

REQUEST FOR MAYORAL DECISION – MD2502

Title: Mayoral Development Corporation (MDC) Governance Directions

Executive Summary:

The GLA and the Old Oak and Park Royal Development Corporation (OPDC) have agreed that the Mayor should exercise a consultation and approval function in order to provide an enhanced degree of scrutiny and accountability for the decisions and activities of the Corporation following its successful Housing Infrastructure Fund (HIF) bid for £250m investment to bring forward development in Old Oak North by delivering infrastructure and land acquisition to enable a first phase of development activity.

In order to place this function on a proper legal basis it is necessary for these matters to be recorded in a formal Direction to the OPDC under section 220 of the Localism Act 2011. The proposed Direction goes beyond the limited circumstances where Mayoral consent is required under the Act.

MD2435 approved an extension to the 2017 General consent for OPDC to provide financial assistance by way of grant which is due for review in December 2019. This consent will now be incorporated in the proposed Direction. The GLA has taken this opportunity to update the LLDC Governance Direction 2013 (approved by MD1227) to reflect a change in GLA oversight responsibilities for the MDCs, Mayoral Decision-Making in the GLA and GLA Financial Regulations (as amended), and new data protection legislation. Matters covered by the Directions, and any necessary Mayoral approvals, will be primarily handled by GLA's Executive Director, Good Growth in consultation with the Executive Director, Resources.

Decision:

That the Mayor:

- 1) Approve the OPDC Governance Direction 2019 attached at Appendix 1, and the updated LLDC Governance Direction, approved by MD1227, and attached at Appendix 2, pursuant to section 220 of the Localism Act 2011.
- 2) Note that the OPDC Governance Direction 2019 incorporates and provides consent under section 218 of the Localism Act 2011 to the OPDC giving financial assistance by way of grant in accordance with the General Financial Assistance (Grant) Consent 2019, as set out in Appendix 3 and that this now revokes and replaces the consent previously granted under MD2435.
- 3) Note that the Executive Director, Good Growth in consultation with the Executive Director, Resources, (or such other specified Senior Member of GLA staff authorised under the Mayoral Decision-making in the GLA and GLA financial regulations as amended) will normally discharge and exercise the Mayor's functions on his/her behalf under the Directions without prejudice to the standing arrangements in Mayoral Decision Making in the GLA.

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:

29/7/19

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

Decision required – supporting report

1. Introduction and background

- 1.1 The Old Oak and Park Royal Development Corporation (OPDC) was established as a Mayoral development corporation (MDC) on 1 April 2015 to bring forward development of London's largest Opportunity Area. Its purpose is to realise the wider regeneration potential from the significant investment in High Speed 2 (HS2) and the Elizabeth Line rail 'superhub' at Old Oak Common to drive forward the delivery of a new sustainable community of at least 25,500 new, high-quality homes, and 65,000 new jobs to facilitate London and UK growth, and global competitiveness.
- 1.2 In July 2017, the Government launched the Housing Infrastructure Fund (HIF), a capital grant programme of up to £2.3 billion to deliver physical infrastructure and unlock up to 100,000 new homes in England. OPDC submitted an Expression of Interest (EOI) for £250m of HIF funding in September 2017, to bring forward development in Old Oak North by delivering infrastructure and land acquisition to enable a first phase of development activity. The key deliverables were to:
 - fund the prompt delivery of road and utility infrastructure to make currently inaccessible land available for redevelopment; and
 - Acquire a range of fragmented land ownerships to create viable development plots and catalyse OPDC's vision for Old Oak.
- 1.3 The OPDC's bid was awarded the full £250m at the Spring Budget on 13 March 2019, after which the Ministry for Housing, Communities and Local Government (MHCLG) outlined the further due diligence and conditions that are required to be met prior to contracting and draw down of funding.
- 1.4 A review of the governance and oversight of the OPDC carried out by MOPAC, the GLA's internal auditors, in September 2018 had recommended that should the HIF bid be successful, an OPDC Governance Direction should be introduced prior to the OPDC's receipt of HIF funding; and to include the governance processes to ensure that any GLA borrowing limits are not breached. Subsequently, the GLA and the OPDC agreed at a GLA-OPDC Finance and Policy Liaison meeting held on 9 May 2019, that a timeline should be developed to put in place the Direction. (A Governance Direction has been in place for many years for the London Legacy Development Corporation (LLDC), and the proposed Direction is modelled on relevant provisions.)
- 1.5 The OPDC's activities are currently governed by an existing internal Scheme of Delegation (SoD) and Standing Orders, which provide effective controls including many items that are part of the LLDC Governance Direction. Whilst the proposed OPDC Governance Direction replicates a number of requirements that are already contained within the Scheme of Delegation, it recognises the increased complexity and scale of the regeneration project at Old Oak as a result of the successful HIF bid, and provides an enhanced degree of scrutiny and accountability for the decisions and activities of the Corporation. It also brings together all the governance requirements for the OPDC within a single document, and to cover a few areas of the Corporation's activity that are not included in the SoD.
- 1.6 A final report of MOPAC's governance and oversight review of OPDC produced in June 2019 rated the audit assurance in respect of OPDC as substantial – the highest level, noting that "there is particularly effective management of key risks contributing to the achievement of business objectives". It further recommended that a timeline for the implementation of the OPDC Governance Direction is agreed and implemented by the end of July 2019. This decision form is intended to implement the recommendation by seeking Mayoral approval for the OPDC Governance Direction 2019, attached at Appendix 1 to this form.

- 1.7 MD2435 gave approval for an extension to the 2017 General Consent for the OPDC to give financial assistance by way of a grant under certain defined circumstances, as required by the Localism Act. It is due for review in December 2019. The proposed Direction incorporates and provides consent to the giving of financial assistance by grant as set out in Annex 2.
- 1.8 OPDC does not at present have any subsidiaries. In the event that it does in the future create or acquire any it is proposed that the Direction should be reviewed so as to ensure that the actions of such subsidiaries are properly incorporated into the governance framework established by the Direction.
- 1.9 The GLA has taken the opportunity to review the existing LLDC Governance Direction, approved by MD1227, and has updated it to reflect a change in GLA oversight responsibilities for the MDCs following a restructure, Mayoral Decision-Making in the GLA and GLA Financial Regulations (as amended), new data protection legislation, and other minor factual changes. An "Updated LLDC Governance Direction" is at Appendix 2 to this Form which reflects these updated arrangements. LLDC has been consulted and raises no objection.

2. Objectives and expected outcomes

- 2.1 The Directions are intended to formally record and set out the arrangements for the Mayor to be consulted on, or approve certain decisions and activities of the MDCs, subject to certain conditions, which are integral to the Directions.

3. Equality comments

- 3.1 Under section 149 of the Equality Act 2010 (the "Equality Act"), as public authorities, the Mayor and the MDCs 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 proposals for the redevelopment of Old Oak North, or the continued regeneration of Queen Elizabeth Olympic Park (QEOP), any resulting development activity will minimise disadvantages to all protected characteristic groups within society.
- 3.3 These proposals are not expected to have any negative impact on persons with a protected characteristic under the 2010 Equality Act. The public-sector equality duty under s149 will, however, be a relevant consideration when the MDCs apply for consent under their respective Directions, and for the GLA (Mayor or Executive Director) when considering whether or not to give approval. It is expected that applications will highlight any equality issues and potential mitigations for adverse consequences in their applications.
- 3.4 The LLDC's priority theme of championing equalities and inclusion was taken into account in the development of the full business case for the culture and education district, in consultation with all the project partners. LLDC will ensure that equalities, access and sustainability considerations are applied to procurement, employment, participation and inclusive design as required throughout the project.
- 3.5 Further equality comments in relation to the OPDC HIF bid are set out in section 3 of MD2355.

4. Other considerations

a) key risks and issues

- 4.1 The Directions are designed to mitigate the risk of the MDCs taking decisions, undertaking activities and programmes that are beyond the scope of their stated purpose, or are likely to have an impact on the GLA and its finances, without sufficient oversight by the Mayor. It is considered that the existing governance arrangements covering the MDCs activities, the conditions included in the Directions, and the more general close working relationship between the GLA and the MDCs mean that the level of scrutiny is proportionate and will not impede the OPDC or the LLDC from fulfilling the purpose stated for the Corporations by the Mayor.

b) links to Mayoral strategies and priorities

- 4.2 The Mayor's London Plan (2016) and draft new London Plan (2017) both identify a significant need for new homes in London. The draft new London Plan and the London Strategic Housing Market Assessment (SHMA) identify a need for 66,000 homes per annum between 2018 and 2038. The Ministry for Housing, Communities and Local Government (MHCLG) in 2017 estimated a need in London for 70,633 homes per year between 2016 and 2026, which is approximately 27% of the 266,000 homes needed in England per year. Old Oak and Park Royal can play a vital role in meeting this need.
- 4.3 Old Oak and Park Royal is London's largest Opportunity Area at 650 hectares with the capacity to deliver a minimum of 25,500 new homes and 65,000 new jobs. The scale of development in Old Oak is huge and equates to delivery of a New Town in West London. The capacity figures represent 30% of the homes capacity and 65% of the jobs capacity across all West London's designated Opportunity Areas.
- 4.4 This scale of development could generate an additional £7.6 billion Gross Value Added (GVA) per annum to the UK economy. £2.4 billion would also be generated from housing consumption (in addition to GVA) and Stamp Duty could generate £1.2 billion. Most of this mixed-use, housing development is in Old Oak, which has capacity to deliver 24,000 homes and 55,000 jobs.
- 4.5 Old Oak is located within a deprived part of London with communities within, and adjacent to, the OPDC area in the top 10% of deprived areas nationally. Development in the Old Oak area therefore has a significant opportunity to improve the life chances of local communities, providing much needed homes and affordable homes and job opportunities across a range of sectors and skills levels.
- 4.6 OPDC's Local Plan sets an ambitious vision for the future of Old Oak to become a new high density, high quality part of London. The transport access that will be afforded the area in future provides significant opportunities for Old Oak to be at the vanguard of innovation. Old Oak can be a demonstrator for how to create high density developments that are socially cohesive, deliver positive health and well-being outcomes, embrace innovations in smart technology and are resilient to climate change, zero carbon and air quality positive.
- 4.7 The OPDC Governance Direction 2019 proposed here, which enables the Mayor and the GLA to exercise appropriate oversight over the decisions, activities and programmes of the OPDC, is essential to the Mayor's delivery of this policy.
- 4.8 The Mayor's Economic Development Strategy, sets out his plans to create a fairer, more inclusive economy that works for all Londoners and businesses by opening up opportunities to all Londoners, ensuring the economy continues to thrive, and making London a world leader in innovation, technology and a hub of new ideas and creativity.
- 4.9 The LLDC has been working closely with the Mayor, Government, University College London, the Victoria and Albert Museum, University of the Arts London's London College of Fashion, Sadler's Wells, the BBC and Smithsonian Institution since 2013 to develop a culture and education district as

an aspirational centre piece to the regeneration of east London on the back of the 2012 Olympic and Paralympic Games. The project, known as East Bank, which will bring together world leading culture and university institutions on QEOP supports the Mayor's regeneration and economic development priorities, economic growth, greater access to educational provision as well as new skills and employment opportunities for the people of east London and beyond. It will generate a strong visitor economy and provide an innovative research and learning location for inward investors.

- 4.10 The updated LLDC Governance Direction will enable the GLA to exercise robust oversight as this critical development progresses through planning, design, construction and finally opening to the public, which is essential to delivery of the Mayor's policies.

c) consultations and impact assessments, including data protection

- 4.11 The Directions do not in themselves propose any specific interventions or actions on behalf of the Mayor by the MDCs. They facilitate greater accountability for, and transparency of, any future decisions or actions that the MDCs may wish to take. It is considered, therefore, that no impact assessment relating to this particular decision is required.
- 4.12 The OPDC and LLDC have been consulted about the Directions and raised no objections. The GLA's Assistant Directors, Finance and Governance and GLA Group Finance, Information Governance Manager and TfL Legal were consulted. It is not considered that any additional consultation is required in respect of this decision.

5. Financial comments

- 5.1 The additions to the OPDC Governance Direction require GLA consent to:
- any borrowing by the OPDC;
 - any expenditure above OPDC's approved budget; and
 - any expenditure in excess of the GLA's agreed commitments to the HIF programme or to liabilities created that are in excess of the GLA's agreed commitment to the HIF programme.
- 5.2 These additions are designed to meet the financial requirements set out in internal audit's report on OPDC governance.

6. Legal comments

- 6.1 The Localism Act 2011 requires that the Mayor's consent is obtained by a Mayoral Development Corporation (MDC) in certain specified circumstances. Under section 220 of the 2011 Act, the Mayor may give an MDC general or specific directions as to the exercise of any of the MDC's functions, following consultation with the body concerned. The Mayor may also give a MDC guidance under section 219 which it must have regard to. The OPDC and the LLDC have been consulted in accordance with the Act's requirements.
- 6.2 The proposed OPDC Governance Direction 2019, and the Updated LLDC Governance Direction are made under section 220 of the Act and require the MDCs to consult the Mayor in certain circumstances and to obtain his formal consent in both (a) the circumstances listed in the Act itself and (b) a number of additional cases; certain matters require "prior consent" to be obtained.
- 6.3 The giving of financial assistance in any form requires the approval of the Mayor under section 218 of the 2011 Act. The OPDC Governance Direction 2019 re-enacts the existing consent for the giving of financial assistance by way of grant – the General Financial Assistance (Grant) Consent 2019 – previously approved under MD 2435, which is revoked and superseded by it. This consent is

now incorporated into Annex 2 of the OPDC's Direction. The giving by the OPDC of financial assistance either (a) by grant not falling within the terms of that general consent or (b) in other will require a specific application for consent under section 218, which is now to be made under the terms of the Direction.

- 6.4 The Directions envisage that in most cases applications for consent (whether required by the 2011 Act or otherwise) will be dealt with by the Executive Director, Good Growth in consultation with the Executive Director, Resources rather than the Mayor personally. Implicit in the Directions is a delegation under section 38 of the GLA Act 1999 to the Executive Director, including any specified member of GLA Staff listed in Annex 3 to the Mayoral Decision Making in the GLA (as amended), as currently approved by MD2472, to give Mayoral consent where required by the Directions, and under the procedures set out in them. This includes the power to give consent unconditionally or subject to conditions.

7. Planned delivery approach and next steps

- 7.1 The OPDC Governance Direction and the updated LLDC Governance Direction will come into effect on the 1 August 2019 following approval by the Mayor.

Appendices and supporting papers:

Appendix 1: The OPDC Governance Direction 2019.

Appendix 2: The LLDC Governance Direction, updated 2019.

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? NO

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 – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Michelle Reeves has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

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

✓

Mayoral Adviser:

David Bellamy 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 the 29 July 2019

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

M. D. Bellamy

Date

29.7.19

CHIEF OF STAFF:

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

Signature

D. Bellamy

Date

29/7/2019.

