

GREATER LONDON AUTHORITY

REQUEST FOR DIRECTOR DECISION – DD2008

Title: Southall Gasworks Compulsory Purchase Order (Variation to Promotion Agreement)

Executive Summary:

Following the confirmation of the Southall Gasworks CPO in January 2016 and recent changes proposed to the development programme by St James West London Limited, the Executive Director for Housing & Land is asked to approve the variation to the Promotion Agreement (April 2014) through a Deed of Variation to facilitate delivery of housing development in Southall, part of the Southall Housing Zone.

Decision:

The Executive Director for Housing and Land approves the variations to the Promotion Agreement signed between GLA, St James West London Limited and St James Group Limited on 6th April 2014 (as varied on 23 September 2014) as set out in the attached Deed of Variation.

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:
David Lunts

Position:
Executive Director Housing and Land

Signature:



Date:

01/06/16

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

- 1.1. In 2014 the Mayor approved in MD 1312 the preparation of a Compulsory Purchase Order and the GLA (Regeneration of Southall Gasworks) Compulsory Purchase Order ("CPO") was subsequently made in September 2014. An Inquiry was held to consider the objections to the CPO in June/July 2015 and, after being briefly adjourned, was formally closed in August 2015. The CPO was confirmed by the Secretary of State in late January 2016.
- 1.2. Prior to making the CPO the GLA entered into a Promotion Agreement with St James West London Limited ("St James") and St James Group Limited which set out the conditions that St James would have to satisfy in order to draw down land from the GLA if the CPO were to be confirmed. The Promotion Agreement was varied for the first time in September 2014 prior to reallocate plots between the drawdown groups to enable plots providing access to the exchange land to be drawdown at the same juncture.
- 1.3. The conditions were required to ensure that St James would only draw down land when it was needed for the scheme underlying the CPO and would therefore be used for the purpose for which it was compulsorily acquired. The conditions were drafted on the basis that development would start in the west and move eastwards across the site as was contemplated at that time as a consequence of the London Borough of Ealing planning consent which required that all the remediation on the site was complete and the western access was constructed before any development could take place on site (Condition 17 on the Ealing Planning Permission (P/2008/3981)). The purpose of this condition was to secure the holistic regeneration and development of the site and to avoid a situation where the site was not developed to its full capacity.
- 1.4. The land parcels were divided into three groups in line with the anticipated delivery programme and conditions were placed on St James that were appropriate to the purpose for which the land is to be drawn down. No conditions were placed on the Group 1 interests which includes the land to be exchanged for open space acquired pursuant to the CPO. This was because St James would need to draw down these land interests first in order to deliver the exchange land. The exchange land must be prepared and ready for transfer before acquisition of the open space land is possible and consequently there is no foreseeable benefit to St James to hold the exchange land except with intention to prepare it to become public open space.
- 1.5. Conditions were placed on the land interests identified in Groups 2 and 3 (as set out in the appended Promotion Agreement Appendix 1) to ensure that development on the land drawn down in those groups would follow draw down of the same.
- 1.6. Since the completion of the Promotion Agreement St James has been seeking to satisfy the relevant conditions to enable it to draw down the land included in the CPO and has been providing the GLA with an updated tracker and target dates for completion of the conditions.
- 1.7. Under the Promotion Agreement St James was required to enter into a variation to the Section 106 agreement pursuant to the Gasworks development permission as a condition of drawdown of land from the GLA. The variation was to provide GLA with delivery certainty through accelerating payments that St James had committed to make under the S106 when reaching defined milestones.

The obligation on St James to make accelerated payments pursuant to the varied s106 agreement was considered by the GLA to provide sufficient incentive to St James to deliver in accordance with the agreed milestones.

2. Objectives and expected outcomes

- 2.1. Since the Promotion Agreement was signed in April 2014 the programme has been re-sequenced to take into account a relaxation of Condition 17 by London Borough of Ealing (approved April 2016) and the introduction of a Housing Zone in Southall which includes 425 units on the Gasworks site.
- 2.2. As part of the wider improvements to the Southall area London Borough of Ealing is undertaking bridge improvement works to improve the South Road bridge. Track possessions to complete these works are required before the arrival of Crossrail at Southall station in 2018 after which time the possessions will be significantly more difficult and costly to obtain.
- 2.3. St James approached the GLA in April 2016 with a proposal to vary the application of the conditions as a consequence of the re-sequencing of the development. The GLA has worked with its external legal advisors to review the proposed amendments to ensure that the GLA retains control over the drawdown of land pursuant to the CPO whilst ensuring that delivery of housing on this key site is not delayed. As a result, the GLA has not accepted all of the changes proposed by St James but has instead worked to reach a compromise acceptable to both the GLA and St James.
- 2.4. In reviewing the document effort has been made to keep the changes to an absolute minimum, to not strike anything out, and to introduce additional conditions on the Exchange Land to ensure that the GLA's position is not compromised. The GLA recognises that it is important to facilitate the changes to accommodate the variations to the programme to enable the early delivery of homes through the Housing Zone.
- 2.5. By transferring conditions from Group 2 to Group 3 and by introducing additional conditions to Group 1 the GLA is satisfied that it has not compromised the original position established by the Promotion Agreement to secure the requisite pace of delivery but is still facilitating the prompt start of the proposed development
- 2.6. As set out above, the Promotion Agreement requires St James to have entered into a Deed of Variation to the Section 106 agreement, the form of which was agreed by GLA and St James at the time of signing (April 2014) and St James needed to progress the matter with the London Borough of Ealing as Local Planning Authority. The Deed of Variation has yet to be completed and therefore St James has requested an extension of time to enable the agreement to be completed by all parties. The GLA recognises that the delay does not impact on the immediate control of the project as St James will remain subject to the identified conditions and the milestone dates will not be reached within the extension period. The GLA has therefore agreed to an extension to the condition until October 2016, following which date no further land can be drawn down until the Deed of Variation is completed.
- 2.7. The proposed changes to the Promotion Agreement are set out in Appendix 2.

3. Equality comments

- 3.1. The approval covers changes to an existing legal document and there are not considered to be any equalities impacts of these changes.
- 3.2. The equality considerations of the wider project have been covered by the Southall Equalities impact assessment.

4. Other considerations

4.1. Risks – compromising GLA's control

Changes to the Promotion Agreement must maintain the GLA's position with regards to the conditions placed upon St James to demonstrate that development of the land will proceed following its acquisition pursuant to the CPO. The GLA has scrutinised the proposed changes and required further conditions to be imposed in consequence of this.

4.2. Risks – impediments to delivery

The demand for housing in London is very high and the proposed redevelopment of the Southall gasworks will create a mix of homes in an identified Opportunity Area. By amending the Promotion Agreement in this way the GLA is supporting the accelerated delivery of housing in Southall.

5. Financial comments

5.1. The paper is seeking approval for variations to the Promotion Agreement for the Southall Gasworks development. The variations will provide GLA with greater certainty of delivery and will secure payments to the London Borough of Ealing, should the developer fail to deliver as required in the s106 Agreement. There are no budget implications arising from the variations. The GLA has a full indemnity in place from St James and these amendments do not impact upon it.

6. Legal comments

6.1. Legal comments were made in previous approval papers in relation to the Promotion Agreement and the GLA's powers to enter into it. The GLA has received advice from its external lawyers in relation to the effect of the proposed Deed of Variation referred to in this report.

6.2. The GLA's Head of Governance and Resilience has confirmed that the decision requested falls within the statutory powers of the Authority exercisable by the Executive Director of Housing and Land. Therefore the Executive Director of Housing and Land may approve the entry into the Deed of Variation referred to in this report if he is satisfied with the content of this report.

7. Planned delivery approach and next steps

Activity	Timeline
Sign Deed of Variation to the Promotion Agreement	May 2016
Issue General Vesting Declaration notices to Group Two properties	June 2016 onwards
Start on site	July 2016
Completion of Housing Zone homes	November 2018

Appendices:

Appendix 1 – Redacted Promotion Agreement

Appendix 2 – Supplemental Agreement to the Promotion Agreement

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**

The Part 1 should be delayed until 30 June to enable the legal documents to be completed.

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:

Philippa Bancroft has drafted this report in accordance with GLA procedures and confirms that:

✓

Assistant Director/Head of Service:

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

✓

Financial and Legal advice:

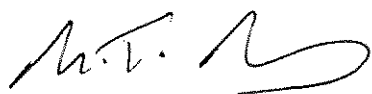
The Finance and Legal teams have commented on this proposal, and this decision reflects their comments.

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature



Date

01.06.16

TOM MIDDLETON ON BEHALF OF MARTIN CLARKE

