

GREATER LONDON AUTHORITY

REQUEST FOR DIRECTOR DECISION – DD1424

Title: Funding for a Project to Maximise Business Rates Income In the London Borough of Harrow

Executive Summary:

Under the business rates retention scheme introduced in April 2013 the GLA currently receives 20% of all business rates income – 40% of the locally retained share – collectable by the 33 London billing authorities and benefits proportionately from any real terms incremental growth in the taxbase. In 2016-17 it is estimated that the GLA will receive £8.4 million from the London Borough of Harrow through the rates retention system and a further £1.1 million in respect of the Crossrail Business Rate Supplement.

LB Harrow has approached the GLA to seek a contribution towards its business rates income maximisation project work which has been procured from a recognised contractor in this field. To date this work has identified an estimated £2 million worth of assessments by rateable value which have been omitted from or are undervalued in the local rating list. Subject to these changes being maintained on the local non domestic rating list by the Valuation Office it is estimated the GLA will receive up to an additional £200,000 annually in rates income on an ongoing basis. The Council estimated that the project will cost £100,000 in aggregate by 31 March 2017 of which £58,000 had been incurred at 31 March 2016.

In Mayoral Decision 1553 the Mayor agreed that the GLA should support borough business rates maximisation projects in principle and delegated authority to the Executive Director Resources to approve these on the condition that they should be self financing and result in additional rates income on an ongoing basis. This decision seeks approval for the GLA to contribute 40 per cent of the project costs – up to £40,000 – which will be used to support further maximisation work in 2016-17 focusing on three specific areas relating to recent non domestic rating legal judgements.

Decision:

The Executive Director Resources approves a contribution of up to £40,000 equivalent to forty percent of the costs which LB Harrow estimates will be incurred on business rates maximisation work by 31 March 2017. This funding will re-invested to support further work in 2016-17. The costs will be charged to the Mayors Resilience Reserve initially. The GLA's contribution has already in effect been reimbursed through an additional £2 million of rateable value which has already been added to the local rating list which will generate an estimated £200,000 of ongoing rates income for the GLA annually from the Harrow borough.

AUTHORISING DIRECTOR

I have reviewed the request and am satisfied it is correct and consistent with the Mayor's plans and priorities.

It has my approval.

Name: MARTIN CLARKE

Position: EXECUTIVE DIRECTOR RESOURCES

Signature: *M. J. Clarke*

Date: *28.4.16*

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

- 1.1 Under the current Business Rates Retention system, the GLA receives a 20 per cent share of total business rates income – or 40 per cent of the locally retained share – in London. If there is net growth in the rates base each year in real terms this accrues to the GLA on the same percentage basis. The GLA also receives Crossrail Business Rate Supplement (BRS) revenues annually from each borough. In 2016-17 it is estimated that the GLA will receive £8.4 million from the London Borough of Harrow through the rates retention system and a further £1.1 million in respect of the Crossrail BRS.
- 1.2 The London Borough of Harrow has asked the Greater London Authority to make a contribution towards work which it has commissioned which seeks to maximise business rates income by identifying additional hereditaments which are either not currently included on the Valuation Office's local non domestic rating list for the borough or alternatively have an allocated rateable value which is understated.
- 1.3 The Borough Council has already committed funds to determine examples of premises which are missing from, or are undervalued within the Rates List. That research has been ongoing for nearly two years. A small number of high profile cases determined by the Courts during the last 12 months have supported the research which the Council has completed, and through which a series of Rateable cases not reflected in the current non domestic rating list have been identified. This includes ATM units; Rateable Telecommunications equipment; Rateable Car Parks; and missing parts of or enhancements to existing rateable premises. In all, the research which the Council's investment has funded can now identify approximately 20 different types of rateable unit in which the rating list is entry is absent, or under-valued.
- 1.4 During 2014-15 and 2015-16 the Council incurred £58,000 of expenditure in relation to this business maximisation work – the financial gains from which will accrue to the GLA from 2016-17 onwards in cash terms. The work so far can demonstrate innovation, and some of the research methods and conclusions are unique. The potential value of the work which Harrow have commissioned and supported are also very significant for London as a whole. It is estimated that the total cost of the project work will be £100,000 by 31 March 2017.
- 1.5 The Council has invited the GLA to make a contribution towards further business rates maximisation work equivalent to 40 per cent of the costs it expects to incur by 31 March 2017. The Council proposes to re-invest this disbursement during 2016-17 and to crystallise existing gains.
- 1.6 The focus of the work during 2016-17 which builds on previous activities will be on the implications of the outcomes from three recent court cases where there is potential to generate significant additional value to the local Harrow rating list:
 - The valuation and inclusion of ATM units, following the decision of the Valuation Tribunal March 2016 (estimated rateable valued value which could be identified – £781,000);
 - Review of Units of assessment and removal of "quantum" allowances following the "Mazars" decision of the Supreme Court in July 2015; (estimated rateable valued value which could be identified is to be confirmed); and

- Analysis of erroneous valuations for assessments included on the rating list at values of either nil or £1 reflecting the impact of the decision of the Supreme Court in *Monk v Newbiggin* last year (estimated rateable value which could be identified is to be confirmed but there are understood to be around 115 such assessments in the Harrow borough alone).

1.7 This is a legitimate request as billing authorities do not receive additional funding central government to fund the costs of business rates maximisation and any investment they make which increases the size of the rating list benefits the GLA financially on a proportionate basis. The funding will not be used to resource the borough council's normal collection and enforcement work in respect of business rates.

1.8 Any additional rateable value added to the rating list will be transferred to the GLA in cash terms through the collection fund surplus or deficit forecast prepared in January through an adjustment to the instalments by the Council during the 2016-17 and future financial years. This will include any backdated sums due for prior years. The aggregate additional rateable value identified and secured will then form part of the rating list in future years in line with its 20 per cent share on an ongoing basis. The potential effect of the GLA's share increasing to 40 per cent in April 2017 following the transfer of TfL's capital investment grant into the system could potentially double these gains.

2. Objectives and expected outcomes

2.1 Harrow has contracted a recognised rating expert to review its rating list in order to identify hereditaments which have been omitted from the local rating list or were incorrectly valued through specially designed research methodology which has been designed, developed and modelled over the last two years.

2.2 The contractor's project management tools and the council's own analysis has already identified up to £2 million of rateable value comprising assessments either omitted from the rating list entirely or undervalued. On 2016-17 prices this equates to potential additional rates income over and above what would have been in place had the project not been undertaken of around £1 million of which up to an estimated £200,000 would notionally accrue to the GLA on an ongoing basis via its 20 per cent share. In practice a proportion of the amendments to the rating list could be backdated where the alterations were made by the Valuation Office prior to 1 April 2016 so there may also be an additional one off gain relating to periods prior to 1 April 2015.

2.3 Harrow is also one of a very small number of London Councils who have taken steps to formally "protect" the Council's interest in a backdated amendment to the Rate Lists by the submission of formal "Billing Authority" appeals to the Rates List which may, in very specific circumstances be completed. The investment which Harrow have so far completed at their own cost has enabled the Council's contractor to take specialist advice from Queens Counsel about the timing, manner, and content of "Proposals" to alter the List, and which has been instrumental to the successful protection of Council interests.

2.4 In light of the shared benefits Harrow has requested that the GLA contribute 40% of the cost of the one off payment to the contractor i.e. our share of the 50% local retention share. The estimated costs are £100,000 of which £58,000 had been incurred by 31 March 2016 – of which £40,000 of funding is therefore sought from the GLA. This will be used to fund further work in 2016-17 reflecting the financial year in which it is payable.

2.5 In summary therefore:

- The Council's contractors have already identified up to £2m of additional rateable value which has been added to the rating list in Harrow which is equivalent to around £1 million of additional business rates income. Of this £300,000 per annum will accrue to the borough council and £200,000 to the GLA per annum on existing rates shares.
- For undertaking this work the Council's contractors had received a total payment from LB Harrow of around £58,000 as at 31 March 2016. A further £42,000 is expected to be required in 2016-17 to fund further work making a total cost by 31 March 2017 of £100,000.
- The GLA has been requested to contribute £40,000 – equivalent to 40% of the total cost of the work expected to be incurred by 31 March 2017 – in order to support further rates retention maximisation work in 2016-17 focusing on ATM assessments, the impact of the July 2016 Mazars Supreme Court judgement and a review of properties included on the current local rating list with a nil or £1 value. This equates to 20% of the benefit the GLA will receive year on year from the work already undertaken.

3. Equality comments

- 3.1 There are no direct equality implications for the GLA as the project will be managed by the London Borough of Harrow and any staff employed on the project will be recruited by it under its terms and conditions and any contract it enters into will be under the terms of its procurement code. The Council should have regard to appropriate equality considerations in its role as a public authority under relevant legislation.

4 Other considerations

- 4.1 The project will be self-financing with any upfront costs being offset by additional non domestic rating income generated.

5. Financial comments

- 5.1 The GLA receives Rates from the London Borough of Harrow under the business rates retention scheme and contributions through the Crossrail Business Rate Supplement.
- 5.2 The Council collects non domestic rates and Crossrail Business Rate supplement revenues on behalf of the GLA in respect of its relevant share (20% and 100% respectively) but does not receive discrete additional funding to support work which maximises the size of the rating list – and therefore the level of rating income. Its funding – via the respective cost of collection allowances – is purely for its billing and enforcement duties. It is therefore reasonable for the GLA to be asked to contribute towards efforts to maximise the size of the rating list and address under valuations of particular assessments relative to their correct market value.

6. Legal comments

- 6.1 The London Borough of Harrow is the billing authority for non-domestic rates in its area under the Local Government Finance Act 1988. Under section 41 of that Act it is the responsibility of the valuation officer for a billing authority to compile, and then maintain, its local non-domestic rating lists. It is understood that the Borough does not receive discrete funding from government grant to assist in maximising the size of the rating list.

- 6.2 The GLA has an interest in maximising business rates income in the borough as it receives 20 per cent of any additional revenues collected. It is therefore legitimate for GLA resources to be used to support this project, in what is understood to be the reasonable expectation that over the next 5 years (to 31 March 2021) it will generate additional revenues significantly in excess of the amount contributed (i.e. at least £500,000 annually compared to a contribution of £40,000).
- 6.3 Under section 34 of the GLA Act the GLA has the power to do anything calculated to facilitate the exercise of the GLA's functions. Taking steps to increase revenue is so calculated. This power is subject to the limitation that the GLA may not raise money by virtue of it, except in accordance with relevant legislation; in the present case any money to be raised is to be raised in accordance with the relevant legislation. Reasonable expenditure designed to achieve a better level of rates income for the GLA, through improvement of the non-domestic rating list of a Borough, is therefore within the power of the GLA

7. Planned delivery approach and next steps

7.1 The planned project delivery is set out below:

Activity	Timeline
Procurement of contract	Completed
Confirmation of assessments omitted from or undervalued in rating list – equivalent to rateable value to date of £2 million and business rates income of £1 million.	Completed
Negotiations to add assessments to rating list with Valuation Office	Commenced 2014
2015-16 collection fund outturn and NNDR3 reflecting uplift delivered to March 2016 which would be incorporated in the GLA's accounts on a pro rata basis	30 September 2016
2016-17 collection fund surplus deficit forecasts submitted by Harrow via 2017-18 NNDR 1 return	31 January 2017
Assessments/amendments added to rating list	During 2016-17
Latest date by which revenues would start to be received by GLA as a result of uplift in cash terms (via an adjustment to instalments)	1 April 2017
2016-17 collection fund outturn and NNDR3 reflecting uplift delivered between 1 April 2016 and 31 March 2017 which would be incorporated in the GLA's accounts on a pro rata basis	30 September 2017

Appendices and supporting papers:

None

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:

Martin Mitchell, GLA Group Finance Manager has drafted this report in accordance with GLA procedures and confirms that:

✓

Assistant Director/Head of Service:

David Gallie, Assistant Director Finance has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Financial and Legal advice:

The Finance and Legal teams have commented on this proposal, and this decision reflects their comments.

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

M. D. Gallie

Date

28.4.16