

## REQUEST FOR MAYORAL DECISION – MD952

**Title: Chequers Corner, Dagenham**

### Executive Summary:

The London Development Agency's (LDA) Chequers Corner compulsory purchase order (CPO) project in Dagenham will transfer to the Greater London Authority (GLA) in April 2012. There are six active outstanding claims from previous landowners that are the subject of negotiation and/or tribunal and other dispute resolution proceedings to determine the level of compensation payable. In order to ensure that the project has adequate funding to meet the compensation liabilities, the LDA is recommending an increase in gross expenditure approval in 2011-12 and 2012-13.

The LDA has contracted to sell the Chequers Corner site for a hotel development and this is expected to complete shortly, possibly before transfer to the GLA.

### Decision:

The Mayor is asked to approve an increase of £763,499 in the lifetime gross budget of the LDA project of "Chequers Corner CPO" from £9,647,367 to £10,410,866.

### Mayor of London

I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct for elected Members of the Authority. Any such interests are recorded below:

The above request has my approval.

**Signature**

**Date**

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

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1 Chequers Corner was in fragmented ownership and comprised an area of rundown and partly dilapidated buildings (mostly former ground-floor shop units with residential accommodation above, but also including a Job Centre, land forming part of the Ford motor works, and an office block occupied by a trade union).
- 1.2 A Compulsory Purchase Order (CPO) was required in order to buy the properties, as the private sector had failed to bring forward redevelopment. The LDA therefore processed the CPO, managed settlements of compensation with displaced owners and occupiers, and marketed the site for redevelopment.
- 1.3 At their September Board meeting 2001, the LDA Board approved the necessary funding of £4,999,100. The Mayor granted the LDA consent to use its compulsory acquisition powers through MAF 1337.
- 1.4 In 2003, the LDA published the Order for the assembly of land at Chequers Corner in Dagenham, with the intention of promoting a comprehensive redevelopment in support of wider regeneration objectives in the London Riverside zone.
- 1.5 The cost of the project increased from its original September 2001 approval. The LDA reports that much of this increase reflects the growth in property values between 2001 and 2006 when the properties became vested in the LDA and the higher-than-expected cost of dealing with the various compensation claims.
- 1.6 In the face of this, the LDA sought to mitigate its exposure to compensation, specifically by reducing the scope of the project by way of abandoning the purchase of some of the larger properties (a job centre, trade union offices and Ford land). The land being targeted for purchase therefore decreased from an estimated 5 acres, down to 2.5 acres.
- 1.7 Nevertheless, the overall project costs continued to rise and, in February 2011, the LDA approved an increase of £4,648,267 in the project gross expenditure (taking the budget approval to £9,647,367).
- 1.8 The LDA took possession of most of the properties affected by the CPO in January 2006. There were 70 original potential claims for compensation. Many of these have been settled, although 41 are classed as “dormant”. These correspond mostly to fragments of footway in unknown ownership (about half), or short-term residential occupiers of bedsit accommodation, and the LDA does not expect these claims to come forward.
- 1.9 From January 2012, former owners or occupiers have lost their right to refer claims to the Tribunal for determination, which significantly reduces any potential exposure.
- 1.10 There are six claims outstanding to be settled. These are at various stages of negotiation and, in particular, there are Tribunal hearings scheduled for January and March 2012 to determine disputes over compensation for three of these. Attempts to negotiate these claims have been lengthy and costly, but the LDA has faced very high claims that it has had to strongly resist.
- 1.11 The LDA is in the position to have to increase the budget again in order to reflect increased costs, and in particular the following changes:
- 1.12 Further to the LDA Board decision in February 2011, a claim was received from a landowner who had vacated the site in 2006 and was considered “dormant” in terms of the likelihood of a claim ever being received. As a consequence, there was no provision in the budget. While the claim is at £426,383, the LDA estimate £250,000 as the likely cost.

- 1.13 Secondly, the LDA came to a commercial settlement with London Thames Gateway Development Corporation which owned a small plot of land affected by the CPO, but also benefitted from a title restriction that needs to be lifted in order for the site to be sold for development.
- 1.14 In order to ensure that the project budget is sufficiently robust to cater for these latest two claims, and meet ongoing legal and professional fees for dealing with all the other outstanding claims, the LDA Board endorsed a further increase in the project approval in October 2011 (to £10,410,866). This remains the latest forecast gross expenditure. Since this exceeds £10 million, the Mayor's approval is required.

### **Exit Strategy:**

- 1.15 The site was marketed in the autumn 2010 and contracts have been exchanged with Premier Inn Hotels Limited for a sale, subject to the grant of planning permission for an 80-bedroom hotel and 220-cover "Brewers Fayre" pub/restaurant. A resolution to grant planning permission was made by Barking & Dagenham Council in November 2011, subject to the completion of a section 106 planning obligations agreement. This is expected to be finalised shortly.
- 1.16 The sale of the whole site (bar an access road the LDA is retaining) will generate a capital receipt for the LDA (or its successor in title) of just over £2 million which will be received either in the 2011/12 financial year or early next year.
- 1.17 The additional costs for which approval is sought have not resulted in any increase in value. The LDA explains that:
- the added costs came -for a large part- from claims which the LDA had assumed dormant, together with escalating legal costs because claims were not settled as quickly as envisaged.
  - the CPO was done at the height of the market (January 2007) , while the sale of land is done at a low point (September 2011)
  - The cost of acquisition is based on the statutory compensation code: i.e. value of land at January 2007 plus legal costs and disturbance items. This is not linked to the market value of land
  - The sale was done at market value in September 2011 on a fixed formula which cannot be changed.

## **2. Issues for consideration**

### **a) Links to strategies and Strategic Plan**

The Mayor's London Plan and his Economic Development Strategy (EDS) both identify East London as a particular spatial priority. The EDS states that "The most substantial accumulative growth opportunities are to the east, along the Thames Gateway, a national priority area for regeneration and an area with many low-income households, which would benefit from economic growth."

The Chequers Corner was, at one time, earmarked for high-density residential-led development, but this became unviable owing to the economic downturn and changes in local policy towards such schemes. The site was then marketed for a variety of uses and the offer from Premier Inn Hotels accepted. This will represent the first "branded" hotel and pub/restaurant products in this locality, continuing the trend of blue-chip companies investing in the area and helping to change the perception of Dagenham in the marketplace.

### **b) Impact assessments and Consultation**

The need to address the economic problems in the area caused by the contraction of Ford's manufacturing facilities were first highlighted at the end of the 1990s by Barking & Dagenham Council. The LDA stepped in shortly after its creation to assist with the purchase of the Chequers

Corner site and promoting its regeneration in line with aspirations set out in agreed strategies. Barking & Dagenham Council has been engaged in the project throughout its life and has been supportive of the exit strategy now envisaged.

### c) Risk

The LDA has sought to mitigate its exposure to potential compensation claims by reducing the extent to which the CPO is implemented. However, having taken possession of the most-dilapidated and most-prominent part of the Chequers Corner site, it is obliged to pay compensation to former landowners according to statute. The requested budget is based on its reasonable judgement of likely settlements and associated costs. The LDA takes a robust approach to negotiating compensation, in order to protect the public purse from excessive claims, but this has necessitated lengthy tribunal procedures to finalise terms. There remains some risk that tribunal judgements will exceed the LDA's reasoned estimates and this is not reflected in the project budget. This risk is being reviewed by the GLA as part of the transition of several CPO projects.

If the new budget is not approved, the LDA may be unable to fund the legal and expert resources necessary to mount robust defences to the claims and this would increase the risk of judgements in excess of estimates.

### 3. Financial Comments

3.1 Owing to the timetable for Tribunal hearings, -the decisions from which are not now expected until mid to late 2012-, the project will transfer to the GLA upon closure of the LDA. Mayoral approval of the LDA Board's decision in October 2011 is sought so that the project can continue to meet its existing liabilities within formal approvals as claims continue to be settled where possible.

3.2 The existing approvals and the identified pressure is noted below:

	Previous Years £	2011/12 £	2012/13 £	Total £
Existing gross Approval (a)	9,200,377	446,990	0	9,647,367
<b>New forecast (b)</b>	9,200,377	<b>625,064</b>	<b>585,425</b>	10,410,866
Lifetime approval Pressure (b-a)				<b>763,499</b>

3.3 The spend on the project is therefore as follows:

(£)	Up to 2010/11	2011/12	2012/13	Total
<b>Expenditure</b>				
Capital	9,039,513	625,064	585,425	10,250,002
Revenue	160,864	0	0	160,864
<b>Gross Total</b>	<b>9,200,377</b>	<b>625,064</b>	<b>585,425</b>	<b>10,410,866</b>
<b>Income</b>				
Capital	-9,772	0	0	-9,772
Revenue	-19,313	0	0	-19,313
<b>Net Total</b>	<b>9,171,292</b>	<b>625,064</b>	<b>585,425</b>	<b>10,381,781</b>

3.4 The increase is principally made up of the following:

<b>Expenditure item</b>	<b>Amount £ (all capital)</b>
Legal and professional fees for 11-12 and 12-13	296,066
Settlement for the new claim	250,000
Previous years' budget pressure	89,423
Current budget pressures	53,010
LTGDC land	50,000
Solartrack	25,000
<b>Total increase</b>	<b>763,499</b>

- 3.5 The additional budget requirement has already been taken into account and highlighted through the project prioritisation process and this approval does not change GLA budget assumptions.
- 3.6 The transfer of LDA compulsory purchase order liabilities to the GLA and the manner in which these are managed in the future has also been the subject of separate discussions.
- 3.7 It should be noted that the budget figures do not include capital receipts.
- 3.8 The LDA is currently forecasting to spend £625,064 on this project in the current financial year. However, it has identified a risk of underspend of around £225,000 in 2011-12. The reason for this is that the LDA had originally expected to settle one of the three significant claims (Acroframe, Solartrack or DAS) in the current year but this is now looking unlikely. A carry forward of approximately £225,000 to 2012-13 is therefore expected. The decision to carry forward any budget will be subject to further approval as part of the GLA year-end process. It should be noted that carry forwards are not guaranteed and therefore any expenditure due in 2012-13 for which a carry forward is not approved will need to be contained within the existing budget provisions allocated for 2012-13.
- 3.9 Whilst a carry-forward is forecast, the LDA argues it is important that it receives approval for the full amount of budget available this year. The reason for this is that the Solartrack Tribunal hearing taking place in mid-March and the preparation of expert reports for DAS by end-February. As part of its strategy for progressing the claims and protecting the LDA from excessive cost exposure, the LDA is expecting to make a "sealed offer" to the other side. The effect of a sealed offer is that, if the Tribunal decision fails to exceed that offer, the claimant will have to make a major contribution to our costs. If the LDA does not make a sealed offer, then it may have to pay the claimants' costs even if it "wins" the case. It is therefore a prudent approach. However, the claimant does have the opportunity to accept the sealed offer immediately or at any future date, in which case the LDA needs to ensure that sufficient budget is available to meet such an eventuality.
- 3.10 LDA will fund 2011-12 capital expenditure of £625,064 and the GLA has made capital budget provision of £585,000 for 2012-13 Chequers Corner CPO.
- 3.11 Any changes to this proposal must be subject to further approval via the Authority's decision-making process.
- 3.12 The Land and Development team within the Housing and Regeneration Directorate will be responsible for managing this project.
- 3.13 All requisite budget adjustments will be made

#### **4. Legal Comments**

- 4.1 The Mayor directed the LDA to seek Mayoral consent for expenditure on projects between £10m and £50m in MAF 2671. The LDA proposes in this case to increase its total expenditure to over £10m and therefore this requires Mayoral consent.
- 4.2 The project is within the purposes of the LDA and the GLA.
- 4.3 The increase sought is in respect of expenditure foreseen as required to meet legal liabilities under compulsory purchase orders, and the costs associated with any determination of such liabilities. The financial extent of the liabilities is to be determined by agreement, by a tribunal, or by another dispute resolution procedure.

#### **5. Investment & Performance Board**

This approval is related to increasing CPO costs which constitute a financial obligation, rather than a new investment proposal.

IPB has been kept informed about the LDA CPOs, including Chequers Corner, and their budget requirements on a regular basis.

#### **6. Background/supporting papers**

**Appendix 1:** LDA Board, 26 October 2011

**Public access to information**

Information in this form is subject to the Freedom of Information Act 2000 (FOI Act) and other legislation. Part 1 of this form will be made available on the GLA website within 1 working day of approval. Any facts and advice that should not be made automatically available on request should not be included in Part 1 but instead on the separate Part 2 form. Deferment is only applicable where release before that date would compromise the implementation of the decision being approved.

Is the publication of this approval to be deferred? **YES**

If yes, for what reason:

**The report contains information relating to the financial, contractual and business affairs of the LDA where the disclosure would be likely to adversely affect the LDA's position in the course of negotiations.**

Until what date: **December 2014 – by which time any contractual arrangements arising from this report will have been completed or abandoned**

Is there a part 2 form - **NO**

**ORIGINATING OFFICER DECLARATION:**

Tick indicates approval (✓)

**Drafting officer:**

Pierre-Alexandre Coinde 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:**

Tom Middleton 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:**

Sir Peter Rogers has been consulted about the proposal and agrees the recommendations.

✓

**Advice:**

The Finance and Legal teams have commented on this proposal.

✓

**OFFICER APPROVAL****Executive Director, Resources**

I have been consulted about the proposal and confirm that financial and legal advice have been taken into account in the preparation of this report.

**Signature**

**Date**

**Chief of Staff**

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

**Signature**

**Date**