

REQUEST FOR ASSISTANT DIRECTOR DECISION – ADD134

Title: **Convoys Wharf – Financial Viability Appraisal**

Executive Summary:

The Mayor has directed that he will act as the Local Planning Authority for the purposes of determining a planning application at the Convoys Wharf site in Deptford, Lewisham. In order to satisfy the Mayor that the proposed development would deliver the maximum reasonable amount of affordable housing, the GLA needs to commission an independent financial appraisal of the scheme. The GLA will subsequently recover the full cost of the work from the applicant.

Decision:

That the Assistant Director approves:

- expenditure of up to £18,000 on independent financial services from Gerald Eve; and,
- a related exemption from the requirements of the GLA's Contracts and Funding Code (which normally requires the GLA to seek three or more quotations for goods or services between £5,000 and £125,000).

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:

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. The GLA is currently considering this application, which proposes wholesale redevelopment of the 16 hectare site to deliver up to 3,500 new homes, and to catalyse the regeneration of Deptford.
- 1.2. The Mayor's decision to take over this application is exceptional, and could not reasonably have been foreseen when the application was originally submitted to Lewisham Council in April 2013, nor when the Mayor first considered the application on 10 July 2013. It was only following a request from the applicant (on 17 October 2013) that the Mayor subsequently decided to take over the application on 30 October 2013. Key to this decision was the Mayor's view that the case should be determined swiftly. Lewisham Council originally identified the end of February 2014 as a target for determining the application, and the Mayor indicated that he would seek to consider the case within a similar timeline. The Mayor's full reasons for taking over the application are available to review on the GLA website here: <http://www.london.gov.uk/priorities/planning/public-hearings/convoys-wharf>.
- 1.3. Since this decision was made, GLA officers have engaged in regular weekly meetings with the applicant and Lewisham Council to identify and resolve the outstanding issues on the case, and to establish a programme to allow for the case to be considered at a Representation Hearing by the end of February 2014.
- 1.4. A key issue on the case is with respect to affordable housing, and demonstrating that the maximum reasonable amount would be provided. Lewisham Council commissioned its own viability review to explore this issue, and GLA officers originally envisaged that it would be possible to use this to inform the GLA's own assessment. However, following the receipt of this report on 7 January 2014, and further to related discussions on 8 January 2014, it became apparent that whilst a number of key principles have been agreed between the applicant's and the Council's consultants, there remain various important points of detail which need to be reconciled before a full assessment can be made.
- 1.5. The GLA does not have the relevant in-house expertise to fully assess this itself. Accordingly, the GLA seeks independent professional advice in order to assist it when considering outstanding viability issues, and ultimately agreeing the provision of affordable housing within the scheme. In order to adhere to the Mayor's determination programme GLA officers seek to have the viability of the scheme substantially assessed by the end of January 2014.
- 1.6. Given the value of the proposed contract, GLA officers acknowledge that section 3.6 of the GLA's Contracts and Funding Code ("Code") requires that at least three quotations be sought. However, section 5 of the Code provides that exemptions from that requirement maybe approved where the risks of not complying with the Code would be outweighed by the risks of not approving an exemption. For the reasons set out in section 2 below GLA officers are of the view that an exemption is applicable in this case.

2. Justification for single source procurement

- 2.1 As discussed in section 1, this work is essential in order to support the Mayor's statutory duties under Section 2A of the Town and Country Planning Act 1990 (as amended) and the Town and Country Planning (Mayor of London) Order 2008, and fundamental to the proper implementation of the London Plan – the Mayor's spatial development strategy for Greater London. The Mayor's decision to take over this application is exceptional, and could not reasonably have been foreseen. It only became apparent after 8 January 2014 that the GLA must procure its own independent financial study. The Mayor has publically stated that he will determine the Convoys Wharf planning application swiftly.

Potential for delay

- 2.2 The GLA's Contracts and Funding Code requires officers to seek three or more quotations for goods or services between £5,000 and £125,000. This form of tender process generally requires five working days to allow reasonable time for potential suppliers to prepare a quote/business pitch. GLA officers must then take time to fully consider all pitches received, before selecting and instructing a preferred supplier, and providing feedback to the unsuccessful parties. Past practice indicates that this commonly takes between three to four working days.
- 2.3 In order to deliver the Mayor's determination programme (a timetable that the GLA is also committed to adhere to under contractual agreement with the applicant) it is necessary for Gerald Eve's assessment work to commence on 20 January 2014. The chart below demonstrates that adherence to the GLA's Contracts and Funding Code would result in this critical date being missed.

	Key milestones											
	Need for work identified								Assessment to commence			
Working days January 2014	08/01	09/01	10/01	13/01	14/01	15/01	16/01	17/01	20/01	21/01	22/01	23/01
Procurement steps												
Prepare and issue invitation to quote												
Consultant quote preparation												
GLA review of quotes received												
Feedback and instruction												

Implications of delay

- 2.4 Delay in the commencement of the independent viability assessment would impact on the overall timetable for bringing the application to a public Representation Hearing – meaning that the intended hearing date is likely to be missed. Given the constraints of the Mayor's availability, and minimum time periods associated with public notification of a new hearing date (14-day minimum notification period to speakers at the hearing), even a marginal push back of the application assessment programme could result in a significant delay in the case being brought before the Mayor at a public Representation Hearing. Such postponement would reflect badly on the GLA and the Mayor, and would result in additional unwelcome delay for this major regeneration project.

- 2.5 It is also worthy of note that a local Community Infrastructure Levy (CIL) is scheduled to be introduced by Lewisham Council this year, sometime after May 2014. The CIL is a non-negotiable charge that authorities can place on most types of new development in their area (the Mayor of London adopted his own CIL in April 2012). The CIL is a useful tool for authorities to generate income in order to help pay for the infrastructure required to support growth and development. However, given the timescales involved in this case, the financial design of the Convoys Wharf scheme does not take the proposed levy costs into account. Nevertheless, where the Lewisham CIL would be introduced prior to the issue of any decision notice for the Convoys Wharf planning application, the levy would need to be applied to the scheme (it is important to note that a decision notice could only be issued following the conclusion of a section 106 legal agreement - such agreements typically take approximately three months to conclude). Therefore, where the Mayor's determination programme would be delayed (and the proposed development would become subject to the levy), there would be an additional financial burden on the scheme. This would result in an adverse impact on financial viability, and potentially threaten delivery of the scheme in its current form (including the proposed 525 affordable homes).
- 2.6 Accordingly, the risks associated with not approving this proposed exemption to the GLA's Contracts and Funding Code are:
- GLA in breach of its Planning Performance Agreement contract with the applicant;
 - Negative reflection on Mayor and GLA for failing to deliver a timely decision on this high profile case, particularly since swift determination was a principal reason for the Mayor intervening;
 - A major regeneration scheme would be subject to further unwelcome delay; and,
 - Adverse impact on financial viability, and potential threat to delivery of the scheme (where Lewisham Council's CIL would be introduced prior to issue of a decision notice).

The preferred supplier

- 2.7 The GLA's preferred supplier in this instance is chartered surveyors and property management consultants, Gerald Eve. The consultant has confirmed that there would be no conflicts of interest in respect to this work, and that it has a good working relationship with the associated consultants working for both Lewisham Council and the applicant. The consultant's proposed project lead for this work is well respected within the field, and has been instrumental in the development, publication and scrutiny of various key pieces of financial viability guidance and assessment tools for London, as well as the rest of the country. Gerald Eve also has valuable experience gained from working on a wide range of major schemes in the capital, as well as a number adjacent to the River Thames.

Securing value for money

- 2.8 Based on a detailed quote provided, GLA officers expect the work required to cost up to £18,000. Whilst the Convoys Wharf scheme is large and complex, Gerald Eve has excellent experience and a proven record of undertaking such assessments rigorously and delivering them to challenging deadlines. The pricing schedule provided (including hourly rates for meetings) is in line with previous rates competitively agreed by TfL (and formerly the LDA), and accordingly GLA officers are satisfied that the quote would offer value for money. Whilst the GLA must pay for this work in the first instance, the applicant has agreed to reimburse the GLA for the cost of this consultant work. Therefore, the service will ultimately be delivered at no net cost to the Authority.

Evaluation of alternatives

- 2.9 The GLA has explored various alternatives to single sourcing. These are summarised below.

Using Lewisham's viability assessment rather than commissioning a new one

This was the initial approach that GLA officers sought to undertake. However, on receipt of the report commissioned by Lewisham Council it was apparent that there remain various important points of detail that still need to be reconciled. Accordingly a new assessment is required by the GLA.

Undertaking (or at least starting) the work in-house

This option was swiftly discounted because the GLA does not have the relevant in-house expertise to undertake this work itself.

Extending the application assessment programme

This option would allow for a tender process to be run in accordance with the GLA Code. However, for the reasons set out in paragraphs 2.4 to 2.6 above this is not proposed.

- 2.10 Accordingly, GLA officers are of the view that there are no available alternatives to single sourcing in this instance.

Conclusion

- 2.11 Having had regard to the circumstances in this case (including the Mayor's reasons for intervention and the public commitment to a speedy resolution); the clear link to corporate priorities and statutory duty; value for money; and, the implications of delay, GLA officers are of the view that the risks of not complying with section 3.6 of the Code would be outweighed by the risks of not approving the proposed exemption in this case.

3. Objectives and expected outcomes

Objective

- 3.1 The GLA's objective is to secure a full and independent financial appraisal of the abovementioned planning application to inform planning negotiations and Mayoral decision making, and to ensure that the maximum amount of affordable housing would be delivered.

Outcome

- 3.2 The outcome of the work procured will be a consultant report. Whilst the consultant report itself will be commercially sensitive, the conclusions within it will feed into a GLA planning report - which will be published on the GLA website, and used to inform the Mayor's consideration of the Convoys Wharf application.

4. Other considerations

Confidentially

- 4.1 The consultancy work involves the assessment of information that is commercially sensitive for the applicant, and the output report will 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 is important that the Authority procures this work in the first instance – so that the consultant’s duty is to the GLA (therefore ensuring that the appraisal 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 implementation of the Mayor’s London Plan, which identifies that the delivery of additional affordable housing is a key Mayoral priority. The completion of this work will enable GLA officers to provide a robust planning assessment for the Mayor to consider at a Representation Hearing, 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 Hutchison Whampoa Properties (Europe) Ltd., acting on behalf of the applicant (Convoys Properties Limited) has agreed in writing to reimburse the GLA for the cost of the consultancy work required in order for the Authority to determine the Convoys Wharf planning application. This commitment is being secured within a bespoke ‘Project Planning Performance Agreement’ which covers this and various other obligations between the applicant, GLA and TfL associated with the Convoys Wharf case. The agreement is currently in its third iteration, and is substantially agreed by all parties.

Retrospective approval

- 4.5 Whilst drafting and consultation on this ADD request form commenced prior to any procurement, having had regard to the circumstances in this case, advice from the Assistant Director, and officer level comments provided by the GLA’s Finance and Legal teams, an officer level decision was taken to instruct Gerald Eve to commence work prior to final approval of this ADD request. This was necessary so as not to jeopardise delivery of the overall programme (refer to section 2).

5. Financial comments

- 5.1 Approval is being sought to commission the independent financial services of Gerald Eve to complete a financial viability study for the Convoys Wharf redevelopment proposal.
- 5.2 The estimated cost of this work is £18,000. This will be initially met by the 2013-14 Planning Decision budget held within the Development, Enterprise & Environment Directorate, with subsequent recovery of the full costs from the applicant.
- 5.3 All appropriate budget adjustments will be made.
- 5.4 Any changes to the proposal, including budgetary implications will be subject to further approval via the Authority’s decision making process.
- 5.5 The Planning Unit within the Development, Enterprise & Environment Directorate will be responsible for managing the contract, ensuring compliance with the Authority’s Financial Regulations and Contracts and Funding Code.

6. Legal comments

- 6.1 The above sections of this report indicate that the decisions 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 Section 3.6 the Code requires that three or more quotations be sought for the services. However, section 5 of the Code provides that exemptions from that requirement may be approved where the risks of not complying with the Code would be outweighed by the risks of not approving an exemption. GLA officers have stated, at section 2, that such circumstances exist in this case. Therefore, if satisfied with the content of this report, the Assistant Director – Planning may approve the exemption.

6.3 Notwithstanding this, GLA officers will also need to ensure that:

- they enter into legally binding arrangements with the applicant for the reimbursement of the GLA's costs; and,
- an appropriate contract is put in place between the GLA and the proposed contractor bidder before commencement of the services in question.

7. Planned delivery approach and next steps

7.1 Once appointed, the chosen consultant will be instructed to review the viability information available in order to produce a draft report which specifically addresses a number of financial viability issues. Unless otherwise agreed, this should be provided within five working days from the GLA instruction to undertake the work. The draft report will be reviewed by GLA planning officers, who, where necessary, may seek a response from the applicant and/or Lewisham Council - for further review and consideration by the GLA's chosen consultant. Where necessary, the chosen consultant may also be asked to attend dedicated viability meetings in support of the GLA.

7.2 Following the conclusion of any technical discussions and/or clarifications, the GLA will instruct the chosen consultant to finalise its report. The finalised report will be submitted to the GLA in electronic form, in PDF. The table below sets out the key activities and timetable.

Activity	Timeline
Assessment work to commence	20.01.2014
Delivery of draft report	W/C 27.01.2014
Review of draft report (and meetings if necessary)	W/C 27.01.2014 - 03.02.2014
Report finalisation and delivery	W/C 10.02.2014

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 team and Legal team have commented on this proposal as required, and that 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: