

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD1646

Title: LLDC Queen Elizabeth Olympic Park maintenance obligations: delegation and direction

Executive Summary:

The Mayor is asked to delegate to the London Legacy Development Corporation (LLDC) powers to maintain and upkeep the Queen Elizabeth Olympic Park (QEOP), to collect a Fixed Estate Charge to fund this obligation, and to direct LLDC to use these delegated powers.

Whilst LLDC already maintains and upkeeps QEOP and levies and collects a Fixed Estate Charge, it is anticipated that this direction and delegation will have the effect of putting it beyond doubt that LLDC is acting as a public authority in terms of its obligations to maintain and upkeep the QEOP.

This complements and supplements the general powers delegated in 2012 (MD1066).

Decision:

The Mayor to execute the appended delegation of powers to LLDC and to direct LLDC to exercise the powers so delegated.

Powers delegated are those to maintain and upkeep the QEOP (as defined therein) to a standard appropriate to the Park's status and so as to secure its regeneration and development, and to levy and collect a Fixed Estate Charge (as defined therein) from occupiers of the QEOP in furtherance of this. This delegation and direction is made under the powers conferred by section 38(1) of the Greater London Authority Act 1999 (as amended) and section 220 of the Localism Act 2011 (as amended) and all other powers so enabling.

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 APRIL 2016

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

Decision required – supporting report

1. Introduction and background

In establishing the London Legacy Development Corporation (LLDC) in 2012, the Mayor of London stated that the purpose of the LLDC should be:

"To promote and deliver physical, social, economic and environmental regeneration in the Olympic Park and surrounding area, in particular by maximising the legacy of the Olympic and Paralympic Games, by securing high-quality sustainable development and investment, ensuring the long-term success of the facilities and assets within its direct control and supporting and promoting the aim of convergence."

To this end the LLDC is committed to maintaining and upkeeping the QEOP to a standard appropriate to its status and as part of its statutory objective under section 201 of the Localism Act 2011 to regenerate its area. It has granted a number of long leases, under which it, as freeholder, is obliged to maintain and upkeep the QEOP. These leases also oblige tenants to pay a Fixed Estate Charge, being a fixed rate per square foot of gross internal area occupied, the rate being dependent upon the category of tenant and also being subject to indexation.

The effect of a direction and delegation should be to provide clarity around the legal basis for both the maintenance and upkeep of QEOP and the collection of the Fixed Estate Charge.

2. Objectives and expected outcomes

The objective is to clarify the legal status of certain LLDC's activities for the benefit of stakeholders and key partners. This will have the corollary of demonstrating that the LLDC can be regarded as acting as a public authority in the exercise of its duties to maintain and upkeep the QEOP. This is a test applied by HMRC when it considers whether the LLDC will be entitled under section 33 of the Value Added Taxes Act 1994 to a refund of VAT incurred on both QEOP maintenance and upkeep costs, and on the construction of the cultural elements of Olympicopolis.

3. Equality comments

As this decision seeks to provide clarity around the legal status of services and functions that the LLDC is already performing, it is not anticipated that this will have any impact on those with protected characteristics.

4. Other considerations

Links to strategies and Mayoral and corporate priorities

The Mayor's London Plan states (at policy 2.4) that 'a viable and sustainable legacy for the Olympic and Paralympic Games to deliver fundamental economic, social and environmental change within east London, and to close the deprivation gap between the Olympic host boroughs and the rest of London ... will be London's single most important regeneration project for the next 25 years.' Given the purpose stated by the Mayor for the LLDC, the delegation proposed here - which enables the LLDC to contribute to the convergence ambition - is crucial to the Mayor's delivery of this policy.

Impact assessment and consultation

This delegation does not in itself propose any specific interventions or actions on behalf of either the Mayor or LLDC. It is considered, therefore, that no impact assessment relating to this particular decision is required.

The LLDC has been consulted about the proposed delegation and is content with it. It is not considered that any additional consultation is required in respect of this decision.

Risk

While the delegation could in theory create a slightly enhanced risk that the LLDC could take action beyond the purpose stated for it by the Mayor, it is considered that the conditions included in the delegation and the more general close working relationship between the GLA and LLDC at all levels, as well as the constrained resources available to LLDC, would make this very unlikely.

5. Financial comments

There is no cost associated with this direction and delegation as it provides a legal basis for the LLDC to perform activities that it is already performing under the auspices of pre-existing contracts and leases with tenants. It also does not impact on what cost recovery has been assumed in LLDC's budget.

6. Legal comments

The Mayor may authorise LLDC to exercise his statutory functions under section 38(1) and (2) of the GLA Act 1999, and by s 38(7) they become functions exercisable by LLDC notwithstanding it doesn't otherwise have the power to do so. Under s 220 of the Localism Act 2011 the Mayor may direct LLDC as to the exercise of any of its functions. By s 220(4) LLDC must comply with the direction. The proposed Direction and Delegation authorises LLDC to exercise the Mayor's powers under s 30 of the GLA Act 1999 to do anything that furthers the promotion of the economic social and environmental improvement of that part of London within the QEOP and for that purpose empowers LLDC to impose a Fixed Estate Charge (FEC) to provide a funding stream to LLDC for the maintenance of the Park to a standard appropriate to a former Olympic and Paralympic venue. LLDC is additionally directed to impose the FEC on occupiers.

Potential VAT implications of the delegation and direction are described in section 2 of this report (Objectives and expected outcomes).

7. Investment & Performance Board

This falls outside IPB's terms of reference.

8. Planned delivery approach and next steps

None

Appendices and supporting papers:

Appendix A: London Legacy Development Corporation (Queen Elizabeth Olympic Park Maintenance Obligations) Direction and Delegation 2016

Appendix B: Fixed estate plan

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? NO

If YES, for what reason:

Until what date: (a date is required if deferring)

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:

Tim Somerville 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:

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

✓

Mayoral Adviser:

Ed Lister 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. Blöe

Date

25.4.16

CHIEF OF STAFF:

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

Signature

Edmund Lister

Date

26:04:2016