

# MAYOR'S EXECUTIVE DECISION MAKING

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Friday, 16 January 2015

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Mayor's Decision Log No. 76

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1. **OCEAN SITE H - REVISED CAPITAL ESTIMATE (Pages 1 - 10)**

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact: John S. Williams, Service Head, Democratic Services

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# Agenda Item 1

<p><b>Individual Mayoral Decision Proforma</b></p> <p>Decision Log No: <u>76</u></p>	 <b>TOWER HAMLETS</b>
<p>Report of: Aman Dalvi</p>	<p>Classification: Unrestricted</p>
<p><b>Ocean Site H – Revised Capital Estimate</b></p>	

Is this a Key Decision?	Yes
Decision Notice Publication Date:	8/12/2014
General Exception or Urgency Notice published?	Not required
Restrictions:	Non

**EXECUTIVE SUMMARY**

This report deals with specific financial issues related to the funding of land assembly work for the Site H area (containing Allonby, Channel and Studland Houses) on the Ocean Estate, to enable the development of 225 homes (50% affordable), the second phase of the Ocean Estate Regeneration.

The original £8.65m capital estimate for the scheme is required to be revised upwards by £980,000 (to £9.63m) in order to meet the additional costs that have since been added to the cost of completing the land assembly for the site. The values for the 37 leasehold properties have increased significantly over the last two and a half years, leading to the increase in the scheme's projected expenditure.

In order for East Thames to secure the GLA grant they are due to receive towards the scheme's affordable units, they require the council to deliver vacant possession before 5<sup>th</sup> March 2015. For this deadline to be met all remaining non-acquired interests are to be vested with the Council in early February 2015 through the use of compulsory purchase powers granted by the Secretary of State. For this to take place, officers are required to spend above the £8.65m capital estimate currently in place. Failure to provide vacant possession within the above timetable could result in the loss of GLA grant and the viability of the scheme being called into question, as well as the Council breaching a contractual requirement of the legal agreement signed with East Thames.

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Full details of the decision sought, including setting out the reasons for the recommendations and/or all the options put forward; other options considered;

background information; the comments of the Chief Finance Officer; the concurrent report of the Head of Legal Services; implications for One Tower Hamlets; Risk Assessment; Background Documents; and other relevant matters are set out in the attached report.

## DECISION

The Mayor is recommended to :

1. Approve an increase of £980,000 to the capital estimate previously agreed by Cabinet on 4<sup>th</sup> July 2012 for the Site H Regeneration Scheme, in order to meet the increased costs of land assembly during a period of significant rises in London property prices
2. Approve the use of £980,000 of future overage receipts from the new development to finance the additional costs

## APPROVALS


### 1. Corporate Director proposing the decision or his/her deputy

I approve the attached report and proposed decision above for submission to the Mayor.

Signed  Date 12/11/2015

### 2. Chief Finance Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.

Signed  Date 12/11/15

### 3. Monitoring Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.


I confirm that this decision has been published in advance on the Council's Forward Plan.

Signed  Date 13/01/2015

### 4. Mayor

I agree the decision proposed in paragraph above for the reasons set out in paragraph X in the attached report.

Signed  Date 16/01/2015

<p><b>Individual Mayoral Decision – 9<sup>th</sup> January 2015</b></p>	 <p><b>TOWER HAMLETS</b></p>
<p><b>Report of:</b> Aman Dalvi</p>	<p><b>Classification:</b> [Unrestricted]</p>
<p><b>Ocean Estate Regeneration – Site H Increase in Capital Estimate</b></p>	

<b>Lead Member</b>	Cllr Rabina Khan
<b>Originating Officer(s)</b>	James Walsh/Niall McGowan
<b>Wards affected</b>	St Dunstan's
<b>Community Plan Theme</b>	Great Place To Live
<b>Key Decision?</b>	Yes

### **Executive Summary**

This report deals with specific financial issues related to the funding of land assembly work for the Site H area (containing Allonby, Channel and Studland Houses) on the Ocean Estate, to enable the development of 225 homes (50% affordable), the second phase of the Ocean Estate Regeneration.

### **Recommendations:**

The Mayor is recommended to:

1. Approve an increase of £980,000 to the capital estimate previously agreed by Cabinet on 4<sup>th</sup> July 2012 for the Site H Regeneration Scheme, in order to meet the increased costs of land assembly during a period of significant rises in London property prices
2. Approve the use of £980,000 of future overage receipts from the new development to finance the additional costs

## **1. REASONS FOR DECISION**

- 1.1. Whilst a small contingency was allowed for in the Site H scheme budget when it was approved by Cabinet on 4<sup>th</sup> July 2012, few would have predicted at that point the sharp rise of inner London Property prices which followed in 2013/14. The original £8.65m capital estimate is required to be revised upwards by £980,000 (to £9.63m) in order to meet the additional costs that have since been added to the cost of completing the land assembly. The Council is required to offer Full Market Value (FMV) in its attempts to complete voluntary acquisitions of all registered interests in the site or when acquiring the remaining interests through the use of a Compulsory Purchase Order. Therefore the values for all 37 leasehold properties have increased significantly over the last two and a half years, leading to the increase in the scheme's projected expenditure.
- 1.2. On 25<sup>th</sup> June 2013 LBTH entered into a legal agreement with East Homes Ltd, the development arm of East Thames Housing Association, to grant them a lease of the Site H area (see Appendix 1 for site plan) to enable the construction of 225 new homes. In order for East Thames to secure the GLA grant they are due to receive towards the affordable units, they require the council to deliver vacant possession by 6<sup>th</sup> March 2015. For this deadline to be met all remaining non-acquired interests are to be vested with the Council in early February 2015 through the use of the compulsory purchase powers granted by the Secretary of State. For this to take place, officers are required to spend above the £8.65m capital estimate currently in place. Failure to provide vacant possession within the above timetable could result in the loss of GLA grant and the viability of the scheme being called into question, as well as the Council breaching a contractual requirement of the Agreement to Lease signed with East Thames.

## **2. ALTERNATIVE OPTIONS**

- 2.1. The only alternative option to the proposed would be to not approve the funds. However as stated above this would lead to a failure to meet both the GLA grant draw-down timetable, as well as meaning the council would be responsible for breaching the scheme's contractual longstop date.

## **3. DETAILS OF REPORT**

### **3.1 Background**

- 3.1.1 The intention to decant tenants and buy-back leasehold properties within Site H, in order to facilitate its redevelopment was authorised by Cabinet on 4<sup>th</sup> July 2012. The project will deliver 225 new units for affordable rent, intermediate, and private sale. The scheme forms part of a long standing objective to transform the Ocean Estate and builds upon the work initiated as

part of the New Deal for Communities programme and the recently completed First Phase Ocean Regeneration Scheme. The estate has already benefited from significant transformation which has delivered external refurbishment to 1,200 homes and internal improvements to the Council's 781 rented properties, as well as 16 new retail units, a community facility, GP and dentist surgery.

- 3.1.2 The decant process has been underway since July 2012 and of the 82 secure tenants, all but a handful now remain, all of whom have a suitable property identified for their relocation. Of the 37 leasehold interests, 16 have been bought-back by the council, leaving 21 properties to be acquired via compulsory purchase powers, should a voluntary settlement not be agreed prior to this date.
- 3.1.3 The Site H scheme successfully received a resolution to grant planning permission in Feb 2014, along with delivering vacant possession this forms the other major requirement for the scheme to proceed to the grant of a lease for the site to East Thames. Securing vacant possession is therefore the last significant issue to be resolved before April 2015.
- 3.1.4 A capital estimate to deliver the land assembly of £8.65m was approved by the 4<sup>th</sup> July 2012 Cabinet; however this figure will now be insufficient to acquire all remaining leasehold properties on the site.

## **3.2 Additional resources required**

- 3.2.1 The original £8.65m capital estimate is required to be revised upwards by £980,000 (to £9.63m) in order to meet the additional costs that are required to completing the land assembly activities. The values for the 37 leasehold properties have increased significantly over the last two and a half years, leading to the increase in the scheme's projected expenditure.
- 3.2.2 In order to achieve vacant possession officers are required to buy back all remaining 21 leasehold properties, which would require a spend above the £8.65m capital estimate currently in place. As has been indicated above, failure to deliver vacant possession within the project timetable could result in the loss of GLA grant and the viability of the scheme being called into question, as well as the Council breaching a contractual requirement within the legal agreement covering the scheme. In order for East Thames to secure the GLA grant they are due to receive towards the affordable units, they require the council to deliver vacant possession by 6<sup>th</sup> March 2015, therefore this increased expenditure must be incurred within the 2014/15 financial year. For this deadline to be met, all remaining non-acquired interests are to be vested with the Council in early February 2015 through the use of the compulsory purchase powers granted by the Secretary of State. A General Vesting Declaration would be served in January in order to arrange the vesting for February.

3.2.3 By way of context, the latest revaluations carried out on the leasehold units indicate that since the scheme's initiation some of the larger properties have increased in value by as much as £75,000. Such increases would not have been projected based on the market in 2012 and the Council is therefore required to increase its budget accordingly to account for these market fluctuations.

### **3.3 Financing**

3.3.1 The additional £980,000 will initially be financed from available uncommitted HRA capital resources, with the anticipation that this commitment will be reimbursed in 3-4 years by the overage which is expected to be generated from the receipts of the private sale units on the new development.

3.3.2 As part of the Council's requirements there is a provision for 'overage' to be paid to the Council within the Agreement to Lease, in the event that the housing market increases beyond the base price of the sale units and ensure the council shares in the benefits if the project moves above its viability point. The overage arrangements simplistically mean the Council will receive a half (50%) share of the benefits in terms of the market sale housing becoming more profitable.

3.3.3 Overage calculations based on current market values indicate that were the units sold in today's market, the overage generated would more than cover the cost of the additional financing the scheme requires. Past experience would also suggest it reasonable to anticipate that the London housing market will increase over the next few years, meaning a greater income could be received by the Council beyond that currently projected. £980,000 of overage received will be ring-fenced in order to compensate the HRA for the additional costs incurred.

## **4. COMMENTS OF THE CHIEF FINANCE OFFICER**

4.1 Cabinet, on 4 July 2012, adopted a capital estimate of £8.65 million to finance the buyback of 37 leasehold properties in Allonby, Channel and Studland Houses on the Ocean Estate, as well as decanting the tenanted dwellings.

4.2 The project is financed from Council resources of £3.6 million previously set aside for the Ocean Estate refurbishment scheme, and a capital receipt of £5.05 million which will be received from the Council's partner registered provider, East Homes Ltd, on transfer of the vacant properties.

4.3 In advance of the capital receipt for the disposal of the blocks and surrounding land being realised, the Authority is forward funding the full costs of property repurchase and decant.

4.4 As outlined in this report, due to changes in the property market, the acquisition costs have increased significantly and are now estimated at £9.63



million. As a result, in order to complete the site acquisition, an increase of £980,000 in the adopted capital estimate is required. This will increase the capital estimate to £9.63 million.

- 4.5 The additional capital estimate will initially be financed from within existing uncommitted Housing Revenue Account capital resources, however, as set out in section 3.3, the Council is expecting an overage payment from East Homes in relation to the eventual sale proceeds arising from the private sale units on the new development. It is proposed that an element of these receipts is 'top-sliced' in order to finance the additional buy-back costs.
- 4.6 It should however be noted that there is risk involved in forward funding because the overage payment is not guaranteed. If the overage receipt does not materialise alternative sources of HRA capital finance will need to be utilised.

## 5. LEGAL COMMENTS

- 5.1. The report seeks adoption of a revised capital estimate of £9.63million for the buyback of 37 leasehold properties to support the Ocean Estate regeneration scheme. The redevelopment of Ocean Estate Block H has been previously approved and is considered to be within the Council's statutory powers. In this regard the Council has power under section 9 of the Housing Act 1985 to provide housing accommodation and to alter, enlarge, repair or improve such accommodation.
- 5.2. The Council's chief finance officer, for the purposes of section 151 of the Local Government Act 1972, has put in place financial regulations and procedures for the proper administration of the Council's financial affairs. Pursuant to financial procedures FP 3.3(5) and 3.3(6), senior managers may only proceed with projects when there is a capital estimate adopted and adequate capital resources have been identified. Cabinet must approve capital estimates in excess of £250,000.
- 5.3. If the Council compulsorily acquires the outstanding leasehold interests, then it will be required to compensate each owner in an amount no less than the loss imposed, but also no greater than that loss (*Horn v Sunderland Corporation* [1941] 2 KB 26). The compensation must be determined in accordance with the rules set out in section 5 of the Land Compensation Act 1961. It is determined based on the value of the land to the owner and, in addition, the owner is entitled to compensation for disturbance, for severance or for injurious affection.
- 5.4. It is proposed to use a portion of the capital receipts from overage payments to fund the additional resources required for the buybacks. The use of capital receipts to meet capital expenditure is permissible by virtue of regulation 23 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1. The overall scheme of the Ocean Estate physical regeneration is about improving the standards of housing for existing tenant and leaseholders, and it will contribute to reducing inequalities. The overall scheme will lead to an increase in affordable housing on the site.
- 6.2. To ensure community cohesion, the Council is working with community representatives to facilitate the regeneration project, and minimise disruption. Significant consultation with residents has already taken place, both in regards to the scheme's conception and initiation, but also in terms of the council's rehousing/relocation offer with East Thames.
- 6.3. The scheme is intended to further the transformational change already achieved, and continue the legacy of the broader objectives of the New Deal for Communities Programme.

## **7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 7.1 Once the land assembly has taken place, the new homes to be constructed by East Thames will replace the old poorly constructed Taylor Woodrow Anglian blocks, which suffer from poor thermal insulation and thereby promote poor energy efficiency. The new homes will be built to modern sustainable performance standards (Code 4 Sustainable Homes) and will be significantly more thermally efficient which should also translate into more affordable energy/heat for residents.

## **8. RISK MANAGEMENT IMPLICATIONS**

- 8.1. The report proposes the authorisation of additional funds, to ensure that over £3m of GLA grant to East Thames for the affordable units is not lost. The report also makes clear that the provision of the increased funds would enable the borough to deliver its contractual obligations to facilitate vacant possession within the scheme's longstop date. Were this date to be missed, East Thames would have the option to walk away from the scheme leaving the council with an empty site and the need to procure an alternate developer partner, with all the associated delays and costs this would involve.

## **9. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 9.1 The existing buildings are well to police as an area of frequent anti-social behaviour. This is partly due to the way the public and amenity areas are designed. The new homes have been designed to counter this issue and will comply with Secured By Design standards.

## **10. EFFICIENCY STATEMENT**

- 10.1 The proposed increase to the scheme's capital estimate will deliver value for money in terms of the council's investment, as the additional £999,000 will ensure the site can be transferred to East Thames, which when the new homes are completed and sold, is expected to yield a significantly higher overage payment to the council, subject to changes in property prices in the London Market.
- 10.2 The purchase values being paid to the remaining leaseholders within the site has been determined by the Councillor's RICS (Royal Institute of Chartered Surveyors) accredited external valuer, ensuring the proposed prices reflect the market value.

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### **Linked Reports, Appendices and Background Documents**

#### **Linked Report**

- Cabinet Report 4<sup>th</sup> July 2012 (CAB 014/123)

#### **Appendices**

- Appendix 1 – Site Pan

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

- None

#### **Officer contact details for documents:**

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