It has ensured, however, that the infrastructure BIA contains a provision that prior to submitting a funding claim, LBTH provides the GLA with evidence that LBTH has (and continues to have) sufficient funds to complete the intervention and to deliver the Borough Zone Outputs (the new homes). In addition, the BIA requires a copy of the Specification for the works as a Condition Precedent, which will also help to mitigate the risk.

## 4. Planned delivery and next steps

### 4.1 Bridge Works are set out in the table below.

Activity	Timeline
GLA / LBTH complete Borough Intervention Agreement (BIA)	January 2018
<b>Housing at Alisa Street</b>	
LBTH & AWDL – purchase completion on the Pink land	March 2021
Material SOS on all 785 homes	March 2022
Completion of all 785 homes longstop date	March 2025

<b>Lochnagar pedestrian &amp; cycle bridge</b>	
AWDL / LBTH to submit infrastructure planning application	May 2019
Infrastructure planning permission granted	December 2019
LBTH acquire land and/or rights for landing point in Newham	March 2021
Infrastructure commence	November 2021
Infrastructure complete	September 2022
Recoverable grant re-paid to GLA	March 2022

#### **Appendices and supporting papers:**

Appendix 1 – LSH Appraisal Toolkit Report