

REQUEST FOR MAYORAL DECISION – MD1062

Title: Wembley Link Compulsory Purchase Order

Executive Summary:

The report seeks approval for the next steps in progressing negotiations and potential settlement of claims for compensation arising from the Compulsory Purchase Order at Wembley Link.

Decision:

That the Mayor:

- approves the proposed settlement with one of the two outstanding claimants on Wembley Link CPO as set out in the confidential part 2 of this paper;
- approves maximum figures as set out in the confidential part 2 of this paper for the purposes of advance payments of compensation, negotiations to settle the claims, and for the making of sealed offers, to the claimants, all in the context of currently ongoing Tribunal proceedings;
- delegates authority to the Executive Director of Resources and Executive Director of Housing & Land for approving actual figures up to the stated maximum sums.

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 **Wembley Link Compulsory Purchase Order.** The LDA secured a Compulsory Purchase Order in 2004 for a large block of land adjoining Wembley Stadium Station on the Chiltern Railway Line. The LDA planned to upgrade access to the Station, including provision of a new public square, improve links between the new National Stadium and Wembley town centre, and assemble a development site for regeneration. The project was one of a package of measures being undertaken to ensure the successful opening of the new National Stadium and seeking to secure benefits for the local area from that development.
- 1.2 The land assembly using CPO powers was secured by way of notices served in 2004 and 2007, which created a legal obligation on the LDA to compensate the affected former owners of the site. The physical works, including the iconic White Horse Bridge, have long been completed. The remainder of the site is now largely cleared and the LDA entered into a development agreement with Wembley City Estates Ltd (a subsidiary of Quintain Estates & Development) in 2004 to secure regeneration as part of the wider Wembley City area.
- 1.3 Whilst the majority of CPO claims arising out of the acquisition of the site have been settled following the land assembly work done by the LDA, there remain two open claims, the rights and obligations for which the GLA inherited from the LDA on 31 March 2012 when the LDA was abolished.
- 1.4 **CPO Claims.** There are two outstanding claims for compensation to be settled. These both relate to a block of land to the north of Wembley Stadium Station. To date, it has not been possible to agree terms to settle the claims. Since this lack of agreement was delaying the ability of the LDA to secure regeneration of the site, the LDA referred the claims to the Upper Tribunal for determination. The Tribunal process has been ongoing for a lengthy period of time, partly because of the complexity of the site, and the need to identify its redevelopment potential (the land value for which is reflected in the compensation payable). However, proceedings are now moving ahead according to a timetable ordered by the Tribunal. The claimants' Statements of Case were exchanged in December 2011, Expert Reports were lodged with the Tribunal in June 2012, and Rebuttal Reports were submitted on 7 September 2012. The Tribunal hearing itself is likely to be scheduled for early 2013.
- 1.5 In parallel with the Tribunal process, the LDA made occasional advance payments of compensation on account. This is an entitlement of the claimants but also mitigates the authority's exposure to interest on compensation that might otherwise accrue. Negotiations have also been progressing with the claimants to test the scope for a settlement outside of the Tribunal process. The submission of the evidence and rebuttals, together with experts meeting with each other, adds momentum to these negotiations and encourages a move towards an out-of-court settlement. As detailed in the Part 2 paper, negotiations have been particularly fruitful in the case of one claimant. Heads of terms have been agreed in principle and approval to these terms is specifically sought in this paper. In the event that a settlement is not subsequently concluded, then the proceedings will continue.
- 1.6 Approval is sought to make the payments that might arise within a range of potential outcomes from negotiations to attempt to settle the claims. A negotiated settlement at a reasonable level will avoid the additional costs associated with a contested Tribunal hearing and enable regeneration proposals to be firmed up.
- 1.7 Authority is also sought to the making of "Sealed Offers" within the same range of outcomes. These are offers to the claimants that can mitigate the GLA's exposure to pay the claimants' costs in the event that the Tribunal's judgement is less than the offer. A Sealed Offer can be particularly effective in encouraging a claimant to negotiate, rather than pursue an inflated and overly-

optimistic claim, as the claimant will be aware of the risk that it might have to pay some of the authority's own costs, as well as its own. The GLA has recently had two successful Tribunal decisions in the case of Chequers Corner CPO that were below the level of the Sealed Offers and where costs can potentially be reclaimed. It should be noted that the claimants can accept the Sealed Offers, which will cause an immediate settlement of the claim and liability to pay the sum offered. Any costs award is only effective against costs incurred after the date of the Sealed Offer, so costs incurred by the claimants prior to that date can still be reclaimed from the GLA, and costs incurred by the GLA cannot be recovered from the claimants.

- 1.8 Authority is also sought to the making of advance payments of compensation. Claimants are allowed to seek a 90% payment of the acquiring authority's reasonable estimate of their entitlement. Payments have the advantage of reducing potential exposure to interest that automatically accrues on outstanding compensation payments. Although interest rates for statutory purposes have been nil since March 2009, interest is payable back to the date of entry in 2004/2007 (when interest rates were positive) on the difference between what has previously been paid as advance payments and the final figure.
- 1.9 Subject to the requested authority, all individual payments and settlements will be subject to scrutiny and recommendation by external property consultants and the legal team, and the authority of the Executive Director of Resources in conjunction with the Executive Director of Housing & Land.

2. Issues for consideration

- a) Links to strategies and Mayoral and corporate priorities
The Wembley Link CPO seeks to assemble a large site for a residential-led mixed-use development. The proposal links in with the Mayor's growth plans and is part of a wider regeneration plan to ensure that the new National Stadium has a beneficial impact on the wider community.
- b) Impact assessments and Consultation
The costs claim arises from the serving of CPO notices to acquire the freehold of the site, therefore impact assessment and consultation in relation to the settlement of these claims is not applicable.
- c) Risk
Any legal proceedings carry a high degree of risk and the type of valuation approach used in this CPO case is subject to a range of risk factors, which are discussed in the Part 2 paper.

3. Financial Comments

See Part 2.

4 Legal Comments

See Part 2.

5 Investment & Performance Board

The Wembley Link CPO project was most recently reported to the Investment & Programme Board in February 2012. Further verbal updates have been presented to the Chair of IPB, the Deputy Mayor for Housing, Land & Property and key senior officers subsequently, most recently on 4 July 2012.

6 Background/supporting papers

None

Public access to information

Information in this form is subject to the Freedom of Information Act 2000 (FOI Act) and other legislation. Part 1 of this form will be made available on the GLA website within 1 working day of approval. Any facts and advice that should not be made automatically available on request should not be included in Part 1 but instead on the separate Part 2 form. Deferment is only applicable where release before that date would compromise the implementation of the decision being approved.

Is the publication of this approval to be deferred? YES

If yes, for what reason:

Although the financial details associated with this report are contained within the Part 2 form, the GLA's commercial and financial position may be undermined by disclosure of its potential strategy for making sealed offers and undertaking negotiations with claimants.

Until what date: 31 December 2013 or such earlier or later date when all Tribunal and subsequent proceedings have been exhausted.

Is there a part 2 form - YES

ORIGINATING OFFICER DECLARATION:

Tick to indicate
approval (✓)

Drafting officer:

Steven Kidd 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:

Stephen Kennard has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Sponsoring Director:

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

✓

Mayoral Adviser:

Richard Blakeway has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

OFFICER APPROVAL**Executive Director, Resources**

I have been consulted about the proposal and confirm that financial and legal advice have been taken into account 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