

COLLABORATION AGREEMENT WITH THE LONDON LEGACY DEVELOPMENT CORPORATION RELATING TO THE DELIVERY OF THE HACKNEY WICK MASTERPLAN

Key Decision No. FR K80

CABINET MEETING DATE (2014/15)

30 March 2015

CLASSIFICATION:

Open

Exempt Appendices

If exempt, the reason will be listed in the main body of this report.

WARD(S) AFFECTED

Hackney Wick

CABINET MEMBER

Cllr Nicholson

Regeneration

KEY DECISION

Yes

REASON

Spending or Savings

CORPORATE DIRECTOR

Ian Williams Corporate Director of Finance and Resources

1. CABINET MEMBER'S INTRODUCTION

- 1.1 Cabinet will recall its October 2014 decision to delegate authority to the Corporate Director of Finance and Resources, consulting with the Cabinet Members for Regeneration and Finance, to negotiate terms for a Collaboration Agreement with the London Legacy Development Corporation (LLDC). The purpose of the Collaboration Agreement is to formalise the relationship between the two organisations as they jointly propose and bring forward comprehensive regeneration plans in Hackney Wick.
- 1.2 This Cabinet report sets out the progress the organisations have made in negotiating draft Heads of Terms for the Agreement, which are included as an Appendix. The report recommends that Cabinet delegate authority to the Corporate Director of Finance and Resources to conclude these negotiations, returning to Cabinet with the final Heads of Terms for its consideration prior to entering into the formal Collaboration Agreement with the LLDC.
- 1.3 Member oversight of this complex project is important as it develops through the planning and delivery phases. This report recommends that Cabinet seek the assistance and advice of the Corporate Director for Legal, HR and Regulatory Services on the establishment of an appropriate governing body to provide Members with this oversight.
- 1.4 Whilst the negotiations continue between the Council and LLDC, landowners and developers continue to draw up plans for individual sites within the Masterplan area. The Council and LLDC intend to prepare and submit an outline planning application for the area later in 2015, work which has already been funded, predominantly by the LLDC. To facilitate early intervention alongside this, the organisations propose to progress detailed designs and preparatory work for a first phase of development and Cabinet is asked to authorise up to £400,000 of Project Costs to fund this work. The draft Heads of Terms set out mechanisms for the Council recovering its costs if development does not proceed.
- 1.5 The two organisations share the vision, first established in the Council's Area Action Plan, and now being taken forward in the LLDC's Local Plan, that development in Hackney Wick should bring forward comprehensive regeneration. The organisations are committed to retaining and re-providing existing levels of business space - including for artistic, creative and manufacturing occupiers - as part of a new neighbourhood centre which will serve new and existing communities in Hackney Wick and the Olympic Park.
- 1.6 This is a significant project, which will help shape development in Hackney Wick over the next decade. As an established London borough, the Council is well-placed to negotiate terms for this partnership with the LLDC and see the development and regeneration through to a positive conclusion for the area, its businesses and residents. This Cabinet report sets out the next stage in the process for delivering this.

2. CORPORATE DIRECTOR'S INTRODUCTION

- 2.1 This Cabinet report seeks authority to complete the negotiation of Heads of Terms for the Collaboration Agreement with the London Legacy Development Corporation. The Collaboration Agreement will establish the Council's roles and responsibilities in relation to delivery of the Hackney Wick Masterplan.
- 2.2 The draft Heads of Terms for the Collaboration Agreement are included in the Appendix, supported by schedules. The final negotiated Heads of Terms will be reported to Cabinet for its consideration and approval prior to entering into the formal Collaboration Agreement.
- 2.3 The Council and LLDC recognise that delivery of the project is both complex and fluid. Therefore, the draft Heads of Terms build in flexibility and options which will allow the organisations to review structures, strategies and commitments reflecting changes as the project develops.
- 2.4 The draft Heads of Terms set out the Council's Minimum Requirements ensuring it maintains best value for money and mitigates financial risks. The draft Heads of Terms also set out the Project Governance Structure, Project Milestones, Deadlock Resolution Mechanisms and Unwind Mechanisms in the event that the Collaboration Agreement were terminated.
- 2.5 Development within the Hackney Wick Masterplan area will come forward in phases and there are numerous permutations for the Council's involvement. Alongside the overall Outline Planning Application for the area, the Council and LLDC are looking to draw up more detailed plans for a first phase of development. Cabinet is asked to authorise expenditure to cover these Project Costs ahead of entering into the formal Collaboration Agreement. The draft Heads of Terms set out how the Council can recoup its costs if the development did not proceed.

3. RECOMMENDATIONS

- 3.1 That Cabinet notes the progress the Council and LLDC have made in negotiating draft Heads of Terms for the Collaboration Agreement and delegates authority to the Corporate Directors of Finance and Resources and Legal, HR and Regulatory Services to negotiate final Heads of Terms which will be brought back to June 2015 Cabinet for its consideration and approval prior to formally entering into the Agreement.**
- 3.2 That Cabinet authorises the expenditure of up to £400,000 of Project Costs to enable the Council and LLDC to progress detailed design development and preparatory work for a potential Phase 1.**
- 3.3 That Cabinet seek the advice and assistance of the Corporate Director for Legal, HR and Regulatory Services on the establishment of an appropriate governing body which will provide Members with oversight**

of the project with recommendations reported back to June 2015 Cabinet.

4. REASONS FOR DECISION

- 4.1 Cabinet approved a report in October 2014 delegating authority to the Corporate Director of Finance and Resources to negotiate terms for a formal Collaboration Agreement with the LLDC. Draft Heads of Terms have now been drawn up by Council and LLDC officers and these are appended to this report with supporting schedules. The following paragraphs briefly summarise the main terms. This Cabinet Report recommends Cabinet delegate to the Corporate Directors for Finance and Resources and Legal, HR and Regulatory Services to negotiate the final terms for Cabinet's consideration and approval.
- 4.2 **Project Objectives** – are set out in the draft Heads of Terms [paragraph 2.4] and focus on securing outline planning permission for the comprehensive regeneration of the **Masterplan Area**, working with stakeholders to maximise benefit for businesses and residents and securing best value for the public sector.
- 4.3 **Masterplan Area and Phase 1** – the extent of the Masterplan Area and proposed Phase 1 are shown on the appended plan. The Masterplan proposals have been subject to a first round of public consultation, which is summarised at www.queenelizabetholympicpark.co.uk/hackneywick
- 4.4 **Project Governance and Dispute Resolution** The draft Heads of Terms [paragraph 2.5] set out a proposed Project Governance Structure which will comprise a Strategic Board with responsibility for delegated approvals and direction. Responsibility for day-to-day delivery of the project will sit with the Operational Team which will work to the agreed Project Plan. Any dispute that cannot be resolved by the Strategic Board will be escalated to the Chief Executives of each organisation for settlement.
- 4.5 **Member Oversight** – This report recommends that the Corporate Director for Legal, HR and Regulatory Services advise on establishing an additional Governance Body to provide Members with oversight of the project, providing further opportunity for transparency and accountability alongside the Cabinet decision-making process.
- 4.6 **Minimum Project Requirement** The draft Heads of Terms set out [paragraph 2.8] the Minimum Requirement for the Project as a whole which will be the financial benchmark which needs to be maintained in order for the organisations to proceed with the Project. The Collaboration Agreement will be supported by a viability assessment setting out the costs and returns for the Masterplan and Phase 1 developments. In the event the Minimum Requirement is not being met, the Strategic Board will consider measures to address issues, ultimately referring this to the organisations' Chief Executives for determination of whether the project should continue or be terminated.

Minimum returns for individual sites within the Masterplan and Phase 1 developments will be set out and agreed on a site-by-site basis.

- 4.7 **Project Milestones** – The appended schedule sets out the Project Milestones. If the Long-stop dates for the Project Milestones are not met, either organisation will be able to terminate the Agreement.
- 4.8 **Unwind Mechanisms** – The draft Heads of Terms [paragraph 4.6] set out Unwind Mechanisms to determine how Project Costs and Assets will be allocated in the event the Agreement is terminated.
- 4.9 **Land Assembly and Delivery Structure** – the draft Heads of Terms [paragraphs 3.2 to 3.6] outline the land assembly and delivery structure options which are being considered. The formal Collaboration Agreement is intended to enable the organisations to test these delivery and land assembly options, financial costs and returns. It is intended that recommendations will be presented to the Member Governance Body and Cabinet for review and approval as the project develops.
- 4.10 **Project Costs** – LLDC and the Council continue to share the Project costs for developing the project as set out in the appended **Project Budget**. Cabinet is asked to approve up to £400,000 in Project Costs to cover the next phase of detailed design and preparatory work for development in Phase 1. This will enable work to continue on the project's development as the organisations conclude negotiation of the Collaboration Agreement. The Unwind Mechanisms set out how the Council can recover its costs in the event development does not proceed. The £400,000 has been identified by the Corporate Director for Finance and Resources from funds available from the early delivery of savings.

5. DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 5.1 At this stage the Council is exploring a range of options, a combination of which could be taken forward. However, the basic principle for exploring joint working between the LLDC and the Council is that it is considered that the combined vision, resource and efforts of the organisations could secure beneficial long-term regeneration and public value that would otherwise not be achievable if development comes forward incrementally led by individual landowners and developers.

6. BACKGROUND

Cabinet approved a report in October 2014 delegating authority to the Corporate Director of Finance and Resources to negotiate the terms of a Collaboration Agreement between the Council and the London Legacy Development Corporation.

6.1 Policy Context

6.1.1 Until 2012 the Council was the planning policy authority for Hackney Wick, with the London Thames Gateway Development Corporation (LTGDC) responsible for determining planning applications. In that year the Council adopted its Area Action Plan (AAP) for the area, which established the principles and parameters for regeneration and development. Since 2012 the LLDC has been both the planning policy and determining authority for planning applications in Hackney Wick and is in the process of embedding policies in its Local Plan, taking forward principles adopted in the Council's AAP.

6.1.2 The purpose of the Council and LLDC working together is to deliver comprehensive long-term regeneration and development in Hackney Wick aligning with adopted planning policies, as well as seeking to secure business, training and employment opportunities for local residents.

6.2 Equality Impact Assessment

6.2.1 The Council is exploring the potential to work with the LLDC to secure long-term benefit from regeneration and development in Hackney Wick, including securing business space, employment opportunities and the delivery of a new neighbourhood centre with local facilities. The detailed proposals are being brought forward through the formal planning process, as well as extensive pre-and post-submission consultation, identifying the impact and benefit for existing and new resident and business communities. The parties have already embarked on a comprehensive public consultation exercise as well as detailed discussions with each landowner, a majority of the current occupiers and interested parties.

6.3 Sustainability

6.3.1 Similarly the proposals submitted through the formal planning process as a result of the Collaboration Agreement will be required to identify and address economic, social and physical sustainability issues and opportunities. This will form an integral part of the outline planning submission as well as any delivery structure procurement.

6.4 Consultations

6.4.1 The LLDC and the consultant team have undertaken comprehensive consultation on the masterplan proposals, including with landowners and tenants. The nature of these commercial discussions is confidential.

6.4.2 Consultation will be ongoing throughout the process and pre-application public consultation is already underway and will continue post-submission of a planning application and as the delivery structure is developed, including as part of statutory processes.

6.5 Risk Assessment

6.5.1 Comprehensive assessment of risks, including procurement, planning, financial and development exposure will be undertaken at each stage of the project, logged in the Project Plan, reported and assessed through the Governance and Member Oversight structures.

7. COMMENTS OF THE CORPORATE DIRECTOR OF FINANCE AND RESOURCES

7.1 Cabinet is asked to agree the recommendations in paragraph 3 regarding the progress with negotiating the Collaboration Agreement with LLDC for the regeneration of Hackney Wick. The draft Heads of Terms and supporting schedules which are contained in the appendices to this report, set out the progress, particularly the Project Governance, Minimum Project Requirement, Project Milestones and Unwind Mechanisms.

7.2 There are likely to be a number of significant decisions to make once the Collaboration Agreement is in place, including options for land assembly and delivery structure. It is important that Members have oversight of the process, providing transparency and confidence to review the options and make informed decisions. It is therefore, recommended that the Corporate Director for Legal, HR and Regulatory Services provides further advice to Cabinet on a Member Governance Body to oversee the project delivery.

7.3 The Council and LLDC continue to work on the masterplan and preparation of an outline planning application for the Masterplan Area, the timescales for which are set out in the appendices. Alongside this, the two organisations see benefit in developing the design and preparatory work for a first phase of development and Cabinet is asked to approve up to £400,000 of Project Costs to undertake this work at this stage which is in addition to resource commitments from the LLDC of up to £750,000 for this phase. Funding for the Council's share of these costs has been earmarked by the Corporate Director of Finance and Resources from funds available from the early delivery of savings.

8. COMMENTS OF THE CORPORATE DIRECTOR OF LEGAL, HR AND REGULATORY SERVICES

8.1 Cabinet is asked to agree the recommendations in paragraph 3 regarding the progression of the Hackney Wick Masterplan.

8.2 In October 2014 Cabinet agreed to pursue the project to develop the Hackney Wick area in collaboration with the London Legacy Development Corporation (LLDC). This report sets out the recent progress of the project and seeks authority to, amongst other things, authorise completion of the negotiations to agree the terms of a Collaboration Agreement with LLDC which sets out the arrangement between the two parties as to responsibility for and delivery of this strategic project and further funding to progress the project.

- 8.3 The terms of the Collaboration Agreement will include fundamental issues such as planning considerations, land transfer, Compulsory Purchase Orders and procurement of a development partner to deliver the project. Section 1 of the Localism Act 2011 gives a local authority the right to do anything that individuals generally may do and in addition section 111 of the Local Government Act 1972 gives a local authority the power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions. This project is compliant with both of these statutory provisions.
- 8.4 The terms of the Collaboration Agreement between the Council and LLDC will be agreed with LLDC and approval to enter into the agreement will be sought from Cabinet in due course. The Collaboration Agreement will be executed as a deed between the parties.
- 8.5 This Report also asks Cabinet to seek advice on establishing a governing body to oversee the project. The Corporate Director of Legal, HR and Regulatory Services will advise on the establishment of a suitable body. Section 111 of the Local Government Act 1972 allows the Council to work with LLDC (as another public body) in the establishment of any governing body, as necessary.

APPENDICES

- Draft Collaboration Agreement Heads of Terms
- Schedule 1: Masterplan Area
- Schedule 2: Project Milestones
- Schedule 3: Phase 1 Project Costs Budget

EXEMPT

The appendices are exempt

By Virtue of Paragraph 3, Part 1 of schedule 12A of the Local Government Act 1972 the appendices for this report are exempt because they contains information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

It is considered that the public interest is best served by withholding the exempt information in order to preserve the Council's position in a commercial transaction being negotiated and to avoid disclosure of the financial and business affairs of third parties.

BACKGROUND PAPERS

In accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012 publication of Background Papers used in the preparation of reports is required

Description of document None

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