

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD3023

Title: Delegation of Mayoral Powers to Homes England for professional, technical and administrative activities

Executive Summary:

This Mayoral Decision proposes the delegation of powers under Sections 30 and 34 of the GLA Act to Homes England (legal entity: Homes and Communities Agency (HCA)) to enable Homes England to provide, procure or fund the provision of professional, technical and administrative advice, services or support (PTA activities) to projects which further one or more of the GLA's principal purposes.

Decision:

That the Mayor, under the Greater London Authority Act 1999 (as amended), delegates the exercise of the Mayor's powers in sections 30 and 34 of the GLA Act:

1. to the HCA in accordance with, and for the purposes of, undertaking the professional, technical and administrative activities as specified in the Instrument of Delegation (Appendix A) in relation to projects which further one or more of the GLA's principal purposes under section 30(2) of the GLA Act
2. to the Executive Director, Housing and Land the authority to approve by a Record in Writing (as defined in Mayoral Decision-Making in the GLA) that programmes or projects not currently specified in the Annexes to, but that are within the scope of, the Instrument of Delegation may be subject to the delegation to Homes England in accordance with the Instrument of Delegation, where it is considered by the Executive Director, Housing and Land that this will further one or more of the GLA's principal purposes.

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:

14/10/22

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

Decision required – supporting report

1. Introduction and background

- 1.1. Homes England, the Government's housing and regeneration agency (legal entity Homes and Communities Agency) does not have the legal power to operate in Greater London. This power was transferred to the GLA under the Localism Act 2011. The GLA already successfully delivers a large range of programmes such as the Affordable Homes Programme, the Land Fund, Housing Infrastructure Funding, and rough sleeping programmes to name but a few, and there is no intention to delegate these or similar future funding programmes. However, there are times where it is beneficial for Homes England to provide assistance (including financial) to projects in London. For example, where we are working jointly with Homes England to create a joint business case, which may require the use of government assets to deliver regeneration, or where there are other wider government interests involved. Where this is the case, it is necessary for the Mayor to delegate his powers to Homes England.
- 1.2. This Mayoral Decision proposes the delegation of powers under Sections 30 and 34 of the GLA Act to Homes England. The proposed delegation would enable Homes England to provide, procure or fund the provision of professional, technical and administrative advice, services or support (PTA activities) to projects which further one or more of the GLA's principal purposes. The initial projects are detailed in this MD and listed in the two annexes to the Instrument of Delegation.
- 1.3. This Mayoral Decision also delegates authority to the Executive Director, Housing and Land to approve by a Record in Writing that programmes or projects not currently specified in the annexes to, but that are within the scope of, the Instrument of Delegation may be subject to the delegation to Homes England in accordance with the Instrument of Delegation, where it is considered by the Executive Director, Housing and Land that this will further one or more of the GLA's principal purposes.
- 1.4. Should any of the professional, technical and administrative advice, services or support result in confirmation of large, capital funding allocations, specific delegations to Homes England for the implementation of that would be required. This is to ensure the Mayor maintains strategic oversight of this type of investment in London.
- 1.5. The initial list of projects is:
 - Old Oak West
 - Thamesmead Docklands Light Railway (DLR) extension
 - A13 regeneration including City Markets
 - Leaside and London Legacy Development Corporation (LLDC) opportunities
 - Camden Regents Park Estate

Old Oak West

- 1.6. A new HS2 station will open in Old Oak Common (OOC) in around 2030 with High Speed, Great Western Railway (GWR) and Elizabeth Line services, bringing unrivalled connectivity into one of the London Plan's largest Opportunity Areas. This opportunity, unlocked by the major public investment in HS2, must maximise economic, housing and regeneration outcomes doing so in a way that supports a transition to net-zero carbon economy. Old Oak West is a project developed to meet this requirement.

- 1.7. By using large-scale, public sector brownfield land assets at Old Oak, Old Oak West offers the possibility to construct a new London district, on a scale comparable with King's Cross and Canary Wharf. It will be a mixed-use residential and economic hub in west London with c.9,100 new homes, 2.5 million sq. ft of commercial space and will generate c.35,000 jobs; with direct, high-speed connectivity to central London, Heathrow, Birmingham, and other major UK cities. The full benefits can only be unlocked by providing strategic infrastructure including local station capacity upgrades, public realm enhancements, new roads, bridges, pedestrian and cycle routes, and crucially by assembling the necessary land for joined up and coordinated delivery at pace. The Old Oak West project will also catalyse wider regeneration within the Old Oak and Park Royal areas, spurring private sector investment to deliver the Opportunity Area's overall long-term capacity of 25,500 additional new homes, and 56,500 new jobs.
- 1.8. The government and the statutory Old Oak and Park Royal Development Corporation (OPDC), are in a strong position to deliver this opportunity: 80 per cent of the developable land in the area is in public sector control (Department for Transport, via its arm's-length bodies: High Speed 2 Ltd and Network Rail), and OPDC has planning and regeneration powers with a mandate and capability to bring regeneration forward.
- 1.9. Recent engagement with several leading private sector regeneration businesses confirms that this is an extremely attractive 'master developer' investment proposition, subject to the public sector assembling its land interests into a collective whole.
- 1.10. OPDC has been working very closely in partnership with Homes England to create the business case to bring all the public land into one ownership, and to drive forward the regeneration and deliver the benefits outlined above. The strategic outline business case (SOBC) has recently been approved by the government, and work is now beginning to move into the early delivery phase and completion of the detailed business case.
- 1.11. Delivery of the detailed business case and ultimately of Old Oak West will require continued collaboration between the OPDC and Homes England. The business case to transfer the public land in Old Oak West to a single public sector counterpart is being supported and sponsored by Homes England, and as such it is vital we continue to work in partnership. Some of the administrative work needs to be carried out by Homes England in order to both make the most of their specific expertise, and to ensure that government departments are able to rely on the advice being provided. This business case will help to support the delivery of regeneration and further economic development in the area.
- 1.12. To achieve the economic development benefits, and to maximise the benefits of this collaborative approach and secure the most efficient and effective means of delivering the development of the public land and regeneration of the area, the Mayor is asked to delegate powers under sections 30 and 34 of the GLA Act to Homes England. The proposed delegation would enable Homes England to provide, procure or fund the provision of professional, technical and administrative advice, services or support to the OPDC to facilitate delivery of OPDC projects and programmes set out in the Old Oak West business case.

Thamesmead Docklands Light Railway (DLR) extension

- 1.13. Homes England is working with a strategic board comprising representatives from the GLA, Transport for London, Department for Levelling Up, Housing and Communities, London Borough of Newham, Royal Borough of Greenwich, Peabody, Lendlease and Berkeley Group, to carry out PTA activities including studies, viability analysis and the production of a business case. This business case sets out to establish how the extension of the DLR can lead to improved transport connectivity and increased housing supply with accelerated delivery. It includes the remediation of brownfield land and significant environmental enhancements.

A13 regeneration including City Markets

- 1.14. Homes England is working with the London Borough of Barking and Dagenham, the City Corporation and Transport for London to carry out PTA activities, in particular viability appraisal work to allow project assessment. The focus of this regeneration is to drive increased housing supply and economic growth opportunities along the A13 and Dagenham Dock as well as sites in Tower Hamlets and Waltham Forest that may be released by market relocation.

Leaside and London Legacy Development Corporation (LLDC) opportunities

- 1.15. Homes England is working with LLDC, London Borough of Newham and London Borough of Tower Hamlets to carry out PTA activities, specifically studies, viability analysis and the production of a business case. This business case will establish how to drive increased housing supply and economic growth opportunities through improved connectivity and place making infrastructure.

Camden Regents Park Estate

- 1.16. Homes England are working with the London Borough of Camden and Euston Partnership to carry out PTA activities including viability appraisal work to allow project assessment which is looking at activities to increase and accelerate the delivery of housing in the area.

Additional projects

- 1.17. Given the number of potential projects in London that the GLA and partners may wish to engage with Homes England on for PTA activities, the delegation authorises further, as yet, unspecified programmes or projects to be subject to the delegation to Homes England. The GLA's Executive Director, Housing and Land is, under this Mayoral Decision, delegated the authority to decide what these programmes or projects should be, but will only be able to approve this where they consider that doing so will further one or more of the GLA's principal purposes under section 30(2) of the GLA Act. Any such decisions by the GLA's Executive Director, Housing and Land will need to be approved by a Record in Writing (as defined in Mayoral Decision-Making in the GLA). They will not require a Director Decision form.
- 1.18. The Record in Writing will need to establish and set out the case as to why the decision has been taken and it is considered the application of the delegation to relevant project / programme will further one or more of the GLA's principal purposes. It is important to make a record in writing to create a clear record that any additional project meets the necessary requirements to further one or more of the GLA's principal purposes. However, given that the addition of new projects is within the scope of the Instrument of Delegation and would not vary the value of this decision (there is not and would be no cost to the GLA), it is not necessary to draft a new Mayoral or Director's Decision for each new addition.
- 1.19. To facilitate this, the Mayoral Decision-Making in the GLA document will be updated at its next iteration, by including these arrangements at Appendix 5, which sets out the format for progressing and recording specific types of decision.

The delegation

- 1.20. A delegation is appended at Appendix A. Key features to highlight include:
- The delegation will only enable Homes England to provide PTA activities to the OPDC where requested to do so by the OPDC.
 - The delegation will only enable Homes England to provide PTA activities in respect of non-OPDC projects and programmes where requested to do so by the GLA.
 - The delegation authorises further, as yet, unspecified programmes or projects to be subject to the delegation to Homes England. The GLA's Executive Director, Housing and Land is, under this Mayoral Decision, delegated authority to decide what these programmes or projects should be (see 1.17 above). The delegation does not permit Homes England to provide or distribute large,

capital funding allocations whether that is grants or loans, except where HE's expenditure of such government funding, is incurred for the purposes of providing, procuring, or funding the provision of, PTA activities pursuant to a request made by the GLA/OPDC as outlined in the first two bullets above.

2. Objectives and expected outcomes

- 2.1. The objective of this decision is to enable Homes England to provide PTA activities to OPDC and for specific other housing and land projects in London to further the promotion of economic development and wealth creation, social development or the improvement of the environment within Greater London and enable partners in London to bid for additional funding for delivery.
- 2.2. Through working closely with Homes England on the projects, the GLA and its functional bodies will enable delivery of new homes and jobs, and support wider regeneration benefits on a project by project basis. An example of which is outlined in the paragraphs above covering the OPDC intervention.

3. Equality comments

- 3.1. Under section 149 of the Equality Act 2010, the Mayor and GLA are subject to the public sector equality duty and must have due regard to the need to:
 - eliminate unlawful discrimination, harassment and victimisation
 - advance equality of opportunity between people who share a relevant protected characteristic and those who do not
 - foster good relations between people who share a relevant protected characteristic and those who do not.
- 3.2. The protected characteristics are age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation and marriage/civil partnership status. The duty involves having appropriate regard to these matters as they apply in the circumstances, including having regard to the need to: remove or minimise any disadvantage suffered by those who share or is connected to a protected characteristic; take steps to meet the different needs of such people; encourage them to participate in public life or in any other activity where their participation is disproportionately low. This can involve treating people with a protected characteristic more favourably than those without one.
- 3.3. The most significant equalities impacts are likely to occur within the projects that would be implemented following the PTA activities and successful allocation of funding, and details of these impacts would be considered in future decisions that would be brought forward.
- 3.4. However, there remain areas where equality and diversity opportunities can be considered through the PTA activities. In particular ensuring that business cases developed take full account of the equality and diversity impacts of the work, enhancing opportunities to drive diversity and inclusion where possible. Also, if Homes England procure consultants to undertake the work, there should be strong consideration of diversity and inclusion through the procurement processes, ensuring that they are driving diversity and inclusion within the staffing of the organisations procured.
- 3.5. These projects for which the PTA activities will be undertaken, drive the delivery of housing and in particular affordable housing. Delivery of additional homes in London is likely to help many of those with protected equality characteristics, as increasing the supply of housing in London will help to address problems such as overcrowding and homelessness, which evidence indicates disproportionately affect specific groups, including Black and Minority Ethnic groups and women.

The projects enabled by these PTA activities will therefore be likely to advance equality of opportunity for those with protected characteristics.

- 3.6. This delegation is to Homes England which is also subject to the public sector equality duty. However, to ensure we are maximising the opportunities to advance equality of opportunity in particular, the delegation includes a paragraph placing specific obligations on Homes England in this regard.

4. Other considerations

Key risks and issues

- 4.1. The key risks relating to this decision can be split into those that might occur if this delegation is not implemented, and those that might occur if this delegation is implemented. These are set out in the following two tables.
- 4.2. Risks if the delegation is not implemented:

<i>Description</i>	<i>Mitigating Actions</i>	<i>RAG Rating</i>
Without a delegation, HE will be unable to continue to work closely and provide support to OPDC on the Old Oak West programme. This could lead to disengagement from government departments, and a risk that the next stage of business case for land transfer is not taken forward. This would result in London potentially missing out on significant capital and infrastructure funding.	Approve delegation for OPDC or look at other ways of working collaboratively with HE without the need for a delegation, even if some support is not able to be provided.	Red
Without a delegation HE could continue engaging with partners across London meaning that the GLA is not fully sighted on potential projects across London and therefore is not able to take strategic oversight.	Approve the delegation which includes a process whereby additional projects can be added to the list at the discretion of the Executive Director, Housing and Land, thereby ensuring oversight of additional schemes. This delegation is being used as the basis for enhanced engagement with HE to ensure more joined up working.	Amber
Without a delegation, given how significant proportions of government funding for infrastructure is provided directly to partners, but where the Department for Levelling Up, Housing and Communities (DLUHC) works closely with Homes England throughout the design and business case development, there is a risk that without better collaboration with Homes England, London could miss out on significant capital and infrastructure funding.	Officers are regularly engaging with both DLUHC (at multiple levels) and with officers in Homes England to strengthen relationships and collaboration.	Amber

4.3. Risks if the delegation is implemented:

<i>Description</i>	<i>Mitigating Actions</i>	<i>RAG Rating</i>
More engagement and delivery in London by Homes England (as facilitated by this delegation) leads to less strategic oversight of capital investment in London.	Including in the delegation a requirement for Homes England to engage with the GLA and seek agreement in writing for additional projects to be added, will lead to better collaboration between the GLA and Homes England, ensuring that the GLA has better oversight of all the potential projects in London. The ultimate decision to include a project on the list rests with the GLA, which strengthens the GLA's oversight.	Amber
HE allocates additional funding in London without strategic oversight by the GLA which could result in funding not being allocated to projects that GLA considers strategic priority.	The delegation includes specific wording clarifying that this delegation is limited to PTA activities only, and further delegation is needed for additional funding or investment.	Green

Links to Mayoral strategies and priorities

4.4. The table below highlights links to key Mayoral strategies and priorities

Document	Strategic fit
London Housing Strategy	<ul style="list-style-type: none"> - Identifying and bringing forward more land for housing - Ensuring homes are genuinely affordable - Working towards half of new homes being affordable
London Plan	<ul style="list-style-type: none"> - Old Oak and Park Royal Opportunity Area - Optimising density in sustainable locations - Development on brownfield public land
Affordable Housing & Viability Supplementary Planning Guidance	<ul style="list-style-type: none"> - 50 per cent affordable housing on public land - 35 per cent affordable housing on private land - Potential for Build to Rent - An interventionist approach to the land market and housing delivery
Covid-19 Recovery Programme	<ul style="list-style-type: none"> - Economic recovery - Improved health outcomes through quality housing
Equality and Diversity	<ul style="list-style-type: none"> - Promoting diversity in the supply chain via contractual terms

Consultations and impact assessments

4.5. For the purposes of this Mayoral Decision, the GLA has consulted with Homes England and OPDC. Both organisations support the delegation.

Declarations of interest

- 4.6. There are no conflicts of interest arising from any of the officers involved in the drafting or clearance of this decision form.

5. Financial comments

- 5.1. The decision is seeking approval to delegate authority to Homes England to provide, procure or fund the provision of professional, technical and administrative advice, services or support activities, to further one or more of the GLA's principal purposes. The delegated authority will cover projects as stated in paragraph 1.5 above and other unspecified future projects, which will be decided by GLA's Executive Director, Housing and Land and approved by a 'Record in Writing'.
- 5.2. The costs associated with the services (see para 5.1) provided by Homes England, (HE) would be borne by HE.

6. Legal comments

- 6.1. Section 30 of the GLA Act allows the Mayor, acting on behalf of the GLA, and after appropriate consultation, to do anything that the Mayor considers will further the promotion of economic development and wealth creation, social development or the improvement of the environment within Greater London.
- 6.2. Section 32 of the GLA Act provides that the power under section 30 is exercisable only after consultation with such bodies or persons as the GLA considers appropriate in the particular case. Paragraph 4.5 above, notes that the GLA has consulted with Homes England and OPDC.
- 6.3. Section 33 of the GLA Act requires the GLA, when exercising a section 30 power, to make appropriate arrangements with a view to securing that there is due regard to the principle that there should be equality of opportunity for all people. In addition, section 149 of the Equality Act 2010 requires that GLA and the Mayor have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; and to advance equality of opportunity, and foster good relations, between people who share a protected characteristic and those who do not. Pursuant to this duty, section 3 of this Mayoral Decision above sets out the equality implications of the proposed decision. As is noted in that section, Homes England is also subject to statutory duties under the Equality Act 2010.
- 6.4. Section 34 of the GLA Act provides a further power for the Mayor to do anything that is calculated to facilitate, or is conducive or incidental to, the exercise of any of his functions (including his functions under section 30).
- 6.5. The Mayor's power under section 30 of the GLA Act is subject to section 31 of that Act, which provides that the power cannot be used to incur expenditure in doing anything which may be done by Transport for London, unless this is for the purposes of, or relating to, housing or regeneration (subsections 1(a) and 5B). Section 31 also provides that, in determining whether to exercise the power conferred by section 30(1) above, the Mayor must seek to secure that the Authority does not incur expenditure in doing anything which is being done by a Mayoral development corporation (subsection 1A).
- 6.6. However, nothing in those sections, shall be taken to prevent the Authority incurring expenditure in co-operating with, or facilitating or co-ordinating the activities of, the bodies mentioned in those subsections (see: subsection 6). Should section 31 of the GLA Act apply to the use of the GLA's general section 30 power by Homes England under delegated authority, the restrictions contained in section 31 would only apply where the GLA incurs expenditure, and this is not anticipated to be the case under proposed delegation. In any event, the proposed delegation concerns the delivery of PTA activities for the purposes of, or relating to, housing or regeneration and so the restriction on not incurring expenditure in doing anything which may be done by Transport for London would not

apply by virtue of subsection 31(5B). In relation to the OPDC and section 31(1A), the Decision identifies why it is appropriate for Homes England (under delegated authority) to provide, procure or fund the provision of professional, technical and administrative advice, services or support (PTA activities) to OPDC current or future projects which further one or more of the GLA's principal purposes.

- 6.7. Furthermore, section 31 of the GLA Act does not apply to the use of the GLA's general section 30 power where the GLA incurs expenditure in co-operating with, or facilitating or co-ordinating the activities of, TfL, the OPDC and other public bodies mentioned in section 31. The delegation to Homes England to provide, procure or fund the provision of PTA activities is in order to facilitate the activities of the relevant public bodies involved in the delivery of the projects that are the subject of the delegation.

Delegation to Homes England

- 6.8. Homes England's objects are specified in the Housing and Regeneration Act 2008 (the HRA 2008) and include improving the supply and quality of housing in England, and securing the regeneration or redevelopment of land or infrastructure in England. The HRA 2008 provides that Homes England may do anything it considers appropriate for the purposes of its objects, or for purposes incidental to those purposes.
- 6.9. Homes England's powers in the HRA 2008 used to cover the whole of England, including Greater London. From 1 April 2012 Homes England's powers to operate in Greater London ceased, by virtue of the Localism Act 2011. As a consequence, Homes England no longer has the legal power to operate in Greater London; its property, rights and liabilities in Greater London were transferred to the GLA by statutory transfer scheme.
- 6.10. Sections 38(1) and (2) of the GLA Act allows the Mayor to authorise Homes England to exercise his functions under the Act on behalf of the GLA, including those contained in sections 30 and 34. It is necessary that the Mayor delegates his powers under sections 30 and 34 to Homes England, to enable it to carry on the activities specified in this MD in Greater London on behalf of the GLA.
- 6.11. Section 38(3) of the GLA Act requires that Homes England must consent to the delegation in writing. Homes England has agreed to the delegation and will be asked to sign the Instrument of Delegation once it has been approved and signed by the Mayor.
- 6.12. Section 38(7) of the GLA Act gives Homes England the power to exercise any functions delegated to it by the Mayor pursuant to section 38, whether or not Homes England would otherwise have had that power and irrespective of the nature of that function.
- 6.13. Section 38(10) of the GLA Act requires the delegation to be in writing. The proposed Instrument of Delegation is attached at Appendix A. The Mayor may impose conditions on any delegations under section 38(1), and a number of conditions have been included in addition to the delegation.
- 6.14. Where Homes England exercises the Mayor's powers under delegation, it is likely that the GLA would retain legal liability for Homes England's exercise of those delegated powers, subject to the specific provisions of the Instrument of Delegation.
- 6.15. The Mayor has the power to vary or revoke a delegation (section 38(9) of the GLA Act). This power must be exercised personally by the Mayor (section 38(6) of the GLA Act).

Delegation to Executive Director, Housing and Land

- 6.16. Under section 38(1) and (2)(b) of the GLA Act, the Mayor may delegate his powers under sections 30 and 34 of that Act to a GLA member of staff.

7. Planned delivery approach and next steps

- 7.1. Once this delegation has been signed, Homes England will continue to engage with partners on the projects specified above.

Activity	Timeline
Delegation agreed and signed	October 2022
Outline business case for Old Oak West approved	Spring 2023

Appendices and supporting papers:

- Appendix 1- Instrument of Delegation

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 – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Andrew Nathan has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Tim Steer 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 3 October 2022

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature



Date

6/10/22

CHIEF OF STAFF:

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

Signature



Date

3/10/22