

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2120

Title: Revoking of approvals in respect of the Garden Bridge project

Executive Summary:

The Garden Bridge Trust has been leading a project to build a 'garden bridge' spanning the River Thames from Temple to South Bank. The previous Mayor, in June 2015 and under MD1472 (as amended in April 2016 by MD1647), gave conditional approval for the GLA to provide three guarantees intended to help the Trust progress the project: to the Port of London Authority; to Westminster City Council; and to the London Borough of Lambeth. The first related to the obligations on the Trust arising from the river works licence; the second and third to securing the ongoing maintenance of the bridge.

These guarantees have not been provided.

The current Mayor has been clear that he will not permit any additional taxpayers' funds under Mayoral control to be spent on the project. After careful consideration and having reviewed Dame Margaret Hodge MP's report into the Garden Bridge, the Mayor has concluded it would not be prudent for the GLA to provide the aforementioned guarantees. Doing so would expose the taxpayer to unacceptable financial risk.

In the light of the Mayor's views, this MD proposes that the GLA does not enter into the three guarantees for which approval was given by the previous Mayor. It also proposes the revocation of the delegations and directions previously given to Transport for London (under MD1248, MD1355 and MD1472) pertaining to the project, save where necessary for TfL to fulfil any binding commitments and other related matters.

Decision:

The Mayor approves:

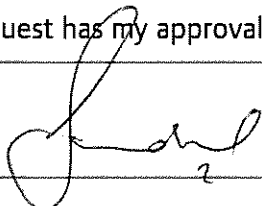
- That the GLA does not provide guarantees to the Port of London Authority, Westminster City Council and the London Borough of Lambeth in respect of the Garden Bridge and as authorised by the previous Mayor through MD1472
- The revocation of the delegation to the Executive Director of Resources to agree the guarantees' terms and conditions and related arrangements and to execute the guarantees
- That the delegations and directions to Transport for London given under MD1248, MD1355 and MD1472 are hereby revoked, save (i) to the extent that TfL has entered into binding commitments which it will need to honour; and save that (ii) TfL shall continue to perform activities relating to the Garden Bridge project necessary or expedient to protecting the interests of the GLA and TfL

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:

9/5/17

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

Decision required – supporting report

1. Introduction and background

- 1.1. The Garden Bridge is a proposed new footbridge spanning the River Thames from Temple to South Bank and incorporating public garden space. An independent charity, the Garden Bridge Trust, was established to lead the project with responsibility for constructing the Bridge and also for its future operation and maintenance.
- 1.2. A number of Mayoral Decisions were taken by the previous Mayor that were intended to support the successful construction of the Bridge by bringing to bear the resources of Transport for London (TfL) and the Greater London Authority (GLA). In summary:
 - MD1248 (August 2013) delegated powers and directed TfL to undertake activities to promote and develop proposals to facilitate the delivery of the Garden Bridge.
 - MD1355 (June 2014) updated this first direction so that TfL was also directed to provide funding of up to £30m to the Trust to secure the construction of the Garden Bridge. The £30m, of which £20m is now in the form of a loan, represented half of a total agreed funding package of £60m from the public sector, with central Government providing the remainder.
 - Under MD1472 (June 2015), the then Mayor gave conditional approval for the GLA to provide three guarantees to the Port Of London Authority, Westminster City Council and the London Borough of Lambeth. These conditional approvals have to date remained in effect, although the guarantees have not been given.
 - Also under MD1472, the direction to TfL was again updated such that it was required to budget for and perform activities to fulfil the obligations the guarantees would impose on the GLA, other than those relating to establishing, maintaining and operating the gardens and public spaces.
 - MD1647 (April 2016) amended one of the conditions to which the giving of the guarantees was subject. The Trust was required to demonstrate to the Mayor's satisfaction it had a "satisfactory funding strategy in place" to operate and maintain the Garden Bridge for at least the first five years from its completion; whereas originally it had been required to demonstrate it had secured a "satisfactory level of funding."

The current Mayor's position

- 1.3. The current Mayor has been supportive of the Garden Bridge Project, both for the benefits it could bring and because the taxpayer would be better off if it were built than not. The Mayor has also been clear he will not spend any additional taxpayer money for which he is responsible on the Garden Bridge.
- 1.4. The Mayor has, in addition, sought to bring transparency to the project and in particular as to whether value for money has been achieved. The Mayor commissioned, through MD2041, Dame Margaret Hodge MP to undertake an independent review of the project.
- 1.5. Dame Margaret's report was published on 6 April 2017.¹ In the light of that report, the Mayor has concluded that providing guarantees to the Port of London Authority, Westminster and Lambeth would expose the taxpayer to an inappropriate financial risk. The Mayor's position and rationale is set out in a letter to the Garden Bridge Trust of 28 April 2017, appended to this decision form.

¹ Under cover of MD2108.

2. Objectives and expected outcomes

- 2.1. The purpose of this MD is to revoke the conditional approvals given by the previous Mayor under MD1472, as amended by MD1647, for the GLA to enter into three guarantees in respect of the Bridge. It also proposes the revocation of the delegation and direction given to TfL under that MD and prior delegations and directions given under MD1248 and MD1355; save where:
- TfL has entered into binding commitments that it must discharge; for example, should the Trust meet any more of the conditions laid out in the grant agreement between it and TfL.
 - TfL is performing activities related to the Garden Bridge project that are necessary or expedient to protect the interests of the GLA and TfL

Rationale

- 2.2. The detailed rationale for not providing the guarantees is set out in the Mayor's letter to the Trust.
- 2.3. The Mayor concludes in that letter, with planning permission for the bridge expiring in December, it is not reasonable for him to believe the following obstacles can be overcome:
- *Agreement still not having been reached between land interests on the south bank, with this delaying the necessary formal decision making*
 - *Less than half of the required private sector funds having been pledged, never mind paid into [the Trust's] account*
 - *Material uncertainty as to whether the Trust can properly regard itself as a going concern, which together with the levels of public opposition to the project, must reasonably be expected to deter some potential donors*
 - *Consideration of [the Trust's] Operations and Maintenance Business Plan not being possible in the time required by [its] project schedule*
 - *The significant risk of further judicial reviews, with the consequent delays and costs*
 - *The endowment fund has not been established and agreeing the guarantees would remove the incentive for donors to contribute to it*
- 2.4. Given the above, were the project to progress, it would expose the taxpayer to additional financial risk, both with regard to constructing and maintaining the bridge.

3. Equality comments

- 3.1. There are no direct equality implications arising from this decision. It is being taken, in particular, with reference to the need to protect the public purse and therefore impacts equally all Londoners.

4. Other considerations

a) Risk

- 4.1. The mitigation of risk is the essence of this decision, and in particular that were the project to progress, especially with GLA guarantees, there would be significant financial risks arising from:
- further work taking place – and consequentially additional public spending being incurred – when the obstacles facing the project cannot be surmounted and so the Bridge is not constructed
 - the Bridge being partially built with insufficient private funding being raised to finish it
 - the Bridge being built but then with insufficient private funding raised annually to cover the cost of operating and maintaining it and so requiring an ongoing public subsidy

b) Links to Mayoral strategies and priorities

- 4.2. This decision is reflective of Mayoral policy as set out in the appended letter to the Garden Bridge Trust.

c) Impact assessments and consultations

- 4.3. The decision has been informed in particular by Dame Margaret Hodge's independent review into the Garden Bridge project.
- 4.4. The Mayor is required to consider what consultation, if any, is appropriate, in relation to the decisions being taken. Consultation is not considered appropriate in the particular circumstances of these decisions.

5. Financial comments

- 5.1. The original public funding commitment to the project was £60m: half each from the Department for Transport and TfL. The DfT in turn increased the GLA transport grant for 2014/15 by £30m, subject to certain conditions, so that the full £60m has rested with and been administered by TfL. Payments to the Garden Bridge Trust have been governed by a Deed of Grant and a Loan Facility Agreement that exist between TfL and the Trust. These documents are available on the TfL website.
- 5.2. Some £37.4m of public funds have been spent on the project to date. In addition, Government agreed to provide the Garden Bridge Trust with an underwriting of up to £9m, taken from DfT's £30m commitment to the project, should the Trust decide to bring the project to an end. Therefore, up to £46.4m of public funds would be unrecoverable were the project to be cancelled, which is likely if the Trust is unable to find another suitable guarantor.
- 5.3. Of the £13.6m that remains unspent and is not part of the underwriting commitment, £6.1m is from TfL. This would be reallocated to the organisation's priorities through its business planning process. The remaining £7.5m is from the DfT, and the DfT has indicated it would seek to recoup this via a reduction in a future GLA transport grant payment. This would also apply to any portion of the £9m underwriting which the Garden Bridge Trust did not call upon, such that this money will either be paid to the Trust (if required under the terms of the underwriting) or returned to the DfT (if not): the underwriting is financially neutral to the GLA and TfL.
- 5.4. The risk of losing value from the existing public expenditure, however, is outweighed by the extent of the risks arising if the Bridge continues with GLA guarantees. The annual running costs of the Bridge are estimated at approximately £3m, which the GLA would be liable to meet for the lifetime of the Bridge if the Garden Bridge Trust were unable to – less any revenues generated by the bridge.
- 5.5. If the project progresses then there is also a risk, as described in the Mayor's letter, that any shortfall in capital fundraising for the bridge would fall to the GLA or TfL. There is currently a capital funding gap of £70m.

6. Legal comments

Provision of guarantees by the GLA

- 6.1. The delivery of the Garden Bridge falls within the GLA's s.30(2) principal purposes (promoting in Greater London economic development and wealth creation, social development and the improvement of the environment) under the GLA Act. The decision for the GLA to no longer provide the PLA, Westminster and Lambeth guarantees falls within the GLA's general powers under s.30(1) – "The Authority shall have power to do anything which it considers will further any one or more of its principal purposes". Section 32 of the GLA Act requires the Mayor to consult, as appropriate, in accordance with that section when exercising his powers under section 30 of the GLA Act.

Delegations and Direction

- 6.2. MD1248, MD1355 and MD1472 asked the Mayor to delegate to TfL his powers under sections 30 and 34 of the GLA Act, and (under section 155 of the GLA Act) to direct TfL to exercise its functions as specified, in the terms specified in those Mayoral Decisions. Revocation of those delegations and directions falls within the Mayor's powers under s.38(9) and section 155 of the GLA Act.

7. Planned delivery approach and next steps

Activity	Timeline
Decision takes effect	As per the date on the front page of this form

Appendices and supporting papers

Appended

- Revocation of Delegations and Directions to Transport for London in relation to the Garden Bridge
- Letter from the Mayor of London to Lord Davies of Abersoch CBE, Chair of the Garden Bridge Trust, 28 April 2017

Supporting papers

- MD1248, Temple to Southbank Footbridge Development Proposals, August 2013
- MD1355, Garden Bridge Development Proposals, June 2014
- MD1472, Garden Bridge Guarantees, June 2015
- MD1647, Garden Bridge Guarantees, April 2016
- Dame Margaret Hodge MP's Review of The Garden Bridge, April 2017 (and associated Mayoral Decisions: MD2041 (October 2016) and MD2108 (April 2017))

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? Yes**

Until after the election so as to comply with the rules covering publicity during the pre-election period.

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:

✓

Sponsoring Director:

Fiona Fletcher-Smith 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 flagged to the Corporate Investment Board on 8 May.

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

8.5.17

CHIEF OF STAFF:

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

Signature

D. Bellamy

Date

8/5/2017

REVOCATION OF DELEGATIONS AND DIRECTIONS TO TRANSPORT FOR LONDON IN RELATION TO THE GARDEN BRIDGE

BACKGROUND

- A. A project to construct a new bridge in central London connecting Temple with the South Bank ("the Garden Bridge") is being delivered by the Garden Bridge Trust ("the Trust").
- B. Mayoral Delegations and Directions have previously been given to Transport for London ("TfL") in relation to the Garden Bridge under Mayoral Decisions MD1248, MD1355 and MD1478, under section 38(1) and section 155 of the Greater London Authority Act 1999 ("the GLA Act").
- C. The Mayor now wishes to revoke these Mayoral Delegations and Directions under sections 38(9) and section 155 of the GLA Act.

REVOCATION

In accordance with section 38(9) and section 155 of the GLA Act I hereby revoke the delegations and directions to Transport for London given under MD1248, MD1355 and MD1472, save (i) to the extent that TfL has entered into binding commitments that it will need to honour; and save that (ii) TfL shall continue to perform activities relating to the Garden Bridge project necessary or expedient to protecting the interests of the GLA and TfL

Signed



Sadique Khan
Mayor of London

Date

9/5/12

