

<p>Grants Determination Sub-Committee</p> <p>14th March 2017</p>	
<p>Report of: Aman Dalvi, Corporate Director of Place</p>	<p>Classification: Unrestricted</p>
<p>London Legacy Development Corporation - Hackney Wick Station Improvements Project</p>	

Originating Officer(s)	Hannah Murphy
Wards affected	Bow East
Key Decision?	No
Community Plan Theme	A Great Place to Live

Executive Summary

This report relates to the requirement to release £1,000,000 of Section 106 resources to London Legacy Development Corporation (LLDC) to enable the delivery of the Hackney Wick Station Improvements Project as part of a wider funding package of £27.5m.

On 6th December 2016, £1 million of S106 funding was approved at Cabinet for London Legacy Development Corporation (LLDC) to deliver improvements to Hackney Wick Station.

Legal Services (in liaison with the Commissioners) have advised that payments to the LLDC constitutes a grant payment and as such requires approval from the Grants determination Sub Sub-Committee. This decision was taken as the S106 planning obligation funding this project provides discretion regarding who the Council passports the funds to.

The London Thames Gateway Development Corporation (LTGDC) was established in 2004 with a ten year remit to regenerate two key growth areas of the Thames Gateway, including the Lower Lea Valley and London Riverside.

Project funding for the Hackney Wick Station Improvements Project has been secured through a Section 106 contribution associated with the Leamouth Peninsula North (City Island) development (ref PA/10/01864). The proposal complies with the requirement for the funding to be '*applied towards the provision of infrastructure in accordance with the Corporate Infrastructure Delivery Plan*'.

LTGDC ceased to exist on 1st October 2012 and LBTH, as the successor body, has assumed responsibility for S106 agreements previously under the remit of LTGDC. However, the London Legacy Development Corporation (LLDC) are now the Local Planning Authority for the area.

The station improvements include a new ticket office and gate line relocated from the platform to ground level on the southern side (LBTH side), to provide a high quality public realm approach and station entrance facilities and the construction of an underpass for pedestrians and cyclists, creating a link from White Post Lane (south) to Wallis Road (north).

Recommendations:

The Commissioners are recommended to:

1. Approve the grant funding of £1,000,000 to London Legacy Development Corporation to assist in the delivery of the Hackney Wick Station Improvement Project.

1. REASONS FOR THE DECISIONS

- 1.1 The station improvements include a new ticket office and gate line relocated from the platform to ground level on the southern side (LBTH side), to provide a high quality public realm approach and station entrance facilities and the construction of an underpass for pedestrians and cyclists, creating a link from White Post Lane (south) to Wallis Road (north).
- 1.2 On 6th December 2016, £1 million of S106 funding was approved at Cabinet for London Legacy Development Corporation (LLDC) to deliver improvements to Hackney Wick Station.
- 1.3 Legal Services (in liaison with the Commissioners) have advised that payments to the LLDC constitutes a grant payment and as such requires approval from the Grants determination Sub Sub-Committee. This decision was taken as the S106 planning obligation funding this project provides discretion regarding who the Council passports the funds to.
- 1.4 The LLDC Infrastructure Delivery Plan (IDP) identifies projects both within and beyond the LLDC boundary, which are required to support proposed development within the LLDC area. The improvements to Hackney Wick Station are identified within the IDP and meet the specific requirements of the S106 agreement.
- 1.5 Improving connectivity within the Hackney Wick Sub-Area is identified as an Area priority within the LLDC's Local Plan, and is seen as necessary to help deliver part of the Hackney Wick Neighbourhood Centre.
- 1.6 The communities which will be served by the new Hackney Wick Station are currently fragmented by rail, roads, waterways and a lack of safe and legible local pedestrian and cycle networks. Central to the regeneration and economic growth of this area is a new 'spine' route created by the major new north-south connection integrating the upgraded Hackney Wick Station to proposed new and upgraded bridges and public realm. This new pedestrian

and cycle connection will substantially improve connectivity between the large development parcels of land currently served by the railway, and it will reduce approach distances to the station for the majority of local residents and businesses within Hackney Wick and on the western side of Queen Elizabeth Olympic Park.

- 1.7 A wide range of economic benefits to the region are expected as a result of Hackney Wick's redevelopment. Alongside the delivery of new jobs and houses, the infrastructure investment is anticipated to have a positive impact on property values and incentivise development activity in the area. This will, in turn, be reflected in increased CIL capture which can be re-invested in the area. This direct infrastructure investment will therefore have a long term impact in enabling further development in jobs and homes in the surrounding areas.

2. ALTERNATIVE OPTIONS

- 2.1 The £1 million that has been identified for this project was secured specifically for infrastructure purposes identified within the LTGDC Infrastructure Delivery Plan and located within the former LTGDC boundary. This limits the scope of how the money can be spent.
- 2.2 The proposal to allocate £1 million of funding to the Hackney Wick Station Improvements Project represents good value for money because it forms part of a larger contribution that has been collected to deliver nearly £27.5 million worth of improvements to the station.

3. DETAILS OF REPORT

- 3.1 This S106 PID is part of the Tower Hamlets Council S106 Delivery Portfolio and is aligned with the agreed Heads of Terms (HoT) for the Deed creating Planning Obligations and undertakings for the development at the site at Leamouth Peninsula North (City Island). London PA/10/01864 dated 28 November 2011. The London Thames Gateway Development Corporation (LTGDC) were, as the then LPA, signatory to the S106.
- 3.2 The LTGDC was established in 2004 with a ten year remit to regenerate two key growth areas of the Thames Gateway, including the Lower Lea Valley and London Riverside. In accordance with the LTGDC Planning Obligations Community Benefit Strategy (2008), a 'standard charge' tariff per dwelling was applied to developments in these areas, based on the estimated cost of infrastructure needed to support the level of development coming forward.
- 3.3 LTGDC ceased to exist on 1st October 2012 and LBTH, as the successor body, has assumed responsibility for existing S106 agreements in place of LTGDC. However, the London Legacy Development Corporation (LLDC) are now the Local Planning Authority for the area and are responsible for the delivery of legacy LTGDC infrastructure to support development in the area.

- 3.4 This payment is to be ‘*applied towards the provision of infrastructure in accordance with the Corporate Infrastructure Delivery Plan*’. There is no expiry date for this contribution. It is proposed to use £1,000,000 of this contribution.
- 3.5 The station improvements include a new ticket office and gate line relocated from the platform to ground level on the southern side (LBTH side), to provide a high quality public realm approach and station entrance facilities and the construction of an underpass for pedestrians and cyclists, creating a link from White Post Lane (south) to Wallis Road (north).
- 3.6 Construction works were started in September 2016 and are scheduled to be completed by February 2018.
- 3.7 The £1 million will form part of a wider funding package of £27.5 million. The sources of funding can be found in Table 1 below.

Funding Source	Amount
London Borough of Tower Hamlets	£1,000,000
London Borough of Hackney	£1,000,000
Greater London Authority	£8,500,000
London Legacy Development Corporation	£10,345,000
Lower Lea Valley	£400,000
OPTEMS	£2,895,000
London Thames Gateway Development Corporation	£3,399,000
TOTAL	£27,539,000

Table 1: Funding sources

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 This report seeks the approval of the Grants Determination Sub-Committee to the release of funding of £1,000,000 of specific Section 106 resources to the London Legacy Corporation as a contribution towards the financing of improvement works to Hackney Wick station.
- 4.2 The allocation of funding was approved by the council’s Infrastructure Delivery Board, and ratified by the Mayor in Cabinet on 6th December 2016. As a Section 106 payment in respect of a capital project, Cabinet also approved the inclusion of the scheme within the capital programme in accordance with the requirements of the council’s Financial Regulations.
- 4.3 The London Thames Gateway Development Corporation (LTGDC) entered into planning obligations and undertakings for the development of the site at Leamouth Peninsula North (City Island) (PA/10/0864). The council has now inherited the responsibility for these Section 106 agreements following the winding up of the LTGDC in October 2012, and the developer is obliged to pay the council £10,558,556 in stage payments as the development scheme

progresses - the contribution being 'applied towards the provision of Infrastructure in accordance with the Corporate Infrastructure Delivery Plan'. To date the council has received £1,008,735 of the stage payments, with this report seeking approval to release £1,000,000 of this sum as a contribution towards the improvement of Hackney Wick Station.

5. LEGAL COMMENTS

- 5.1. Section 106 Planning Obligations are secured pursuant to section 106 of the Town and Country Planning Act 1990. They are a mechanism whereby development proposals which would otherwise not be acceptable can be made acceptable in planning terms. They can impose financial and non-financial obligations on a person or persons with an interest in the land, and become binding on that interest.
- 5.2. As a contract, the Council is required to spend any monies received under a section 106 agreement in accordance with the terms of the agreement. It is therefore important to assess those provisions when allocating monies to a particular project. The Legal department has carried out this exercise in respect of this project and considers that the proposed use of the monies complies with the relevant agreement.
- 5.3. This report concerns the approval of grant funding of £1,000,000 to be provided to the London Legacy Development Corporation ("the LLDC") towards the delivery of the Hackney Wick Station Improvements Project. The project itself will be undertaken by Network Rail on behalf of the LLDC because it is their railway asset.
- 5.4. The relevant section 106 agreement required the funding to be applied towards the provision of infrastructure in accordance with the Corporate Infrastructure Delivery Plan. As this agreement does not specify a particular project which the contribution must be used for, or set out an organisation to which the contribution is to be paid, the Council is not under a legal duty to provide the payment to the LLDC. As such, this payment is considered discretionary and to be a grant. Accordingly the Secretary of State's directions made under sections 15(5) and 15(6) of the Local Government Act 1999 (the Directions) on the 16th of January 2017 apply. These Directions provide that until the 31st of March 2017 any functions exercised by the Council in respect of grants shall be under the direction and to satisfaction of the Commissioners.
- 5.5. From the information provided it appears that the grants are capable of being supported under the Council's powers, specifically under section 1 of the Localism Act 2011 whereby the Council has the general power of competence. This means that the Council has the power to do anything that an ordinary human being could do, unless statute specifically restricts the Council from acting in the way it wishes. Therefore, in the absence of specific legislation to the contrary it would appear to be within the Council's power to issue this grant, subject to the oversight of the Commissioners.

- 5.6. The Council has a duty under Section 3 of the Local Government Act 1999 to ensure that it makes arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. This project is considered to achieve best value. It is noted that the residents of this borough (existing and future) will benefit from the delivery of the project and the grant being provided by the Council is a small proportion of the overall cost of the works. A project board (which includes the London Borough of Tower Hamlets) has been set up to meet monthly, and this will allow for appropriate reporting and monitoring. Further information relevant to Best Value implications is contained in paragraph 7 of this report.
- 5.8 The Treaty on the Functioning of the European Union (TFEU) provides that certain government activities may be prohibited because they give an advantage in a selective way to certain entities (broadly speaking organisations that put goods or services on a market), which might affect competition within between Member States. Such activities may amount to prohibited state aid, or may be state aid which is either expressly allowed by the Treaty, or which may be allowed, dependent on the circumstances. Payments to a public body can amount to state aid where the organisation is engaged in economic activity (putting goods or services on the market). This is not considered to be the case here, and the assistance is not considered to distort (or have the potential to distort) competition because the LLDC/Network Rail are uniquely placed to deliver these works so are not in competition with other organisations. As such it is not considered that that the payment will strengthen them as recipient relative to competitors. Accordingly, we do not consider that this grant gives rise to any state aid issues.
- 5.9 When making decisions, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector equality duty). A proportionate level of equality analysis is required to discharge the duty and information relevant to this is contained in section 6 of the report (One Tower Hamlets Considerations).

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The station improvements will create inclusive access by replacing the poor quality access ramps with stairs and lifts on both sides of the station. The improvements will deliver more direct and safer connectivity through the previously inaccessible rail embankment and will link the development areas of the proposed Hackney Wick Neighbourhood Centre.
- 6.2 The proposals will enhance the current facility for the entire community thereby ensuring stronger community cohesion and higher levels of accessibility

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The delivery of this project ensures the Council meets its S106 obligations and spends funds in accordance with the agreement.
- 7.2 The project is seen as an integral part of the development of Hackney Wick as a Neighbourhood centre. Alongside the delivery of new jobs and homes, this infrastructure investment is anticipated to have an upwards impact on property values and incentivise development activity in the area. This will in turn, be reflected in increased CIL capture which can be re-invested into the area.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 The project will improve access to and encourage sustainable modes of transport, including both public and active modes of transport. The new subway will provide direct and safer pedestrian and cycle connectivity through the previously inaccessible rail embankment, linking the development areas of the proposed Hackney Wick neighbourhood centre.
- 8.2 The project will increase the Public Transport Accessibility Level (PTAL) for the surrounding area meaning that the project will improve people's access to public transport.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 The £1 million of funding forms part of a wider funding package of £27.5 million. Without this funding there will be a shortfall of £1 million and there is a risk that the project will not be able to progress and the other funding sources will be lost.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 The station improvement project will play a vital role in the upgrade and transformation of the Hackney Wick Station and it is envisaged that the proposal will result in a reduction in crime and disorder in the vicinity of the station.

11. SAFEGUARDING IMPLICATIONS

- 11.1 There are no safeguarding implications associated with this S106 Contribution; however the station improvements will provide more direct and safer connectivity through the previously inaccessible rail embankment.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- None

Background Documents – Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012

- Hackney Wick Station Improvement PID

Officer contact details for documents:

Hannah Murphy – Growth & Infrastructure Planner

E: hannah.murphy@towerhamlets.gov.uk

T: 02073641150