

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD1653

Title: Variation of the Development Agreement relating to Pontoon Dock, Royal Docks, London Borough of Newham

Executive Summary:

GLA Land and Property Ltd (GLAP) entered into a development agreement with Bouygues Development-Leadbitter Ltd (Bouygues) for the delivery of a high quality residential-led scheme at Pontoon Dock, a 0.69Ha site in the Royal Docks, London Borough of Newham (see plan at Appendix 1) on 31 March 2015 (the Development Agreement).

Approval is now sought for GLAP to enter into a deed of variation (the Deed) under which the Development Agreement terms will be varied to accommodate changes in the delivery of an enhanced scheme, which incorporates a new entrance to Thames Barrier Park.

Additionally, in response to a planning condition to carry out essential transport infrastructure DLR upgrade works, imposed under a section 106 agreement relating to another GLAP development scheme, Bouygues are entering into an additional agreement (the Option - the terms of which are not considered in this Mayoral Decision) to surrender a small part of the land committed to them under the Development Agreement. Certain terms of the Development Agreement need to be varied with the Deed to deal with the effect of delays from the DLR upgrade works on Bouygues delivery of the scheme.

Decision:

That the Mayor:

- Approves GLA Land & Property Ltd entering into the deed of variation to the Development Agreement entered into by GLA Land & Property Ltd (1) Bouygues Development-Leadbitter Ltd (2) and Bouygues UK Limited (3) on 31 March 2015, on the terms set out within this paper.

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:

30.4.2016

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

Decision required – supporting report

1. Introduction and background

- 1.1 Following the outcome of a competitive procurement process in March 2015, the Mayor approved the recommendations to enter into an agreement with the preferred development partner to deliver the development objectives under MD14887 *'Completion of legal agreements for the development of land at Pontoon Dock, Royal Docks'*.
- 1.2 A record of Mayoral Decision made 30th March 2015 is as follows:
- Approved the recommendation to select Bouygues Development-Leadbitter Limited as the preferred bidder for the Pontoon Dock project;
 - Approved GLA Land and Property Ltd's entry into the development agreement with Bouygues Development-Leadbitter Limited;
 - Delegated to the Executive Director of Housing & Land the authority to execute the development agreement with Bouygues Development-Leadbitter Limited and all ancillary documents necessary to facilitate the Pontoon Dock project.

2. Objectives and expected outcomes

- 2.1 The expected outcome of the land disposal remains a residential-led scheme of a high quality with a minimum requirement comprising a development of 211 residential units that incorporates a policy-compliant affordable housing provision and 10,000 sq ft of non-residential ground floor space. Under the key terms and conditions of the Development Agreement, Bouygues Development has committed to the delivery of a minimum of 137 homes for the Private Rented Sector (PRS).
- 2.2 Since entering into the Development Agreement, Bouygues have been required to make enhancements to the proposed scheme in order incorporate a new entrance to Thames Barrier Park.
- 2.3 Additionally, in response to a planning condition to carry out essential transport infrastructure DLR upgrade works, imposed under a section 106 agreement relating to another GLAP development scheme, Bouygues are entering into an additional Option Agreement (the terms of which are not considered in this Mayoral Decision) to surrender a small part of the land committed to them under the Development Agreement. Certain terms of the Development Agreement need to be varied with the Deed to deal with the effect of delays from the DLR upgrade works on Bouygues delivery of the scheme. These changes have been made at the request of GLAP, London Borough of Newham (LBN) and GLA/TFL planning.
- 2.4 To account for necessary changes which have had an impact on the viability of the scheme, approval is now sought to amend the terms in the original development agreement. This is in order to accommodate additional requirements enabling the delivery of an enhanced scheme development submitted for planning.
- 2.5 The Further background on the variation to the development agreement is within Part Two confidential facts and advice of the MD.

3. Equality comments

3.1 The scheme will need to be fully accessible and/or Disability Discrimination Act compliant in respect of wheelchair accessible housing for the development and public realm. The developer has been subject to a pre-application process and has submitted a detailed planning application to ensure that the proposed scheme has addressed the requirements.

4. Other considerations

4.1 A) Key Risks and Issues:

Key Risks	Mitigation Strategy
Failure of the Developer to satisfy the conditions of the Development Agreement.	The developer is working to reach a satisfactory completion of the conditions required within the development agreement. The timescales have been adjusted to account for additional dialogue with DLR and TfL to implement the upgrade to the Pontoon Dock DLR station.
The bidder fails to gain a suitable planning permission.	Ensure the bidder implements the strategy submitted as part of the tender. Assisted by GLAP, the developer has worked closely with LBN's, TfL and GLA's planning teams to ensure the proposal meet their requirements.
The development partner defaults on the agreement, which would delay delivery of the project.	Consider re-tendering the project. Or look to appoint an under-bidder.
The procurement process is challenged.	As previously set-out in GLA's reports, in the appointment of a preferred developer, a transparent, fair and equal procurement process has been undertaken, supported by a procurement agent. The variations in the agreement account for changing circumstances within the context of an enhancement to the original scheme allowing for a change in the commercial negotiation. The minimum expected requirements will be delivered as committed to by the developer.
Withdrawal or lack of interest from the current institutional investor, funding in particular the private rented homes.	The developer currently holds an exclusivity agreement and heads of terms for a Purchase and Sale agreement with the investor. GLAP is supporting the developer in preparation of the Purchase and Sale agreement. Current market discussion with potential investors is positive and created confidence in maintaining a long-term investor.

- 4.2 B) Links to Mayoral Strategies: The Mayor has publically expressed a desire to encourage institutional investment in the Private Rented Sector (PRS) as a way to increase the supply and choice of housing in the capital. The Mayor's Housing Strategy sets out that, where appropriate, the Mayor of London shall seek to use land assets to encourage institutional investment in the private rented sector and improvements in the design and management of this tenure.

5. Financial comments

- 5.1 See Part Two confidential facts and advice of the MD.

6. Legal comments

- 6.1 Section 30 of the Greater London Authority Act 1999 (as amended) (GLA Act) gives the Mayor a general power to do anything which he considers will further one or more of the principal purposes of the GLA as set out in section 30(2) which are:
- i. Promoting economic development and wealth creation in Greater London;
 - ii. Promoting social development in Greater London; and
 - iii. Promoting the improvement of the environment in Greater London

and, in formulating the proposals in respect of which a decision is sought, officers confirm they have complied with the GLA's related statutory duties to:

- pay due regard to the principle that there should be equality of opportunity for all people;
- consider how the proposals will promote the improvement of health of persons in Greater London, promote the reduction of health inequalities between persons living in Greater London, contribute towards the achievement of sustainable development in the United Kingdom and contribute towards the mitigation of or adaptation to climate change in the United Kingdom; and
- Consult with appropriate bodies.

- 6.2 Sections 1 and 2 of this report indicate that the Mayor has the power to proceed to make the decisions as requested within this report.

7. Investment & Performance Board

- 7.1 In January 2016, the Housing Investment Group (HIG) approved in-principle the variations to the Development Agreement in respect of: the land and commercial terms, which will facilitate the delivery of an enhanced development scheme; the DLR upgrade with the development partner; and GLAP's foregoing of potential overage as a financial contribution towards the additional costs to deliver the project.
- 7.2 HIG has endorsed in-principle the recommendations as set-out above (in 7.1) which include for a supplemental legal deed/agreement to update the terms to be appended to the original development agreement.
- 7.3 Since the date of HIG consideration and recommendation for approval, the DLR upgrade works have been examined in further consultation with DLR and Bouygues Development resulting in an extension of time to account for the potential delay in construction programme (covered in 1.17, 1.18 and 1.19 under Part Two paper). This is viewed as a change in circumstances since the original bid submissions and results in increased risks to the delivery of the development objectives for Pontoon Dock, see Part Two confidential facts and advice of the MD for further details.

8. Planned delivery approach and next steps

8.1 Following the approval of Mayor, on the basis of the financial information submitted to GLAP and the necessary legal and procurement advice, officers will make the necessary alterations to the development agreement and contract with the development partner.

8.2 The next steps following approval by the Mayor are summarised below:

Activity	Timeline
Mayoral Decision covering enhanced scheme related matters	April 2016
Agree variations to the Development Agreement	April 2016
Planning Approval/Signed s106 (estimated)	Summer 2016
Start on Site (estimated)	End of 2016
Practical Completion (estimated)	Spring 2019

Appendices and supporting papers:

Appendix 1 – Site Plan

Appendix 2 – Scheme Proposal Updated (*reserved from publication*)

Appendix 3 – Land Transfer Plan – Option Agreement (*reserved from publication*)

Appendix 4 – Land Transfer Plan – Variation to Land under Development Agreement (*reserved from publication*)

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 – YES

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Paul D Clarke has drafted this report in accordance with GLA procedures and confirms the following have been consulted on the final decision.

✓

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.

✓

Sponsoring Director:

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

✓

Mayoral Adviser:

Ed Lister has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

M. D. Clarke

Date

29.4.16

CHIEF OF STAFF:

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

Signature

Edmund ...

Date

29.04.2016