

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD2249

### Title: London Plan Viability – Consultation and Examination

#### Executive Summary:

Under cover of DD2121, approval was granted to commission consultants to undertake a viability study as evidence to support the Draft London Plan. This study has been published as part of the evidence base for the plan.

This decision seeks approval of the award of contract to Three Dragons to provide further advice and evidence on the London Plan Viability Study as a result of the consultation of the draft London Plan as well as to provide support at the Examination in Public.

#### Decision:

That the Mayor approves:

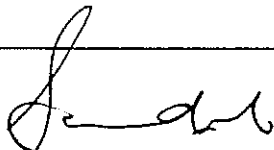
- expenditure of up to £145,000 on additional advice and further written and oral evidence on development viability from Three Dragons as required as a result of the consultation on the draft London Plan as well as the provision of support at the Examination in Public of the Draft London Plan; and
- a related exemption from the requirement of the GLA's Contracts and Funding Code to procure such services competitively.

#### 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:

29/3/18

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

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

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

- 1.1 The Mayor has published the new draft London Plan which provides a framework for more inclusive growth in the City. The Plan policies cover a range of issues including land use, housing, transport, economic development, infrastructure, heritage, culture and health. Under cover of DD2121, approval was granted to commission consultants to undertake a viability study as evidence to support the Draft London Plan.
- 1.2 The London Plan Viability Study, undertaken by a consultant team led by Three Dragons, forms part of the evidence base for the plan. This assessed whether the policies of the draft London Plan are deliverable across various types of development and locations across London, as required by the National Planning Policy Framework (NPPF).
- 1.3 This decision seeks approval of the appointment of the same consultants to provide further advice and evidence on development viability as required as a result of the consultation on the draft London Plan as well as provide support at the Examination in Public. This include an update to the Viability Study as a result of changing market conditions, responses to queries on the Viability Study, additional evidence required arising from issues raised as a part of the consultation process, or in response to requests by the Inspector as part of the Examination, and oral evidence to be provided at the Examination Hearings.
- 1.4 The brief for the initial Viability Study indicated that there would likely be further evidence required as a result of the consultation of the Draft London Plan as well as support needed for the Examination in Public. However, the costs of providing this additional support were not included within DD2121 as the extent of those costs were completely unknown at that time, as the scale of the work is a direct result of the responses received through the consultation on the draft London Plan.
- 1.5 It is acknowledged that section 9 of the GLA's Contracts and Funding Code requires, where the expected value of a contract for services is between £10,000 and £150,000, that the services required should be procured competitively. Section 10 provides however, that an exemption from this requirement may be approved where a supplier has had previous involvement in a specific current project or the where the work proposed is a continuation of existing work, which cannot be separated from the new work. To this end, Three Dragons have, as noted above, previous involvement in the development of the viability study which supports the draft London Plan and their expertise and knowledge of it is beneficial, particularly in terms of the tight timescales.
- 1.6 There are no viable alternative consultants for the follow-on evidence to support this particular study. Given the previous involvement of Three Dragons, their provision of evidence on the study during the submission and examination stages of the London Plan will ensure continuity. Not only do Three Dragons have substantial previous experience and specialist technical knowledge of viability in London, having undertaken the London Plan Viability Study, it would be unfeasible for another consultant to defend the work of the Three Dragons at the London Plan Examination.
- 1.7 Three Dragon's experience in the extensive viability modelling which has informed the study, in particular the assumptions and costings, is also essential for any additional evidence that may be necessary.
- 1.8 No viable alternatives can be appointed for these reasons and therefore approval of an exemption from the requirements of section 9 of the GLA's Contracts and Funding Code is ought accordingly.

## **2. Objectives and expected outcomes**

2.1 The objectives and expected outcomes of this project are to:

- Provide further advice and evidence on development viability as required during the consultation and Examination in Public stages of the plan.
- Provide updates to the London Plan Viability Study if required as a result of changing market conditions.
- Assist the GLA in reviewing and responding to consultation comments on viability matters and issues related to it.
- Provide additional evidence required arising from issues raised as a part of the consultation process or in response to requests by the Inspector as part of the Examination
- To provide oral evidence at the Examination in Public Hearings and related events including a technical seminar on viability matters to assist the examination process.
- To provide expert viability advice and evidence to inform the Examination in Public of MCIL2 if required.

## **3. Equality comments**

3.1 Taking into account the obligations under section 149(1) of the Equality Act 2010, the decision to commission further viability evidence for the Draft London Plan is not anticipated to result in positive or negative impacts on groups with protected characteristics. The assessment is part of the evidence base for the new London Plan for which an Equalities Impact Assessment, as part of the Integrated Impact Assessment, has been undertaken.

3.2 No adverse equality impacts are identified in carrying out this work. This work relates to requirements of the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG).

## **4. Other considerations**

4.1 The London Plan is the Mayor's spatial development plan and provides the framework for delivery of the spatial elements of each of the Mayor's strategies. The viability testing of Development Plans is required under national policy and guidance. The London Plan Viability Study forms part of the evidence for the London Plan and is necessary to ensure that the London Plan is found sound at Examination in Public and can be adopted.

4.2 Given the previous work that the consultant team have undertaken on this study in relation to assumptions and costing, the timescale required for the work and that the support at the Examination in Public will be to defend the initial study, it is important to use the same consultants to provide this additional advice and evidence. Exemption from the standard procurement process is therefore being requested.

4.3 The Draft London Plan has been subject to an Integrated Impact Assessment and has been consulted upon for 13 weeks period.

## **5. Financial comments**

5.1 The cost of this consultancy project will be funded from the London Plan Programme budget approved as part of the 2018-19 GLA budget setting process.

## 6. Legal comments

- 6.1 The Mayor is required to prepare and publish a spatial development strategy (known as the London Plan) under section 334 of the Greater London Authority Act 1999 (“the Act”). The Strategy must include his general policies in respect of the development and use of land in Greater London and must deal only with matters which are of strategic importance. However, in making that determination, it is immaterial whether or not the matter affects the whole of Greater London.
- 6.2 Under S339 of the Act, the Mayor is required to keep under review matters which may be expected to affect the development of London or the planning of its development or which are otherwise relevant to the content of the London Plan.
- 6.3 The Mayor has a duty to keep the Strategy under review in accordance with section 340 of the Act. Under section 341(1)(a) of the Act the Mayor may at any time prepare and publish amendments (or more formally “alterations”) to the Strategy. Section 341 of the Act sets out the procedure to be followed for the preparation and publication of the London Plan and, in particular, section 341(3) sets out the procedure for preparing a replacement Strategy.
- 6.4 The GLA may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of any functions of the GLA exercisable by the Mayor or Assembly or both acting jointly by virtue of section 34(1) of the Act. Entering into arrangements for the provision to the GLA of services required in this regard falls within the remit of this power.
- 6.5 In taking the decisions requested, the Mayor must have due regards to the Public Sector Equality Duty - namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010 and to advance equality of opportunity between persons who share a relevant protected characteristic (race, disability, gender, age, sexual orientation, religion) and foster good relations between persons who share a relevant protected characteristic and persons who do not share it (section 149 of the Equality Act 2010). To this end, the Mayor should have particular regard to section 3 (above) of this report.
- 6.6 Section 9 of the GLA Contracts and Funding Code (the ‘Code’) requires services with value of those proposed to be called off from an accessible framework or conduct a competitive procurement exercise for the same. The Mayor may however, approve exemptions from this requirement under section 10 of the Code upon certain specified grounds. One of those grounds is that an exemption may be approved where the proposed provider has had previous involvement in a specific current project or the work is continuation of existing work that cannot be separated from the new project/work. Officers have indicated at section 1 of this report that this ground applies and legal advice has been sought and provided on its application. The Mayor may therefore, approve the exemption proposed if satisfied with the related content of this report.
- 6.7 Should approval of the proposals set out as decisions be granted officers must ensure that appropriate contract documentation is put in place and executed by the GLA and Three Dragons before the commencement of the services.

## 7. Planned delivery approach and next steps

Activity	Timeline
Procurement of contract	28 <sup>th</sup> March 2018
Delivery Start Date	29 <sup>th</sup> March 2018
Final evaluation start and finish (self):	April 2019 (subject to timing of Examination in Public and adoption of the plan)

Delivery End Date	April 2019 (subject to timing of examination in public)
Project Closure:	May 2019 (subject to timing of Examination in Public and adoption of the plan)

**Appendices and supporting papers:**

- London Plan Viability Assessment- Consultation and Examination Stages – Commissioning Brief

**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 – Disclosure of the total budget available for the services to the proposed provider may impede the GLA's optimal management of the contract and its ability to secure value for money.

Deferral Date - 31/03/2019

**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**

31/03/2019

**ORIGINATING OFFICER DECLARATION:**

Drafting officer to confirm the following (✓)

**Drafting officer:**

Rachael Rooney has drafted this report in accordance with GLA procedures and confirms the following:

✓

**Sponsoring Director:**

Fiona Fletcher-Smith has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

**Mayoral Adviser**

Jules Pipe 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 26 March 2018.

**EXECUTIVE DIRECTOR, RESOURCES:**

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

Signature

*M. D. Allen*

Date

26.3.18

**CHIEF OF STAFF:**

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

Signature

*D. Bellamy*

Date

26/3/2018