

REQUEST FOR MAYORAL DECISION – MD1518

Title: Disposal of the former fire station site at Kingsland

Executive Summary:

The London Fire and Emergency Planning Authority (LFEPA) is currently overseeing the sale of nine of its former fire station sites at Belsize, Bow, Clerkenwell, Downham, Kingsland, Silvertown, Southwark, Westminster and Woolwich. The fire stations were closed on 9 January 2014 in accordance with the Fifth London Safety Plan 2013 - 2016 (LSP5). The Mayor is committed to supporting new school developments in London by identifying sites and targeting areas of local need. The Kingsland former fire station site would be ideal for the establishment of a new secondary school and in order to facilitate this, the Mayor should issue a direction to LFEPA that it disposes of the Kingsland fire station site to the Education Funding Agency (EFA). In order to provide reassurance to LFEPA, a letter will be provided to it by the Mayor confirming that he will increase LFEPA's funding if legal proceedings are issued as a result of the direction.

Decision:

That the Mayor directs LFEPA in relation to the disposal of Kingsland former fire station site in the form attached at Appendix B to this decision form.

That the Mayor provides a letter of comfort to LFEPA as to its financial position in the form attached at Appendix C to this decision form.

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:

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

Decision required – supporting report

1. Introduction and background

- 1.1 The London Fire and Emergency Planning Authority (LFEPA) is currently overseeing the sale of nine of its former fire station sites at Belsize, Bow, Clerkenwell, Downham, Kingsland, Silvertown, Southwark, Westminster and Woolwich. The fire stations were closed on 9 January 2014 in accordance with the Fifth London Safety Plan 2013 - 2016 (LSP5).
- 1.2 LFEPA's Resources Committee on 11 November 2013 agreed the disposal strategy for the stations which was based on LFEPA's Code of Practice on Disposal of Land. LFEPA agreed, in all cases, to secure appropriate professional valuation advice on the value of the asset and the value of the bids received.
- 1.3 On 17 March 2014, LFEPA's Resources Committee agreed that the nine former fire station sites would be advertised together on the open market as soon as possible, and accordingly advertised them via the Estates Gazette with a closing date for initial bids set for 11 July 2014.
- 1.4 The Mayor issued a direction to LFEPA on 11 July 2014 that it must report to him with all available information on the bids for the nine former fire stations submitted to LFEPA within 12 weeks of their receipt and to await the Mayor's response before entering into any agreements to dispose of the sites. The Mayor has a legitimate interest in overseeing the future development and use of the former fire stations. The direction ensured that the Mayor was fully informed about future proposals for their use.
- 1.5 The 11 July 2014 direction was considered by LFEPA's Appointment and Urgency Committee on 16 July 2014 and the Committee resolved that the report and letter enclosing the direction be received subject to the London Fire Commissioner (Commissioner) writing formally to the Mayor setting out Member's concerns. The Commissioner wrote to the Mayor on 17 July 2014 stating:
 - LFEPA is concerned that the direction has the potential to disrupt the timetable and confuse the market;
 - The Mayor could have asked for sight of the bids via the Single Property Unit;
 - LFEPA has a statutory duty to get best consideration for any sites it chooses to sell and it expects the Mayor's response to the bids to reflect this.
- 1.6 The Mayor's Chief of Staff, Sir Edward Lister, replied to that letter on behalf of the Mayor on 21 July 2014 stating:
 - Mayoral directions should not be seen as confrontational;
 - It is not the intention to disrupt the timetable and confuse the market;
 - LFEPA had rejected the approach advocated by the Single Property Unit in relation to another site and it would not be sensible to rely on it for information to be shared on the former fire station sites;
 - The best consideration dimension of the process is acknowledged and there is no attempt to undermine this.
- 1.7 LFEPA considered Sir Edward Lister's letter at its meeting on 2 October 2014, at which details of all the bids received for the sites were considered. LFEPA agreed to send the details of the bids to the Mayor and did so on 3 October 2014.

- 1.8 On 16 October 2014, Sir Edward Lister wrote to the Commissioner seeking confirmation that LFEPA had provided all available information and sought details for the planned use proposed for each site by the bidders. This letter was considered by the Appointments and Urgency Committee on 28 October and additional information requested was sent on 29 October 2014.
- 1.9 LFEPA considered a report at its meeting on 27 November 2014 which described a second round bidding process for the nine sites and it was provided with the identity of the bidders and their bids. This information was provided by LFEPA to the Mayor on 16 December 2014 in accordance with the 11 July 2014 direction.
- 1.10 LFEPA agreed to authorise the Assistant Commissioner, Technical and Support Service to complete the disposals for all stations closed under LSP5 subject to approvals set out in a closed report. It also agreed that any decision to enter into agreements to dispose of the former fire station sites was subject to a final response from the Mayor in respect of his direction dated 11 July 2014.
- 1.11 On 22 December 2014, the Mayor sent a letter to LFEPA noting that it had agreed to progress the disposals of six former fire station sites at the best prices reasonably obtainable which included the site at Kingsland. The Mayor encouraged LFEPA to progress these disposals. At that time, the Secretary of State via the Education Funding Agency (EFA) indicated that it did not intend to pursue the purchase of the Kingsland site.
- 1.12 In May 2015, LFEPA confirmed to the GLA that the preferred bidder of the Kingsland site was unable to proceed with the purchase. The EFA became aware that the preferred bidder was unable to purchase the Kingsland site. It has indicated its interest in purchasing the Kingsland site with a view to establishing a school at a price which is considered to be best consideration as determined by an independent valuer. On 5 June 2015, Sir Edward Lister sent a letter to LFEPA concerning the Kingsland site and stated that the Mayor was minded to direct LFEPA to sell the Kingsland site to the EFA and requested LFEPA Members views before deciding whether or not to issue the direction. Although the letter refers to the EFA matching the second highest bid received from the LFEPA bid process, these bids were submitted to LFEPA on 11 July 2014 and therefore do not necessarily reflect current market conditions. The EFA has carefully considered the Kingsland site, taken into account the current market conditions, and its financial resources, and made an offer to purchase the Kingsland site which it considers would represent best consideration that can reasonably be obtained.
- 1.13 On 12 June 2015, LFEPA sent a letter to Sir Edward Lister concerning several issues including the Kingsland site and stated that the site should be re-tendered in order to determine what the best price achievable is within the current market conditions, and that the EFA would have the option to submit a new bid which would be considered alongside other bids in the normal way.
- 1.14 Following consideration of the issues arising, it is now proposed that the Mayor writes to the LFEPA Chairman in the form set out at Appendix A to this decision form, enclosing the direction in the form set out at Appendix B, and the letter of comfort at Appendix C.

2. Issues

Direction

- 2.1 Whilst the Mayor does not have statutory responsibilities in the area of education, he does have a responsibility to promote the social and economic development of Greater London, which includes educational opportunities (e.g. section 31(4A) of the Greater London Authority Act 1999 permits the GLA to incur expenditure on sponsoring Academies or facilitating their sponsorship). The Mayor has made a strong commitment to prioritising young people in the capital by expanding their opportunities.

- 2.2 The Mayor recognises the importance of providing a good school place for every child and ensuring they have the skills, knowledge and creativity to succeed in life. Therefore, on 10 November 2011 the Mayor announced that he was establishing an Education Inquiry to explore the critical challenges facing London's primary and secondary schools and make practical recommendations for key stakeholders, including Government and local borough councils.
- 2.3 The Education Inquiry produced a final report which made several recommendations to the Mayor. Of particular relevance to the consideration of issuing the direction is that the report examines the growing crisis in school places and the negative consequences this will have for families across the city. The final report notes that London desperately needs more good quality provision. The Mayor wants to encourage a new generation of free schools in the capital, to help address the shortage of school places and give parents more genuine choice.
- 2.4 One of the recommendations made by the Education Inquiry was:

Recommendation 11: The Mayor's office should work with boroughs, London Councils and the DfE to play a more strategic role in supporting free school developments in London, by identifying sites and targeting areas of local need.

- 2.5 The Mayor accepted and adopted recommendation 11 and set up a unit in the GLA, called New Schools for London, which works in partnership with the London borough councils and Department for Education (DfE) to help find sites for approved new school groups. The Mayor also committed to auditing the GLA group estate for 10 buildings or sites for purchase by the DfE for new school developments.
- 2.6 The Mayor is aware that the Kingsland site is required for Hackney New Primary School, a primary feeder to New School Hackney which is a comprehensive secondary school sited a few yards across Downham Road from the Kingsland site. The school is due to open in September 2015, but is already oversubscribed. The Mayor feels that the school deserves support which can be provided to it to ensure its success and that it is able to accommodate the high numbers of children who wish to attend.
- 2.7 The EFA has considered the current market conditions, and noting that there is a demand for the school has made an offer for the Kingsland site which it considers represents best consideration. Noting that the EFA is interested in purchasing the site at a price which represents best consideration, and noting that there is demand for such a school in the area, the Mayor was of the provisional view that he could direct LFEPA to dispose of the site to the EFA. LFEPA considers that it needs to re-tender the site in order to obtain the best prices obtainable in the current market conditions. The Mayor is satisfied that LFEPA is not obliged to tender the Kingsland site in order to satisfy itself that it has obtained best consideration. LFEPA is entitled to rely upon the view of an independent professional valuer as to whether the price offered is best consideration. Therefore, in order to ensure that the Kingsland site is used for the building of a new school, a direction to LFEPA to dispose of the site to the EFA is considered the most appropriate way forward. The Mayor is therefore invited to direct LFEPA to complete and process disposal of the site to the EFA.

Indemnity

- 2.8 LFEPA requested that the Mayor gives it an indemnity in relation to the directions to dispose of the Bow, Silvertown and Southwark sites. Although the circumstances for the disposal of the Kingsland site are different from those arising in relation to the direction to LFEPA to dispose of the Bow, Silvertown and Southwark sites, it is anticipated that LFEPA will seek an indemnity from the Mayor if a direction is issued to it. Accordingly, a letter of comfort should be provided to it in similar terms to that provided in relation to the Bow, Silvertown and Southwark sites directions. This will enable the disposal of the Kingsland site to the EFA to be progressed as quickly as possible, which means that the building of the school can be facilitated sooner.

Compensation

- 2.9 In relation to the directions concerning the disposal of the Bow, Silvertown and Southwark sites, the Mayor noted that it might be appropriate to provide financial compensation to the highest bidders to cover the costs incurred in making their bids should he decide to direct. A similar offer of compensation could be offered to the next highest bidder if considered appropriate.

Regard to statutory guidance

- 2.10 The Mayor must have regard to the following when exercising the power of direction:
- The Fire and Rescue National Framework prepared under section 21 of the Fire and Rescue Services Act 2004; and
 - The fire safety enforcement guidance under article 26 of the Regulatory Reform (Fire Safety) Order 2005.
- 2.11 LSP5 is consistent with these documents and their principles in the professional view of the London Fire Commissioner. LSP5 states that Kingsland former fire station site, together with 8 other sites should be closed.

3. Equality comments

- 3.1 Section 149(1) of the Equality Act 2010 provides that, in the exercise of their functions, public authorities must have due regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - Advance equality of opportunity between persons who share a relevant protected characteristic 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.
- 3.2 The obligation in section 149(1) is placed upon the Mayor, as decision maker. Due regard must be had at the time a particular decision is being considered. The duty is non-delegable and must be exercised with an open mind.
- 3.3 Taking into account the obligations under section 149(1) of the Equality Act 2010, there are no equality implications arising from this decision.

4. Financial comments

- 4.1 The Mayor's letter of 22 December 2014 giving the go ahead to proceed with the disposal of six sites – Belsize, Clerkenwell, Downham, Kingsland, Westminster and Woolwich – means that LFEPA will be able to generate sufficient capital receipts to fund its new capital programmes for 2015-16 and 2016-17. Unfortunately, the disposal of the Kingsland site has not completed, but disposal to the EFA, as well as the receipts from the disposal of Bow, Silvertown and Southwark sites will add to the amount of capital receipts available to LFEPA. Further financial advice is set out in Part 2 of this decision form.

5. Legal comments

- 5.1 Under section 328A(1) of the Greater London Authority Act 1999 (the GLA Act) the Mayor may issue general and specific directions to LFEPA as to the exercise of its functions. LFEPA's functions include the disposal of land: section 123 of the Local Government Act 1972. The Mayor can therefore direct LFEPA as to the disposal of land, and where the disposal is for best consideration there is no need for LFEPA to obtain the specific consent of the Secretary of State or rely on the General Consent 2003 to disposal at less than best value.
- 5.2 Section 328A(5) provides that in exercising the power of direction, the Mayor must have regard to the following: (a) the Fire and Rescue National Framework; and (b) fire safety enforcement guidance. (These have nothing of any significance to say on the present matter).
- 5.3 Section 328A(4) provides that the Mayor must send a copy of the direction to the Commissioner.
- 5.4 Under section 30 of the GLA Act, the GLA has the power to do anything which furthers one or more of its principal purposes, which includes promoting social and economic development in Greater London. This will include supporting the provision of education for those living in Greater London (see section 31(4A) of the GLA Act). Providing a letter of comfort to LFEPA in order to enable the disposal of the sites to the EFA for the building of schools would be consistent with the power contained in section 30.
- 5.5 Under section 34 of the GLA Act, the Mayor could give a letter of comfort to LFEPA as it is incidental to the Mayor's powers in section 328A.
- 5.6 Further legal advice is set out in Part 2 of this decision form.

6. Investment & Performance Board

- 6.1 This approval falls outside the terms of reference of the Investment & Performance Board.

Appendices and supporting papers:

- Appendix A: Mayor's covering letter to LFEPA Chairman;
- Appendix B: Mayor's direction to LFEPA; and
- Appendix C: Mayor's letter of comfort to LFEPA.

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 – YES

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Tom Middleton 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:

Sir Edward 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

Date

CHIEF OF STAFF:

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

Signature

Date