

# GREATER LONDON AUTHORITY

## REQUEST FOR ASSISTANT DIRECTOR DECISION – ADD361

### Title: The Lenox Project Feasibility Study at Convoys Wharf

#### Executive Summary:

The Mayor, acting as Local Planning Authority, decided to approve planning permission for the Convoys Wharf planning application in Deptford. In order to secure a Feasibility Study for The Lenox Project in accordance with the Mayor's decision, it has been necessary for GLA officers to commission an independent assessment team to undertake the study. The GLA will recover the cost of this work from Convoys Properties Ltd.

#### Decision:

That the Assistant Director approves expenditure of up to £26,120 on independent technical feasibility advice from Buro Happold Ltd. in 2015-16, the cost of which is to be fully recovered from the applicant.

#### AUTHORISING ASSISTANT DIRECTOR/HEAD OF UNIT:

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: Stewart Murray

Position: Assistant Director – Planning

Signature:



Date:

17/11/15

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

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

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

- 1.1. On 30 October 2013 the Mayor of London issued a direction to Lewisham Council setting out that he would act as the Local Planning Authority for the purpose of determining a strategic planning application at the Convoys Wharf site in Deptford, Lewisham ("Convoys Wharf"). The application proposes wholesale redevelopment of the 16 hectare brownfield site to deliver a mixed use development including up to 3,500 new homes (of which, 525 would be affordable homes).
- 1.2. The Mayor's decision to take over and personally determine this application is exceptional, and followed a breakdown in the working relationship between Lewisham Council and the applicant team (full details are available on the GLA website here: [www.london.gov.uk/priorities/planning/strategic-planning-applications/mayors-planning-decisions/convoys-wharf](http://www.london.gov.uk/priorities/planning/strategic-planning-applications/mayors-planning-decisions/convoys-wharf)). At the time of making his decision to take over the application, the Mayor stressed his view that the case should be determined as swiftly as possible.
- 1.3. On 31 March 2014, having considered the facts of the case at a public Representation Hearing, the Mayor decided that planning permission should be granted subject to various conditions and the completion of a Section 106 Legal Agreement ("Section 106 Agreement") (full details are available on the GLA website here: [www.london.gov.uk/priorities/planning/public-hearings/convoys-wharf](http://www.london.gov.uk/priorities/planning/public-hearings/convoys-wharf)).
- 1.4. One of the stipulations of the Mayor's approval was that an Independent Feasibility Study ("Feasibility Study") be undertaken to determine the most feasible location for a community project known as The Lenox Project ("the Lenox Project") to take place at Convoys Wharf. As part of his planning decision, the Mayor endorsed GLA officers' recommendation that the Feasibility Study should be secured as part of the Section 106 Agreement.

#### The Lenox Project

- 1.5. The Lenox Project is a heritage-led community project which proposes to build and launch a full sized replica of seventeenth century warship Lenox. The Lenox Project vision also includes a home berth for the ship, and seeks to generate local training and employment opportunities associated with the shipbuilding process, and to create a legacy of repairing and/or building other historic vessels.

#### The Feasibility Study

- 1.6. The Feasibility Study is a multidisciplinary assessment of project feasibility which considers a wide range of technical matters (including: financial viability, heritage impact and environmental impact). The scope of the Feasibility Study, and the programme for undertaking it, is defined by the Section 106 Agreement. The related obligations on the GLA require that the authority has regard to potential suppliers suggested to it by the Applicant and the Lenox project, and that the authority commissions the study within two months of the date that the Section 106 Agreement was signed (i.e. by 11 May 2015).
- 1.7. In addition, the terms of the Section 106 Agreement require that Convoys Properties Ltd. ("the Applicant") pays the GLA £20,000 towards the study. The GLA and the Applicant have also entered into a separate Project Planning Performance Agreement ("PPPA") to cover other reasonable costs (up to an additional £6,120) that the GLA may incur as part of its role in commissioning the Feasibility Study.

### Selecting a preferred supplier

- 1.8 In total the GLA invited eleven potential suppliers to tender for the project (including two suppliers suggested by the Applicant, and two suppliers suggested by the Lenox Project). As part of the pitch brief the suppliers were essentially asked to set out what they could deliver for a budget of £20,000. Three of the eleven suppliers approached by the GLA submitted pitches for the work. Whilst the GLA has unfettered discretion in selecting a preferred supplier (subject to the normal requirements of the GLA's Contracts and Funding Code 2014 ("Code")), the nature of this study requires joint working and engagement with the Applicant and the Lenox Project as key stakeholders. Accordingly, and in order to satisfy a number of technical queries raised by these parties in respect to the pitches received by the GLA (most notably with respect to matters of commercial impartiality), the supplier selection process was necessarily extended to allow for a number of clarifications to be provided. Buro Happold Ltd. ("Buro Happold") was ultimately selected as the GLA's preferred supplier in this instance – key to this decision was the fact that Buro Happold had valuable background experience of this site (which enables it to deliver a more detailed and rigorous assessment within the budget and time allowed). In order to adhere to the obligations of the Section 106 Agreement (refer to section 2 below), the GLA appointed Buro Happold as its preferred supplier on 9 June 2015. Following an information gathering period, Buro Happold formally commenced work on the study on 16 July 2015. Accordingly, the GLA is already committed to this work, and this request for approval is made retrospectively. The justification for this is set out in section 2 below.

### Other ADDs associated with Convoys Wharf

- 1.9 There are two other ADDs associated with the Mayor's determination of the planning application at Convoys Wharf, these are: ADD134 (Convoys Wharf – financial viability appraisal); and, ADD314 (Convoys Wharf – affordable housing review mechanism advice).

### **Justification for seeking retrospective approval**

- 1.10 Whilst initial work on this ADD request commenced prior to the GLA approaching potential suppliers (on 24 April 2015), it was not possible to finalise this ADD before the preferred supplier had been identified (on 9 June 2015) and the associated costs and programme could be fully verified and agreed. Moreover, the necessary extension of the selection process period (discussed in paragraph 1.8 above) meant that the GLA was already risking breach of its programme obligations under the terms of the Section 106 Agreement (this study was due to commence on 11 May 2015). In this instance the parties to the Section 106 Agreement mutually agreed to the reasonable extension of the time allowed for the preferred supplier selection process, on the basis that the GLA's chosen supplier would be commissioned as soon as possible once selected. Accordingly, to reasonably comply with the obligations on the GLA to procure this study under the terms of the Section 106 Agreement, it was necessary to appoint Buro Happold (on 9 June 2015) before this approval could be obtained.
- 1.11 In summary therefore, the justification for commissioning this study in advance of securing this approval is as follows:
- the GLA is legally obliged to undertake this work under the terms of a Section 106 Agreement sanctioned by the Mayor of London; and,
  - following a necessary extension to the supplier selection process it was necessary to commission the GLA's chosen assessor immediately after selection in order to reasonably comply with the obligations on the GLA under the aforementioned agreement.
- 1.12 It is also worthy of note that the funding for this study is in place, and the work will be completed at no net cost to the authority (refer to section 5 below).

- 1.13 The GLA is not normally subject to obligations under Section 106 Agreements, nevertheless, in this case the authority has agreed to manage the Lenox Feasibility Study process in accordance with the planning decision made by the Mayor on 31 March 2014 (refer to paragraphs 1.2 and 1.3). Accordingly, the role of the GLA in procuring and overseeing this work is exceptional. In the context of the demands associated with delivering the GLA's statutory planning function, the resourcing of staff time for this particular avenue of work has inevitably been constrained. This accounts for the period of time between when work on the drafting of this ADD commenced, and when the ADD has been signed and finalised.

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

### Objective

- 2.1 The GLA's objective is to obtain an independent technical Feasibility Study report in order to conclude which of two study sites is the most feasible for delivering the Lenox Project. This objective is enshrined with the terms of the Section 106 agreement and is in line with the Mayor's planning decision to approve redevelopment at Convoys Wharf.

### Outcome

- 2.2 The outcome of the work procured is a written report summarising The Feasibility Study. GLA officers propose to make the report publically available on the GLA website here: [www.london.gov.uk/priorities/planning/public-hearings/convoys-wharf](http://www.london.gov.uk/priorities/planning/public-hearings/convoys-wharf).

## **3. Equality comments**

- 3.1 The Feasibility Study is necessary to support the development and delivery of The Lenox Project, and is integral to the Mayor's approval of the Convoys Wharf planning application (refer to paragraph 1.4). The Equality Act 2010 provides that in exercising its functions (which includes the functions exercised by the Mayor as Local Planning Authority), the Mayor as a public authority shall amongst other duties have due regard to the need to a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act; b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.2 The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.
- 3.3 With regard to age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation there are no identified equality considerations which arise in respect of this request for Assistant Director Decision.

## **4. Other considerations**

### Confidentially

- 4.1 This work involves financial information that is commercially sensitive for the Applicant. Whilst the Feasibility Study report (the end product of this work) will be published on the GLA website, the detailed financial assumptions supporting conclusions need to be treated as confidential by the GLA. However, GLA officers commonly handle such information, and have processes in place to ensure commercial confidentiality. Accordingly, subject to normal due diligence (and notwithstanding duties under the Freedom of Information Act and Environmental Information Regulations), GLA officers are

of the view that the procurement and completion of this work is of low risk to the Authority and the Mayor.

#### Impartiality

- 4.2 It was important that the Authority procured this work – so that the consultant's duty is to the GLA (therefore ensuring that the advice is seen as truly independent). The applicant has, nevertheless, agreed to reimburse the GLA for the cost of this consultant work. Accordingly, the work will ultimately be undertaken at no net cost to the Authority.

#### Links to Mayoral strategies and priorities

- 4.3 This work is fundamental to the Mayor's decision to approve the Convoys Wharf redevelopment. The completion of this work enables the GLA to fulfil its obligation under the terms of the Section 106 Agreement – thereby supporting the Mayor in fulfilling his statutory duty under The Greater London Authority Acts 1999 and 2007, and The Town and Country Planning (Mayor of London) Order 2008.

#### Recovering costs

- 4.4 Under the terms of the Section 106 Agreement, the Applicant has paid the GLA £20,000 to commission this study. The Applicant has also agreed under a PPPA to pay the GLA a further £6,120 to manage the process of commissioning and concluding the study. Whilst this work is not yet complete, based on discussions with Buro Happold the final cost of this work is expected to be £21,300. The project is currently progressing to budget and programme and with the additional contingency offered under the terms of the PPPA, GLA officers are satisfied that sufficient funds are in place to ensure that the work would be undertaken at no net cost to the GLA.

### **5. Financial comments**

- 5.1 Approval is being sought for the commissioning of independent technical services from Buro Happold to undertake a Feasibility Study for The Lenox Project at Convoys Wharf in accordance with the obligations of the Section 106 Agreement.
- 5.2 The final cost of this work is expected to be £21,300. This expenditure will take place in 2015/16, funded from the Planning Decisions budget, with subsequent recovery of up to £26,120 from Convoys Properties Ltd. under the terms of the Section 106 Agreement and a separate Project Planning Performance Agreement. The GLA has received income of £20,000 from Convoys Properties Ltd in advance in 2014-15, which was carried forward to 2015-16. The Project Planning Performance Agreement states that payment of a further £6,120 will be made to cover GLA officer time spent on this exceptional work (as well as any other additional consultant costs).

### **6. Legal comments**

- 6.1 The above sections of this report indicate that the decision requested of the Assistant Director – Planning may be considered to be facilitative of, or conducive, or incidental, to the exercise of the Mayor's powers under Section 2A of the Town and Country Planning Act 1990 (as amended) and the Town and Country Planning (Mayor of London) Order 2008.
- 6.2 In formulating the proposals in respect of which a decision is sought officers have complied with the GLA'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 health of persons, health inequalities between persons and to contribute towards achievement of sustainable development in the United Kingdom; and,
  - (c) consult with the appropriate bodies.

## **7. Planned delivery approach and next steps**

7.1 The table below sets out the programme for this work.

<b>Activity</b>	<b>Timeline</b>
Invitation to tender	24 April 2015
Assessor selection process	24 April – 8 June 2015
Announcement of preferred supplier	9 June 2015
Information gathering period	23 June -15 July 2015
Feasibility Study Commences	16 July 2015
Stakeholder meetings	16 July 2015
Draft report provided for comment	4 September 2015
Deadline for comments	25 September 2015
Review of comments	28 September – 8 October 2015
Stakeholder meetings / discussions	9 October 2015
Finalising draft	12 October 2015 – 16 November 2015
Provision of final report	W/C 16 November 2015
Publication of final report	W/C 16 November 2015

**Appendices and supporting papers: None.**

**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 – NO**

**ORIGINATING OFFICER DECLARATION:**

Drafting officer  
to confirm the  
following (✓)

**Drafting officer:**

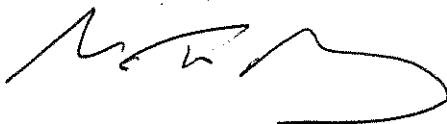
Graham Clements (Senior Strategic Planner) has drafted this report in accordance with GLA procedures and confirms that the finance and legal teams have commented on this proposal as required, and this decision reflects their comments.

✓

**HEAD OF GOVERNANCE AND RESILIENCE:**

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

**Signature:**



**Date:**

17-11-15

