

GREATER LONDON AUTHORITY

REQUEST FOR DIRECTOR DECISION – DD2429

Title: Barking Riverside Infrastructure funding

Executive Summary:

In November 2018, a Director Decision (DD) 2300 approved allocation of up to £10m of grant funding from the Affordable Homes Programme 2016-21 to Barking Riverside Limited to meet a funding shortfall in an infrastructure project on the Barking Riverside site. Confirmation of this funding provided a contingency buffer required to facilitate the letting of the infrastructure contract necessary to enable delivery of the wider development. This decision noted that the funding source would be changed to the Government's land and infrastructure fund package with the GLA once this was available, as there is clear alignment with the objectives of the funding.

Mayoral Decision (MD) 2396 Land Assembly, Small Sites and Accelerated Construction Fund secured £486m of funding from Government to help unlock and accelerate housing delivery in London through land assembly, infrastructure investment and provision of gap funding. MD2396 also approved terms for the delegated authority to the Executive Director of Housing and Land in consultation with the Deputy Mayor for Housing and Residential Development, to approve the allocation of funding in accordance with the terms associated with the programme and in pursuit of the Mayor's housing ambitions. The Executive Director has formally authorised the Interim Deputy Executive Director of Housing and Land to act in his place.

This decision seeks the Interim Deputy Executive Director's approval to change the source of funds for a £10m allocation of funding for Barking Riverside Limited from the Affordable Homes Programme 2016-21 to the Accelerated Construction Fund (ACF). The reason and scope of the investment remains the same as that approved under DD2300.

Decision:

That the Interim Deputy Executive Director of Housing and Land, approves:

Expenditure of up to £10m of grant funding from the Accelerated Construction Fund under MD2396 to Barking Riverside Limited (BRL) to assist in the delivery of the infrastructure described in this paper, which will accelerate the delivery of affordable homes within the Barking Riverside scheme.

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: Rickardo Hyatt

Position: Interim Deputy Executive Director of Housing and Land

Signature:



Date: 19/12/2019

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

Background information

- 1.1. Barking Riverside Limited (BRL) is a joint venture (JV) company, the shares in which are owned by GLA Land and Property Limited (GLAP) (49%) and London & Quadrant Housing Association (51%).
- 1.2. The purpose of the JV is to prepare the Barking Riverside site for redevelopment, providing: serviced development plots for house builders; and essential physical infrastructure including highways, utilities, public realm and community facilities. The JV owns the site and has prepared, submitted and secured consent for development of the multiple phases of the scheme to deliver a total of 10,800 new homes along with seven schools, a new district centre and associated infrastructure.
- 1.3. The regeneration of Barking Riverside is underway, with 1,158 homes already completed, two new primary schools, a secondary school, a community centre and a food store either complete or underway, along with an extension to the Gospel Oak Overground line to connect to Barking Riverside.
- 1.4. GLAP has invested in the creation of BRL by the purchase of shares, and subsequently provided a loan facility to deliver the Overground extension, which is being led by Transport for London (TfL). As set out in MD1565, a total of £172m was made available to TfL by a combination of partners to fund the extension of the rail line and new station at Barking Riverside. TfL committed to funding the remaining estimated £91m required to a total funding package of approximately £263.2m (as of 2016).
- 1.5. This funding package is broken down as:
 - £55m** Senior loan facility L&Q Housing Trust
 - £48m** Junior loan facility GLA Land and Property Limited (GLAP)
 - £15m** Junior loan facility L&Q New Homes Limited
 - £9m** Barking Riverside Limited (BRL) lending (from land receipts)
 - £45m** Recycled Capital Grant Funding (GLA controlled)

Total = £172m
- 1.6. The Overground extension is critical to the delivery of Barking Riverside, particularly as the existing planning consent includes a Grampian condition requiring delivery of the rail line before further development can move forward beyond the existing levels of development consented or underway.
- 1.7. Funding was in place for key elements of the infrastructure and works underway, however an unforeseen issue was identified within one of the works packages, meaning that the available project funding may be insufficient to cover identified risks within the project. Following an assessment, this potential gap was deemed to be circa £20m of additional funding for the infrastructure project.
- 1.8. Whilst the potential to expand existing loans or invest in further loan stock within BRL were explored, the nature of the issue is that sufficient funds exist to deliver the identified works package within the current budget. However, if the identified risks occur, then additional funding would be required but the commercial balance of the scheme would not improve. Therefore, loan funding and similar interest accruing investments were not considered appropriate.
- 1.9. The opening of the station is set in 2021, and in order to meet that deadline, work commenced on the rail connections in December 2018 when Network Rail allowed access to the main rail lines over the Christmas period. The timing of DD2300 to approve expenditure of up to £10m of grant funding to BRL (with TfL agreeing to provide an equivalent amount to cover the potential funding gap) was important, as the infrastructure works contract could not be let by TfL without it and, unless works

commenced in December 2018, the potential risk to the project and to the delivery of the rail infrastructure was critical.

- 1.10. GLA approval of £10m funding was required by 30 November 2018 in order to prevent any delays to the infrastructure project caused by issues identified above. Therefore, DD2300 (approved in November 2018), agreed the allocation of £10m from the Affordable Homes Programme 2016-21 to Barking Riverside Limited (BRL) for infrastructure in the Barking Riverside development.
- 1.11. MD2396 (approved in November, albeit too late for the decision to approve the Barking Riverside £10m), approved receipt of a £486m fund from the Government to help unlock and accelerate housing delivery in London through land assembly, infrastructure investment, and provision of gap funding. This included the Accelerated Construction Fund (ACF).

Decision to change funding source

- 1.12. As outlined in DD2300, confirmation of £10m funding was required by 30 November 2018 to prevent any delays to the infrastructure project. At that time, the ACF was not yet in place, therefore DD2300 approved the funding from the Affordable Homes Programme, noting that the source of funding would be reprioritised, if and when appropriate, to the land and infrastructure funding under negotiation between the GLA and Government at that time.
- 1.13. The funding is for infrastructure rather than a grant for specific housing units and fits the parameters of the ACF. Therefore, this paper proposes that the change of funding source to the ACF is agreed, which is expected to accelerate the construction of 700 homes at 50% affordable. Without this funding, the station would not be delivered, which would delay or stop the progress of overall housing delivery on the Barking Riverside site.
- 1.14. Note that there will not be any drawdowns of the £10m prior to entry into a funding agreement between the GLA and BRL. The planned agreement will allow drawdowns based on eligible costs incurred from September 2019.
- 1.15. MD2396 delegated authority to the Executive Director of Housing and Land, in consultation with the Deputy Mayor for Housing and Residential Development, to approve, via a Director Decision, the allocation of new funding in accordance with the terms associated with the programme and in pursuit of the Mayor's housing ambitions.
- 1.16. As the GLA is unable to directly contract with TfL to specify what capital expenditure the GLA's grant will be applied to (by virtue of section 120 of the GLA Act 1999), it is proposed that these monies would be channelled through BRL, who would provide grant funding to TfL to ensure the delivery of the scheme. This would then allow BRL to impose the obligations on expenditure and drawdown on TfL that the GLA would otherwise not be able to.
- 1.17. The GLA will enter a funding agreement with BRL that replicates the required obligations on TfL. With the exception of the final bullet point which shall not be passed on to TfL, these would include:
 - a maximum of £10m of funding available;
 - that any funds are drawn down by 31st March 2021;
 - that costs and expenditure to be met from the funding are handled on an open book basis;
 - that the funds are drawn down on a pari passu basis with TfL;
 - that the monies are used only to fund risk items recorded on the project risk register and not falling within the successful bidder's contracted price; and
 - that 700 homes are delivered at an accelerated pace, starting by March 2022 and completing by March 2023.

2. Objectives and expected outcomes

- 2.1. The overarching objective is to continue the realisation of the delivery of 10,800 new homes at Barking Riverside, of which no less than 50% will be affordable. Without this funding, further infrastructure contracts cannot be let, which will result in a stalling of the scheme.
- 2.2. The outputs linked specifically to this funding, in line with the criteria for the Accelerated Construction Fund, are:

Homes: 700 homes with starts on site by March 2022 and completion by March 2023, a minimum of 50% of which will be affordable.

The Barking Riverside development, supported by this funding, has overall outputs of:

Homes: 10,800 homes commenced by 2028, a minimum of 50% of which will be affordable.

Jobs: 2,232 permanent jobs, including a new district centre.

Schools: A secondary school, 5 new primary schools and a special needs school.

Infrastructure: A new Barking Riverside Overground station and accompanying extension to the existing Overground line, along with new decentralised energy network, roads, and associated infrastructure.

3. Equality comments

- 3.1. The GLA's public sector equality duty has been considered in relation to this Decision and no specific issues have been identified as a result. The allocation of the funding in this report implements the Mayor's policies under his London Housing Strategy (LHS). An equality impact assessment of that strategy was undertaken which found that "...LHS policies are likely to have broadly positive benefits in relation to social and economic sustainability objectives such as improving health, reducing inequalities, increasing accessibility, and economic development..."
- 3.2. The Mayor's Equality, Diversity and Inclusion Strategy was issued in May 2018. The first chapter of this document is entitled "A Great Place to Live". Priority outcome 1.1 in the vision refers to delivering affordable, accessible and decent homes. This funding will help to deliver new affordable homes in London.
- 3.3. In November 2017, the GLA published an Integrated Impact Assessment of the London Plan, including an equalities impact assessment, of that strategy. The policies related to increasing housing supply, to which the Barking Riverside site will significantly contribute to, concluded that promoting the development of different types of housing to meet the needs of potential residents, whilst targeting 50% affordable housing would deliver health benefits, economics benefits and environmental benefits. Furthermore, the provision of housing – including maximising the delivery of affordable housing, would be in line with other policies of the London Plan (such as Policy 3.5), which ensure that the needs of different groups are considered when designing housing.
- 3.4. Positive contributions to equality have been considered through the Accessible London SPG which requires all new housing to be built to 'The Lifetime Homes' standard and for ten per cent of new housing to be wheelchair accessible, or easily adaptable for residents who are wheelchair users.

4. Other considerations

Key risks and issues

- 4.1. Without this funding, there is insufficient contingency within the existing budgets and critical infrastructure will not be delivered, putting significant portions of the scheme at risk.

- 4.2. The phase of the project in which risks requiring this funding may be realised is now underway, and so it is important to agree the funding source and finalise the legal agreement.
- 4.3. There is potential for the cost of the risks that materialise throughout the project exceeds £20m. The GLA has capped funding at a maximum of £10m with agreement that TfL are responsible for funding anything additional. TfL are actively managing risks in project delivery with its delivery partner and are closely monitoring the associated financial impacts.

Links to Mayoral strategies and priorities

- 4.4. The delivery of Barking Riverside is one of the Mayor's key housing projects. As such, the project contributes to the delivery and realising the vision of the London Plan, Mayor's Housing Strategy and the Mayor's Transport Strategy.

Consultations and impact assessments

- 4.5. The vision and masterplan for Barking Riverside was part of an extensive consultation process which culminated in approval of the original Planning Permission (08/00887/FUL) and subsequent Variant Planning Permission (16/00131/OUT).

Declarations of interest

- 4.6. The Executive Director for Housing & Land is also a Board Member of Barking Riverside Limited. Following discussions with the GLA's Governance Team and in the interests of transparency, the Executive Director has authorised the Interim Deputy Executive Director of Housing and Land to act in his place in relation to decision-making for this proposal and the Executive Director has confirmed they will play no role in the decision-making process. As per paragraph 7.4 of the decision-making framework, a formal written request has been made by the Executive Director to the Interim Deputy Executive Director. This has been logged with Governance.
- 4.7. The GLA Housing and Land Head of Area for the North East London, under which this project sits, is also a Board Member of Barking Riverside Limited. Therefore, he has not played any role in this decision document and the Head of Housing Delivery and Compliance has provided senior support for this decision.

5. Financial comments

- 5.1. This DD requests approval to change the source of funds from Homes for Londoners: Affordable Homes Programme to the Accelerated Construction Fund.
- 5.2. DD2300 approved expenditure of £10m for potential funding gaps for infrastructure works on the Barking Riverside scheme from the Homes for Londoners: Affordable Homes Programme. This decision proposes to change the source of funds to the ACF. Funding will be drawn down based on items on the risk register materialising, and payments will be made in arrears based on evidence of the costs being incurred.
- 5.3. The funding agreement will allow drawdown of the funds in respect of expenditure incurred from 1 September 2019.

6. Legal comments

- 6.1. The provision of financial assistance (including grant funding) for the delivery of infrastructure which unlocks new housing supply, including affordable housing supply, is permissible under sections 30(1) and 34 of the Greater London Authority Act 1999 (the GLA Act), if the GLA considers that doing this will further one or more of the GLA's principal purposes of: promoting economic and social development in Greater London, and improving the environment in Greater London. The foregoing sections of this report indicate that it is open to the Director to take the view that the provision of this £10m grant to BRL will promote social development in Greater London.

6.2. In determining whether or how to exercise the power conferred by section 30(1) of the GLA Act, the GLA must:

- (i) have regard to the effect that these decisions will have on the health of persons in Greater London, health inequalities between persons living in Greater London, the achievement of sustainable development in the United Kingdom and climate change and its consequences (sections 30(3-5) of the GLA Act);
- (ii) pay due regard to the principle that there should be equality of opportunity for all people (section 33 of the GLA Act); and
- (iii) have due regard to the Public Sector Equality Duty; namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010, and to advance equality of opportunity between persons who share a relevant protected characteristic (race, disability, gender, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it (section 149 of the Equality Act 2010).

6.3. In this respect regard should be had to section 3 above.

6.4. Section 31 of the GLA Act 1999 prohibits the Mayor from using his power in section 30(1)(a) of the Act to incur expenditure in doing anything which may be done by Transport for London, which on the face of it would prevent the GLA from incurring expenditure in providing funding for transport provision. However, section 31(5B) of the GLA Act provides that nothing in section 31(1)(a) shall be taken to prevent the Authority incurring expenditure in doing anything for the purposes of, or relating to, housing or regeneration. Accordingly, the GLA has the power to fund the proposed transport-related infrastructure within the Barking Riverside scheme.

6.5. Officers must ensure that all necessary and appropriate steps are taken and a suitable funding agreement entered into with BRL to formalise the provision of the grant funding before committing to the same.

6.6. External legal advisers have previously advised the GLA as to whether the use of grant funding towards the development costs of the extension to the London Overground Gospel Oak to Barking rail service and new station at Barking Riverside (the Barking Riverside Extension) would be compatible with State aid rules. It is important that GLA officers consider this advice when agreeing the terms of the funding agreement (in particular how the funding must be used and the infrastructure outputs) with BRL.

7. Planned delivery approach and next steps

Activity	Timeline
Approval of funding from the Accelerated Construction Fund	December 2019
Completion of contract with Barking Riverside Limited	January 2020
Funding made available	January 2020

Appendices and supporting papers:

None.

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

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

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:

Cathryn McCarthy has drafted this report in accordance with GLA procedures and confirms the following:

✓

Assistant Director/Head of Service:

Rachael Hickman 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.

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 16 December 2019.

EXECUTIVE DIRECTOR - RESOURCES:

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

Signature

M. D. Alce

Date

17.12.19

