

**DIRECTOR DECISION – DD124**

**Title: Appointment of financial viability consultants in association with the planning application for '115-129a Scrubs Lane'.**

**Executive Summary:**

Financial viability consultants are required to provide expert assistance to OPDC in respect of a forthcoming planning application for minor material amendments to planning permission 16/0119/FUL at 115-129a Scrubs Lane, London, NW10 6QY (known as 'North Kensington Gate South'). This is necessary to ensure robust consideration of the applicant's financial viability appraisal (FVA) and secure the best possible affordable housing outcome.

The appointment will be subject to a competitive tender process in accordance with the OPDC Contracts and Funding Code.

The estimated maximum value of the contract is £20,000. These costs will be recovered from the applicant via an undertaking which will be secured prior to work commencing.

**Decision:**

That the Director approves:


- Expenditure of up to £20,000 for the procurement and appointment of external consultants to undertake an assessment of a financial viability appraisal in association with the development at 115-129a Scrubs Lane, London, NW10 6QY, for which the costs of which are to be met in full by the applicant.
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**AUTHORISING DIRECTOR**

I have reviewed the request and am satisfied it is correct and consistent with the OPDC business plan and priorities. It has my approval.

**Name:** CLAIRE O'BRIEN

**Position:** INTERIM ASSISTANT  
DIRECTOR OF PLANNING

**Signature:** 

**Date:** 20.02.2020

## **PART I - NON-CONFIDENTIAL FACTS AND ADVICE**

### **Decision required – supporting report**

#### **1 Introduction and background**

- 1.1 In June 2018, OPDC granted planning permission for: *“Demolition of existing buildings and redevelopment of the site to provide a new building ranging from 6 storeys (25.1 metres above ground level) to 22 storeys (80.4 metres above ground level) in height over a new excavated basement, comprising 750sqm (GIA) of ground floor commercial floorspace (use class A1/A2/A3/B1) and 164 residential units (use class C3), with basement car parking and plant space, landscaping and associated works.”* at 115-129A Scrubs Lane, London, NW10 6QU (‘North Kensington Gate South’).
- 1.2 BNP Paribas were appointed by OPDC to advise on the FVA submitted in support of the consented scheme. That scheme was a build-for-sale scheme and provided 30% affordable housing with a mix of shared ownership and London Living Rent units.
- 1.3 City & Docklands have indicated that they intend to submit a S73 application for minor material amendments to the extant consent, to increase the number of residential units from 164 to 203 through to the height and massing of the building. The applicant is also seeking a change in tenure from build-for-sale to build-to-rent. OPDC and City & Docklands had a pre-application meeting in October 2019 and an application is expected in February 2020.
- 1.4 London Plan policy 3.12 requires new developments to provide the maximum reasonable amount of affordable housing in residential developments, taking account of their individual circumstances including development viability, the availability of public subsidy, the implications of phased development including provisions for re-appraising the viability of schemes prior to implementation (‘contingent obligations’), and other scheme requirements. Draft London Plan policy H4 and draft OPDC Local Plan Policy H2 seek to deliver 50% of new homes as affordable housing.
- 1.5 The applicant has indicated that the affordable housing offer will not qualify for the ‘fast-track route’ of the threshold approach set out in draft London Plan policy H6. It will therefore be required to follow the viability tested route by submitting a financial viability appraisal undertaken in accordance with the Mayor’s Affordable Housing and Viability SPG.

#### **2 Objectives and expected outcomes**

- 2.1 The appointment of viability consultants is required to assist OPDC in undertaking a robust assessment of the FVA submitted in support of the application, in order to support OPDC in negotiating the maximum amount of affordable housing that the scheme can deliver.
- 2.2 The use of external consultants provides the expertise necessary to ensure that the decisions issued by OPDC are robust and are less susceptible to legal challenge. Legal challenges could result in delays to the delivery of development on this key site with implications for the delivery of residential development along Scrubs Lane.
- 2.3 Consultants with suitable experience and qualifications are required to provide the necessary expertise and ensure OPDC meets its statutory duties with regard to the assessment and determination of the planning application. The expenditure on external consultants for this work is expected to be up to a maximum of £20,000. This cost will be funded by the applicant via a written undertaking which will be secured prior to the work commencing.
- 2.4 The key deliverable will be a report to OPDC commenting on all aspects of the applicant’s FVA including the land value adopted, the appropriateness of construction and other costs adopted by the applicant, the appropriateness of residential and non-residential sales/rental values adopted by the applicant, and whether the target profit level sought is reasonable.

### 3 Equality comments

- 3.1 Under section 149 of the Equality Act 2010, in making these decisions “due regard” must be had to the need to eliminate unlawful discrimination, harassment and victimisation as well as to advance equality of opportunity and foster good relations between people who have a relevant protected characteristic and those who do not. Protected characteristics include age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation (and marriage or civil partnership status for the purpose of the duty to eliminate unlawful discrimination only).
- 3.2 Securing appropriate financial viability advice in relation to the 115-129A Scrubs Lane planning application will contribute to the delivery of the regeneration objectives for Old Oak and Park Royal, as set out in the Opportunity Area Planning Framework and the draft OPDC Local Plan. Ensuring the development provides the maximum viable amount of affordable housing will increase the housing supply for people in housing need and on low incomes.

### 4 Other considerations

#### Key risks and issues

- 4.1 The contract will be managed in accordance with OPDC standard risk management procedures. If consultants are not appointed to assist with the work, there is a risk that OPDC's assessment of the applicant's FVA would not be sufficiently robust owing to the complexity involved in undertaking financial viability assessments and the range of factors that need to be considered. There is also a risk that the maximum viable amount of affordable housing will not be secured.

#### Links to OPDC strategies and priorities

- 4.2 The delivery of the 115-129A Scrubs Lane site represents a critical objective of the OPDC draft Local Plan for Scrubs Lane which supports the delivery of a range of mixed used development along Scrubs Lane by contributing to the delivery of 1,200 new jobs and a minimum of 2,600 new homes including 1,950 new homes within the first 0-10 years

#### Impact assessment and consultations

- 4.3 The planning application will be subject to public consultation in accordance with the Town and Country Planning (Development Management Procedure Order) 2015.
- 4.4 OPDC consulted on Regulation 19(2) of the OPDC draft Local Plan in June-July 2018 before going through public examination between April and July 2019.

### 5 Financial comments

- 5.1 The expenditure requested in this decision will be met by the Planning Directorate in the first instance but the costs will be recovered in full from the applicant.

### 6. Planned delivery approach and next steps

Activity	Timeline
Invitation to Tender issued	w/c 17 Feb 2020
Deadline for receipt of bids	w/c 2 March 2020
Award subject to contract	w/c 9 March 2020
Review of applicant's financial viability appraisal	TBC
Complete assessment of financial viability appraisal	TBC

**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 OPDC 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**

This Director decision includes the overall project budget for appointing consultants to provide expert advice to OPDC during pre-application discussions and any planning application associated with the development of 115-129A Scrubs Lane. It is important that this information is not made public in advance of this as it could lead to consultants providing inflated prices to complete the works. This information should not be made public until after the consultants have been appointed.

Until what date:

**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 (✓)

*[DO NOT DELETE CONTEXT IN THIS BOX]*

**Drafting officer:**

Sophie Lee has drafted this report in accordance with OPDC procedures and confirms that:

**Finance advice:**

The Finance team have commented on this proposal, and this decision reflects their comments

**Legal advice:**

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

**CHIEF FINANCE OFFICER:**

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

**Signature** 

**Date** 19 FEBRUARY 2020