

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD1594

Title: Barking Riverside Rail Extension TfL Agreements

### Executive Summary:

A funding package for the £263m (estimated cost) Barking Riverside Rail Extension (BRE) has been agreed in principle between Transport for London (TfL) and Barking Riverside Limited (BRL) which includes a contribution from BRL to TfL of £172m. The outline terms of the arrangements for assembling BRL's funding package are subject to a Mayoral decision being sought under MD1565.

GLA Land and Property Limited (GLAP) and London & Quadrant New Homes (L&QNH) (the latter as the proposed future private sector shareholder in BRL, replacing Bellway) are negotiating the terms of the funding agreement to govern BRL's provision of £172m to its costs of delivery of the BRE and TfL has sought security from L&QNH for BRL's performance under that agreement. This and a number of other commercial points require resolution in order to conclude the new Barking Riverside Joint Venture Agreement and Bellway share sale which are urgently necessary to achieve the programme for constructing the new rail line.

GLAP, a wholly owned subsidiary of the GLA, as the other shareholder in BRL, has assessed the risks associated with the lending and it is satisfied that there is adequate protection through mitigation and incentive to provide the GLA with comfort that the terms of the lending are acceptable.

### Decision:

The Mayor directs Transport for London (TfL) to enter into a:

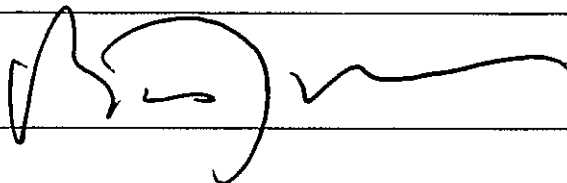
1. funding agreement with Barking Riverside Limited with a target completion date of 29 February 2016 and without a parent company guarantee from London & Quadrant Housing Trust, to govern BRL's provision of £172million to TfL as a contribution to its costs of the Barking Riverside Rail Extension; and
2. land and works agreement with Barking Riverside Limited with a target completion date of 29 February 2016 providing for TfL to meet the costs of earthworks and retaining structures required to achieve the headroom required by BRL beneath certain parts of the elevated sections of the Barking Riverside Rail Extension to enable site permeability and maintenance access.

### 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: 25<sup>th</sup> January 2016

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

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

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

- 1.1 The Barking Riverside Rail Extension (BRE) involves the extension of the existing London Overground network, which currently terminates at Barking Station, to Barking Riverside – a former power station site on brownfield land in East London, Barking with planning permission for 10,800 homes and a new district centre.
- 1.2 The intention is for the service to run on the existing Essex Thameside Tilbury line to a point at Renwick Road Bridge where a new spur (as raised viaduct) will be constructed over the existing track and freight infrastructure and extend south, towards the River Thames to the heart of the new Barking Riverside Masterplan area.
- 1.3 The total cost of delivering the extension, the scope of which will be detailed in the funding agreement is £263m which is being funded through contributions from: TfL currently budgeted at £91m; and Barking Riverside Limited (BRL) of £172m. In the event that BRL or TfL seek to initiate a change to that scope, the party seeking to initiate such change will bear the costs of such change. TfL has agreed to take on the responsibility for building the extension, including covering the cost risk and the rail service will be operated as part of the London Overground rail franchise. The cost of operations will be met through TfL with its train operator with no contribution from BRL.
- 1.4 The Barking Riverside project is an undertaking owned and managed by BRL, a joint venture between Bellway Homes and the GLAP (with 51%/49% share interests respectively). Bellway Homes has agreed terms to dispose of its interest in BRL to London & Quadrant Housing Trust (L&QHT), London's largest charitable housing association, via L&QNH which is L&QHT's non-charitable subsidiary company.
- 1.5 The background to this decision is set out in MD1565 which will, when approved, provide the GLA investment decision to support the delivery of the BRE through provision of the following:
- 1) A loan to BRL from GLAP of £48m as part contribution towards its provision of funding for the costs of BRE.
  - 2) A commitment to invest shareholder loan stock in BRL equating to 49% of any future lending facility made to Barking Riverside Limited from either the Homes and Communities Agency's Large Sites Infrastructure Fund or from L&QHT, BRL's rail funding partner in a limited scenario.
  - 3) Approval of the new BRL joint venture partner L&QNH who replace Bellway Homes.

#### **2. Matters arising**

- 2.1 As set out in MD1565 (a copy of which is appended to this decision form) the key objective for the Barking Riverside project is to provide the rail infrastructure necessary to unlock the planning permission for 10,800 homes. At present there is a Grampian condition on the planning permission that restricts development to 1,500 occupied homes, before a Transport and Works Act Order is made and that a total of not more than 4,000 units can be occupied until the BRE is operational.
- 2.2 On 5 October 2015 BRL signed funding heads of terms (HoTs) with TfL setting out the principal terms of the funding agreement that will govern the provision by BRL of £172m towards meeting TfL's cost of delivering the BRE. L&QNH also signed a side letter indicating its agreement to those HoTs).

- 2.3 The L&QHT Board gave approval to the acquisition of the Bellway shares in BRL and to entering into the new Joint Venture with GLAP in July 2015. Officers are now working with TfL to finalise certain issues regarding the detailed terms of the funding agreement. Key issues include those covered by the proposed direction, that is that TfL proceed to enter into the funding agreement with BRL governing BRL's provision of its contribution to TfL's costs of delivering the BRE without a parent company guarantee from its private sector shareholder; and a land and works agreement required to facilitate the transfer of the land to TfL to enable the construction and operation of the BRE on the basis that TfL will bear the costs of earthworks required to achieve the headroom required by BRL beneath certain parts of the elevated sections of the BRE to enable site permeability and maintenance access.

### **Funding structure**

- 2.4 The total BRL contribution to the rail construction is £172m. This is structured as set out below:

**£55m** Senior loan facility from L&QHT  
**£48m** Junior loan facility from GLAP  
**£15m** Junior loan facility from L&QNH  
**£9m** BRL lending (from land receipts)  
**£45m** Recycled Capital Grant Funding (GLA controlled)

**Total = £172m**

### **Lending facilities key principles**

The lending is not proportionate to the shareholding percentages in BRL (which on completion will be 51% L&QNH and 49% GLAP) but the specific amounts have been negotiated on a commercial basis. The risks to TfL regarding 'non GLA Group' or 'private sector' cash can therefore be identified as those from L&QHT and L&QNH and to an extent a proportion of the BRL lending cash (from forecast land receipts) on the basis the shareholder split is 51% L&QNH/49% GLAP.

The loans are ranked as above in terms of the priority (top as highest priority in terms of repayment). The Recycled Capital Grant Funding (RCCGF) is a grant available to housing associations but under the control of the GLA and is not therefore subject to repayment.

The heads of terms for the provision of the loan facilities from the list above have been agreed between GLA/L&QHT/L&QNH as lenders (not shareholders) to BRL. These loans are arms-length on commercial terms and are State Aid compliant.

## **3. Risks**

- 3.1 It is not perceived that there are any additional risks to the GLA as a direct consequence of the Mayor directing TfL to proceed as planned. Whilst TfL's implementation of the proposed direction may expose it to risks arising as a result of any failure by BRL to provide its funding contribution, GLA officers are satisfied that in this scenario, the GLA would be able to mitigate this risk to TfL through its interest in the BRL development and broader powers and controls in relation to funding.

## **4. Equality comments**

- 4.1 The decision will progress BRE towards TWAO submission in March 2016. No adverse effects are foreseen on any persons with protected characteristics under the Equality Act 2010 as a result of this decision.

## 5. Financial comments

- 5.1 The proposed Direction of TfL to enter into the BRE funding agreement with BRL does not have any additional direct financial implications for the GLA beyond those previously approved in MD1565. The Direction to TfL would mean that the construction of the BRE would proceed in accordance with the HoTs agreed with any excess costs being borne by TfL.

## 6. Legal comments

- 6.1 Section 155(1) of the Greater London Authority Act 1999 (GLAA) provides that the Mayor may issue to TfL:
- a) general directions as to the manner in which it is to exercise its functions, or
  - b) specific directions as to the exercise of its functions.
- 6.2 Section 155(3) of the GLAA also provides that directions which may be issued by the Mayor under subsection (1) may include in particular directions as to the manner in which TfL is to perform any of its duties.
- 6.3 Any directions issued under section 155(1) must be issued in writing and notified to the Commissioner.
- 6.4 The Barking Riverside development project falls within the GLA's housing and regeneration functions contained in Part 7A of the GLAA, and the GLA's powers in section 30 of the GLAA to do such things to promote economic development and wealth creation in Greater London which in this context are supportive of housing and development. The issue of the direction to TfL is therefore for proper purposes.

## 7. Investment & Performance Board

- 7.1 The investment decision to enter into the rail is linked to the decisions being sought under cover of MD1565. This decision was considered by Housing Investment Group on 9 December 2014 and approved in principle by Investment and Performance Board on 18 December 2014, with an update paper considered by Housing Investment Group on 13 January 2015. The delay between IPB approval and the preparation of the MD is due to protracted and complex negotiations between BRL, GLAP, L&QHT and L&QNH over the transfer of shares from Bellway to L&QNH. It was decided that commercial points would be agreed before seeking a Mayoral Decision. All commercial points have now been agreed and they match the terms approved by IPB in December 2014. Completion of the share sale legal agreements is forecast for January 2016.

## 8. Planned timeline of approvals

- 8.1 The outline programme is set out below:

Activity	Lead organisation	Timeline*
Submission of S73 planning application	BRL	Jan 2016
TfL approval to enter into Rail funding agreement	TfL	Feb 2016
Completion of Rail funding agreement	BRL	Feb 2016
Submission of TWAO	TfL	March 2016
Procurement of rail construction contractor	TfL/Network Rail	2016 – 2017
TWAO powers granted	TfL	Spring 2017
Rail extension construction start on site	TfL/Network Rail contractor	2017/18

Rail extension construction completion	TfL/Network Rail contractor	2021
Monitoring housing plot release	GLA Housing & Land	Ongoing to 2028
Project Closure	BRL	2028

*\*Planned dates may be subject to change*

**Appendices and supporting papers:**  
 Direction to Transport for London

**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? Yes**

If YES, for what reason: To allow for the transfer of the shareholding in BRL and other legal documents to be exchanged and therefore contractually committed.

Until what date: 31 March 2016

**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:**

Matthew Carpen 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:**

Fiona Duncan, Head of Area North East London, has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

**Sponsoring Director:**

David Lunts, Executive Director Housing & Land has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

**Mayoral Adviser:**

Isabel Dedring, Deputy Mayor for Transport and Richard Blakeway, Deputy Mayor for Housing & Land have 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. J. Ollie*

Date 25.1.16

**CHIEF OF STAFF:**

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

Signature *E. J. ...*

Date 25:01:2016