

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2655

Title: Royal Docks Electricity Reinforcement

Executive Summary:

This Decision Form requests approval of up to £25.218 million investment to reinforce the electricity supply to the Royal Docks Enterprise Zone. Whilst MD2338 delegates decisions relating to the Royal Docks Enterprise Zone to the Executive Director for Housing and Land, this is considered a novel project requiring a Mayoral Decision.

All the key development sites in the Royal Docks require significant electricity supplies to enable their development. The wider Royal Docks & Beckton Opportunity Area Planning Framework will support delivery of 25,000 homes and 60,000 jobs and this investment will contribute towards that aim by providing a critical piece of new electricity infrastructure.

Decision:

That the Mayor:

1. approves up to £25.218 million investment to fund the GLA's contribution to the electricity reinforcement works as set out in Part 2 of this form;
2. approves the acceptance of UK Power Network's (UKPN) connection offer in relation to the electricity reinforcement works that are the subject of the first decision above, including an initial payment to secure the connection offer as detailed in Part 2 of this form;
3. approves an exemption from the GLA's Contracts and Funding Code to allow the GLA or one of its subsidiaries to enter into an agreement with UKPN in relation to the non-contestable electricity reinforcement works;
4. approves the disposal of land at Gallions Reach by either a freehold transfer or long lease in excess of seven years for a new sub-station to UKPN at nominal value as set out in Part 2 of this form; and
5. delegates to the Executive Director for Housing and Land the authority to make all further decisions in relation to the following matters via a Director Decision Form (DD):
 - further GLA investment in the electricity reinforcement works that are the subject of the first decision above (including but not limited to) the release of further payments to UKPN and those elements of the project that are to be funded by GLA; and
 - the disposal of land that is the subject of the fourth decision above.

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:

23 July 2020

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

Decision required – supporting report

1. Introduction and background

- 1.1. The Royal Docks is one of London's most distinctive economic locations and largest regeneration projects, with the potential to deliver 60,000 jobs and over 25,000 homes over the next 20 years. The Mayor of London and the Mayor of Newham are jointly leading the regeneration of the area through its Enterprise Zone status, which is funded through the ringfencing of business rate income collected within the zone.
- 1.2. All the key development sites across the Royal Docks will require significant electricity supplies to enable their development and to secure these supplies the developers are reliant on the wider distribution network. However, the current network is unable to accommodate this growth. Mayoral Decision (MD) 2338 approved expenditure of up to £212.5 million for the five-year Royal Docks Enterprise Zone Delivery Plan to deliver an integrated and catalytic package of projects under the strategic objectives of Place, Connectivity, Economy, Activation and Promotion. The LEAP Board endorsed the Royal Docks EZ Delivery Plan in June 2018. A budget of £97.5 million within the Delivery Plan is allocated to Connectivity projects, which included an allocation for this project. MD2338 includes a delegation for future funding decisions relating to the Enterprise Zone to the Executive Director for Housing and Land. However, since this project involves direct investment in the provision of electricity infrastructure it is considered novel. In line with the Mayoral decision making in the GLA (the Scheme of Delegation), such proposals require a Mayoral Decision.
- 1.3. In 2017, prior to the Royal Docks EZ Delivery Plan, AECOM were commissioned to (i) analyse the development trajectory in the Royal Docks; (ii) assess the extent to which new supply capacity would be needed to meet this new demand; and (iii) identify how this new supply could be provided. This identified that over the lifetime of the Enterprise Zone, the additional electricity capacity required could reach c.180MVA.
- 1.4. This amount of new demand requires major investment in the reinforcement of the electrical supply network. Most of this would normally be undertaken by the Distribution Network Operator (DNO), which in the Royal Docks is UKPN. However, UKPN confirmed through discussions that it was not prepared to invest ahead of need at such scale. This is within their rights and, in any case, they are prevented by the applicable regulations from investing speculatively in some circumstances.
- 1.5. Under such circumstances, as a developer seeks a new major connection, the developer is required to pay a significant sum to provide capacity. In this case, this would require delivery of a new primary sub-station which will serve not just the first development but the wider area. If the developer is able to pay the significant level of investment required, then this money may be returned to the developer through charges to others seeking a future connection. However, this is not certain and is likely to create major cash flow issues to developers given the scale of works required.
- 1.6. The electricity market is heavily regulated and is based on a series of geographical areas with some services being provided via a monopoly position. The management of this monopoly and the extent to which this applies is complex and linked to a series of regulations. Works to the network in some instances can only be done by the DNO, termed non-contestable works. When the works are non-contestable and the DNO must undertake them, there is no procurement process and the costs are linked to a regulated process. Other works to the network can be undertaken by others and so are subject to competition, which are termed contestable works.
- 1.7. The Royal Docks EZ Delivery Plan set out the case for correcting this market failure by forward funding 100% of the cost of at least one new primary substation, thereby creating a new supply at the Royal Docks. Developers would then connect to the primary sub-station with costs shared equitably to their development sites as a means of recovering some of the initial investment.

- 1.8. In December 2018, DD2297 approved £410,000 for professional fees to work with AECOM to commission a new supply from UKPN and seek the best commercial position. In December 2019, AECOM (on behalf of the Royal Docks Team) submitted a formal request to UKPN for 88MVA of capacity, representing the medium-term needs of the Royal Docks. UKPN has responded setting out the scope of work, cost and timescales for delivery to GLA for the upstream improvements required to provide this capacity (see Part 2 with the full UKPN response at Annex 1). The costs to deliver these works are also set out in Part 2. In addition to the payment to UKPN, there are certain items that GLA is responsible for (also set out in Part 2) and these are currently estimated costs subject to further design, tendering and costing. The current estimate, with appropriate contingency, is a total project cost of £25.218m.
- 1.9. This will include providing land to accommodate the substation at nominal value. The parcel of land considered for this is identified at Annex 2 and the precise location for the substation will be determined by ongoing site investigations. The options for the disposal are set out at Part 2 of this form and will be subject to a further Director's Decision.
- 1.10. In accordance with London Economic Action Partnership (LEAP) governance and funding responsibilities for all Royal Docks Enterprise Zone projects, the investment set out in this Decision was considered and endorsed by the Royal Docks Enterprise Zone Programme Board on 27 May 2020 and the LEAP Board on 24 June 2020.

2. Objectives and expected outcomes

- 2.1. The scheme of works that will be secured are set out in Part 2. Delivery of these works will secure significant additional power capacity for the Royal Docks, securing medium-term development opportunities that will meet the aims and objectives of the Royal Docks EZ Delivery Plan. It will also ensure a coordinated and holistic approach to power reinforcement, with investment ahead of need and reducing the risk to development partners in the Royal Docks.
- 2.2. To secure UKPN's connection offer, an upfront payment is required from the GLA on the terms described in Part 2. Further scheduled payments will then be made across a number of years. Without this initial payment, UKPN may (i) withdraw its connection offer; and (ii) prioritise connection requests by third parties in relation to the Royal Docks, which may not be tailored to provide enhanced electricity capacity for the Royal Docks. Therefore, this could jeopardise future network capacity to support the development of the Royal Docks, delay delivery or result in an increase in associated costs as part of any revised connection offer. Full funding release is required to comply with procurement regulations and so release of this funding (as detailed in Part 2) is requested.
- 2.3. The said upfront payment will allow for further discussions between the Royal Docks Team and UKPN to develop the initial connection offer into a final design and agreement. Further matters for development include the full terms of an agreement between the parties, detailed design proposals for the substation and the associated disposal route. Consequently, it is not at present possible to provide detailed costings for all works proposed and so a budget for substation delivery and additional contingency for upstream works have been included in the funding envelope for approval. It is proposed that the decision to (i) release payments to UKPN beyond the upfront payment to secure the connection and (ii) agree associated funding decisions for the substation, including the details of the disposal of land at Gallions Reach, be delegated to the Executive Director for Housing and Land. Such decisions and releases of payments would only be undertaken once appropriate detailed agreements have been reached with UKPN and the designs of the substation are finalised.
- 2.4. Should the decision be taken through negotiations not to proceed past the initial design phase that is the subject of the upfront payment, UKPN has confirmed that any funding provided will be returned to the GLA minus any costs incurred by UKPN. Further discussion of the GLA's termination rights are included in Part 2 of this decision form.

3. Equality comments

- 3.1. Under Section 149 of the Equality Act 2010, as a public authority, the GLA must have 'due regard' of the need to:
- eliminate unlawful discrimination, harassment, and victimisation; and
 - advance equality of opportunity and foster good relations between people who have a protected characteristic and those who do not.
- 3.2. The proposed electricity upgrade is not expected to have any impact on those with protected characteristics as it will merely expand the existing network and will support the provision of more electricity. However, improvements in power supply will allow for the delivery of additional housing (including affordable housing) and employment opportunities across the Royal Docks Enterprise Zone, leading to improvements in housing and job opportunities for all, including those with protected characteristics.
- 3.3. The design of the electricity substation shell and the associated public realm will be subject to review to ensure that it does not have any negative impacts on those with protected characteristics.

4. Other considerations

- 4.1. Key risks associated with this approval are as follows:
- *Loss of connection offer* – as described previously, UKPN's connection offer is time limited and dependent on an initial upfront payment to secure it. Should funding not be approved and payment made, other connection offers in the area may be prioritised. This could jeopardise future network capacity to support the development of the Royal Docks, delay delivery or result in an increase in associated costs as part of any revised connection offer.
 - *Cost recovery* – it is proposed that costs to deliver this infrastructure will be recovered from developers on a proportionate and equitable basis as development occurs. The Royal Docks Team is receiving legal advice on the appropriate mechanism to do so. The general principle is that as developers seek a low voltage connection from the primary sub-station, they will pay a cost proportionate to the capacity they consume. However, it is unlikely that costs will be recovered in full. The model is not sufficiently developed for inclusion as part of this approval given the timescales required to secure UKPN's connection offer but will be included for approval as part of the Director's Decision.
 - *Power ringfencing* – under the terms of the Regulations, power supply will be reserved for a period of 12 months following completion of the works. However, UKPN has indicated that the 88MVA secured by the Royal Docks may be ringfenced beyond this period in accordance with the schedule of development provided as part of the connection offer, as such this will be investigated further. Any bespoke agreements will be captured through Heads of Terms.
 - *Cost liability* – cost liability is not capped under UKPN's standard terms and conditions. However, it is considered that sufficient contingency has been included in the funding envelope to account for any cost overruns. Moreover, the Royal Docks Team will work with UKPN to ensure robust mechanisms and processes are in place to robustly and effectively manage delivery to minimise cost overruns to ensure value for money.
 - *Programme* – UKPN is proposing that the programme for completion of works is 2025. These timescales may have knock on effects to development timelines for the Royal Docks and developer confidence. We are working with UKPN to see how these timescales can be reduced and using consultancy input to manage work programmes.
- 4.2. This project will support the implementation of a number of the Mayor's policies such as the London Plan, A City for All Londoners, Healthy Streets Approach, the Mayor's Transport Strategy, London

Housing Strategy, London Environment Strategy and is aligned with the Mayor's Equalities Framework to consider the requirements of relevant equalities groups.

- 4.3. Consultation with development partners across the Royal Docks has taken place to establish the power requirements identified and which informs UKPN's connection offer. Further consultation will also be undertaken in the design of the substation shell and associated public realm as well as through the associated planning permission.
- 4.4. There are no conflicts of interest to declare for the officers involved in the drafting or clearance of this Decision form.

5. Financial comments

- 5.1. This decision requests the approval of the Mayor for £25.218 million of capital expenditure to fund the GLA's contribution to the electricity reinforcement works as detailed in Part 2 of this form.
- 5.2. This decision also requests that the Mayor:
 - approves the acceptance of the UKPN connection offer with an initial payment of £150k and further phased payments as detailed in Part 2 of the form and an exemption from the GLA's Contracts and Funding code with UKPN due to non-contestable electricity reinforcement works;
 - approves the disposal of GLAP land at Gallions Reach by either a freehold transfer or long lease for a new sub-station to UKPN at a nominal value as set out in Part 2 of this form; and
 - delegates to the Executive Director for Housing & Land the authority to make all further decisions details of this transaction as set out in Part 2 including releasing payments to UKPN and further sub-station works delivered by the GLA.
- 5.3. The expenditure will be funded from the Connectivity Theme of the Delivery Plan as set out in MD2338 and will be incurred as staged payments over the next 5 years as detailed in Part 2 for this form.
- 5.4. Detailed advice on corporation tax and VAT will be required.

6. Legal comments

- 6.1. The foregoing sections of this report indicate that the decisions requested of the Mayor fall within the statutory powers of the Authority to promote and/or to do anything which is facilitative of or conducive or incidental to economic development and wealth creation within Greater London and in formulating the proposals in respect of which a decision is sought the officers have complied with the Authority's related statutory duties to:
 - (a) pay due regard to the principle that there should be equality of opportunity for all people;
 - (b) consider how the proposals will promote the improvement of health of persons, health inequalities between persons and to contribute towards the achievement of sustainable development in the United Kingdom; and
 - (c) consult with appropriate bodies.
- 6.2. In taking the decisions requested of him, the Mayor must 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). To this end, the Mayor should have particular regard to section 3 (above) of this report.

Acceptance of UKPN's connection offer

- 6.3. The Electricity Act 1989 makes it a criminal offence for any person to undertake electricity distribution without an electricity distribution licence. UKPN's electricity distribution licence, as granted by the Office of Gas and Electricity Markets, sets out those works which are non-contestable and which must therefore be undertaken by UKPN.
- 6.4. At this stage, the final value of the non-contestable works in UKPN's offer is not yet known. However, it is certain that they will exceed £150,000. To that end, the Authority's Contracts and Funding Code (the "Code") requires that the Authority run a procurement which complies with the requirements of the Public Contracts Regulations 2015 (the "PCR").
- 6.5. Regulation 32 of the PCR provides that the Authority may award a contract without first undertaking a competitive procurement, where competition is absent from the market due to exclusive rights so long as no reasonable substitute exist and the absence of competition is not artificially contrived. As set out at paragraph 6.3 above, UKPN is the only organisation, which is licensed to carry out the non-contestable works. To that end, the Authority may accept UKPN's connection offer and enter into a contract to with UKPN in relation to the non-contestable works without first undertaking a competitive procurement. Furthermore, the Mayor may approve the attendant exemption from the requirements of the Code, if he be so minded.
- 6.6. The officers are reminded that, unlike the non-contestable works, all of the contestable works remain subject to the requirements of the Code and the PCR.

Disposal of the land

- 6.7. Regarding the proposed disposal of land at Gallions Reach, the GLA should obtain full and proper legal advice for the transaction proposed in advance of any delegated decision including taking into account any advice on best consideration.

Delegation of powers

- 6.8. Any function exercisable by the Mayor on behalf of the Authority may also be exercised by an employee of the Authority albeit subject to any conditions which the Mayor sees fit to impose. To this end, the Mayor may make the requested delegation to Executive Director of Housing & Land if he so chooses.

7. Planned delivery approach and next steps

- 7.1 The UKPN offer will be signed and initial payment made by the 31st July 2020 to secure the offer. Officers will then work with UKPN to develop the initial connection offer into a final design and agreement as well as the details of the land disposal. These will be subject to a delegated Director's Decision and further payments will then be made to UKPN in accordance with the schedule of payments included at Annex 1.

Activity	Timeline
Deadline for signing UKPN offer	31st July 2020
Detailed design by UKPN	Late 2020
Detailed design by GLA	Late 2020
Delivery End Date	December 2025

Appendices and supporting papers:

Appendix 1: UKPN Connection Offer

Appendix 2: Plan of site for substation

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

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 – YES

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Steve Sheasby has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

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

✓

Mayoral Adviser:

Tom Copley has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

Corporate Investment Board

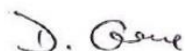
This decision was agreed by the Corporate Investment Board on 20 July 2020.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

Date



22 July 2020

CHIEF OF STAFF:

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

Signature

Date



20 July 2020