

GREATER LONDON AUTHORITY

REQUEST FOR DIRECTOR DECISION – DD1504

Title: Variations to Land Disposal Agreement at Greenwich Peninsula

Executive Summary:

GLAP intends to enter into a Deed of Variation to the Greenwich Peninsula Land Disposal Agreement with its development partner Knight Dragon (KD) in order to revise certain commercial terms, whilst preserving GLAP's ability to recover land value and overage and ensuring that the pace of housing delivery on the Mayor's strategic landholding is maintained.

The existing legal documentation has been reviewed and amended by GLAP's external legal advisors who have also advised on state aid and best consideration. GLAP's appointed property consultant has reviewed and advised on the commercial implications of the revised deal. GLAP's costs are covered by its development partner.

Decision:

Executive Director of Housing and Land is asked to:

Note the proposed revisions to the key commercial principles set out in part two of this paper

Approve entry into a Deed of Variation to the current Land Disposal Agreement and Land Assembly Agreement, documents which implement the revised commercial principles set out in part two of this paper.

Please ensure the Director's signature remains on page 1

AUTHORISING DIRECTORS

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: David Lunts

Position: Executive Director, Housing and Land

Signature: 

Date: 21/04/16

Name: Martin Clarke

Position: Executive Director, Resources

Signature: 

Date: 25.4.16

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

The regeneration of Greenwich Peninsula is a key priority for the Mayor and represents one of the largest development projects involving public land in London. The option to develop the Greenwich Peninsula site, which comprises circa 67 separate plots, was fully acquired by Knight Dragon, a Hong Kong based development company in 2013 by virtue of its acquisition of the joint venture development vehicle from former owners Quintain and Lend Lease.

All development on the Peninsula comes forward under the terms of the Land Disposal Agreement (LDA), a development agreement entered into in 2002 by the then joint venture development company Greenwich Peninsula Regeneration Ltd and English Partnerships; and the Land Assembly Agreement (LAA) (an ancillary agreement to the Land Disposal Agreement relating primarily to Knight Dragon's own landholding at Greenwich Peninsula). The LDA gives Knight Dragon exclusive rights to develop the GLAP-owned plots that form the Greenwich Peninsula area provided that certain minimum requirements are met.

In 2014, the GLA entered into a limited Deed of Variation to the LDA to bring forward 11 plots of residential development. This has allowed development to progress at an accelerated rate and 3000 new homes are now either completed or under construction on the Peninsula.

In December 2015, Knight Dragon was granted full outline planning permission by Royal Borough Greenwich (RBG) for a new masterplan for Greenwich Peninsula. This masterplan was approved by the GLA as strategic planning authority. The new masterplan builds on some of the key principles set out by Terry Farrell in his 2004 masterplan and introduces several new concepts, including increases in open space, new community and employment facilities and a remodelled transport interchange. Residential density is increased from 10,000 to 15,720 homes. As part of the application Knight Dragon produced a Financial Viability Analysis (FVA) that will form the basis of an affordable housing review mechanism set out in the s106 agreement required by RBG.

Knight Dragon are seeking to amend certain commercial terms set out in the LDA to bring them in line with the financial mechanism agreed with RBG as part of the new masterplan consent and to ensure that the pace of housing delivery remains in line with the Mayor's expectations. The changes requested have been reviewed by GLAP and initial discussions with KD have led to agreement in principle on several key points.

Given that some of the terms of the LDA and LAA need to be revised to reflect the commercial agreements reached, a further deed of variation to the LDA and LAA is required to formalise these amendments. This paper seeks approval to enter into the variations.

2. Objectives and expected outcomes

GLAP has reached agreement on a number of key commercial terms and these are outlined in part two of this paper. These terms have been independently reviewed by GLAP's appointed commercial property consultant. GLAP has been advised by its external lawyers on potential procurement and state aid implications of implementing the changes and such advice has been taken into account in the detailed terms now drafted. Additionally, the commercial terms have been reviewed by GLAP's external commercial property consultants to ensure they reflect the proposed revised commercial terms and comply with GLAP's public law fiduciary duties. Following negotiation by GLAP's external legal advisers, the legal documents are

now in a form that can be recommended for approval, and the proposed changes to the commercial terms have been franked for best consideration by GLAP's appointed property advisors.

During discussions on the commercial terms GLAP has ensured that its fundamental development requirements around a minimum land value return are preserved and its ability to recover overage if sales values increase is enhanced.

GLAP has agreed in principle that the commercial terms of the revised deal may align with the updated planning position agreed by RBC and the Mayor where it is commercially prudent to do so and importantly, where it can be demonstrated that departure from the original terms does not lead to an economically disadvantageous outcome. The parties intend that the proposed revised terms give greater certainty over the pace of delivery on the Mayor's key residential development landholding and will allow GLAP increased scrutiny of the development's economic outturn, critical in assessing whether overage is due.

3. Equality comments

Equality considerations will be reviewed as part of the ongoing statutory planning process at each reserved matters application on the Peninsula. Registered Providers will also be obliged to consider the equality implications of housing development as part of their internal protocols and public commitments.

4. Other considerations

Greenwich Peninsula is a key development priority for the Mayor and it is imperative that development momentum is maintained on site. The proposed changes to certain elements of the LDA will allow development impetus to be maintained, securing significant investment and ensuring the delivery of thousands of homes.

Certainty around the commercial terms set out in the LDA should help to facilitate progress on other key community infrastructure and transport initiatives on the Peninsula; examples include development of the new all through school and the new transport interchange at North Greenwich.

As part of commercial discussions with its development partner, GLAP (under advice from its external property consultants) has agreed a financial methodology that will be used to determine overage payments and will track project income and expenditure, offering greater scrutiny of developer cashflows.

GLAP has also sought to strengthen the obligation on its development partner to deliver residential development at an agreed rate in order to prevent the slow release of land and ensure that periods of development inactivity, such as those seen under the previous joint venture partner, are avoided.

5. Financial comments

This paper is seeking approval to the proposed amendments to the LDA's commercial terms of Greenwich Peninsula. These amendments will also have an impact on the terms of the LAA.

The commercial terms are being amended to align some of GLAP's commercial terms with that of the Royal Borough of Greenwich, which will ensure maximisation of the scheme's viability and certainty on the pace of delivery of the development.

It should be noted however, that the overage calculation used to determine project surplus will not be identical to that agreed between RBC and Knight Dragon. Also, as the overage payable to GLAP depends on KD achieving a hurdle of 20% Internal Rate of Return, there is a risk that GLAP may not receive overage payment. GLA can reduce the risk of not earning overage by stipulating allowable costs deductible when calculating the IRR.

Negotiations have sought to preserve the minimum land value and receipt of overage. The revised Agreement will also include a provision giving GLAP the right to ultimately terminate the agreement, where KD fails to deliver

6. Legal comments

GLAP has been advised by its external lawyers on this project since it was inherited from HCA in April 2012 including in relation to the documents and associated matters noted above.

The foregoing sections of this report indicate that the decision requested falls within the statutory powers of the Authority exercisable by the Executive Director of Housing and Land and the Executive Director of Resources (having delegated authority via MD1111 pursuant to section 38 of the Greater London Authority Act 1999), to do such things as are considered facilitative of or conducive to the promotion of economic development, social development and the improvement of the environment in Greater London

Therefore the Executive Director of Housing and Land and the Executive Director of Resources (pursuant to their delegated authority granted under MD1111) may approve the proposed entry into the agreement and other legal documents referred to in this report if satisfied with the content of this report.

As GLAP will be the party to the legal documentation GLAP will also need to approve the proposed deal in accordance with its constitution.

7. Planned delivery approach and next steps

Set out how the project will be delivered and complete the outline timetable

Activity	Timeline
Key principles agreed	w/c 18 April 2016
Legal drafting of Deed of Variation complete	w/c 18 April 2016
Franking of commercial terms	w/c 18 April 2016
DD approved	w/c 25 April 2016
Deed of Variation signed	w/c 25 April 2016

Appendices and supporting papers: n/a

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:

Wil Stewart has drafted this report in accordance with GLA procedures and confirms that:

✓

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.

✓

Financial and Legal advice:

The Finance and Legal teams have commented on this proposal, and this decision reflects their comments.

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

M. J. Allen

Date

25.4.16

