



CABINET

11 July 2012

Subject Heading:

Rainham Library & Lifelong Learning Centre

Cabinet Member:

Cllr Roger Ramsey

Cllr Andrew Curtin

CMT Lead:

Cynthia Griffin

Report Author and contact details:

Mark Butler – Head of Asset Management

Policy context:

Rainham Compass regeneration strategy

Financial summary:

The proposal is to allocate supplementary capital funding of up to £1.8m from the Council's own capital resources (in addition to the £1.2m already agreed within the Capital Programme) which, when combined with the Greater London Assembly (GLA) funding, will enable the development of Rainham library proposals. The £1.8m will secure development of the residential element. The opportunity exists to complete the onward sale of the 16 residential units should the Council wish to recoup this supplementary capital commitment.

Is this a Key Decision?

Yes (Please see below)

Is this a Strategic Decision?

No

When should this matter be reviewed?

April 2014

Reviewing OSC:

Towns and Communities

The Chairman of the Towns & Communities Overview & Scrutiny Committee has agreed pursuant to paragraph 18 of the Executive Procedure Rules that this report shall be exempt from both the Forward Plan procedure and from call-in.

The subject matter of this report deals with the following Council Objectives

Ensuring a clean, safe and green borough	[N]
Championing education and learning for all	[Y]
Providing economic, social and cultural activity in thriving towns and villages	[Y]
Valuing and enhancing the lives of our residents	[Y]
Delivering high customer satisfaction and a stable council tax	[Y]

SUMMARY

The Rainham Library and Lifelong Centre is a catalyst project within the Rainham Compass regeneration scheme, providing a valuable community resource, additional residential units and supporting educational achievement within the Rainham area. The project is integrally linked with bringing the adjacent new Rainham Station bus interchange into use, and with regeneration plans for the Broadway where the existing library is located.

Site works and construction to ground floor slab have already been completed but progression to the main construction stage has been interrupted by the dissolution of the London Thames Gateway Development Corporation.

This report sets out the outcome of recent discussions with the GLA, having inherited LTGDC's role and assets, and sets out proposed funding arrangements to enable the main construction contract to be awarded and the scheme to be delivered by the Council, enabling completion of the project in early 2014.

RECOMMENDATIONS

Cabinet are asked to:

1. Subject to recommendation 2, to note and accept the grant funding offer of £2.2 million from the GLA to support completion of the project.
2. Authorise the Head of Legal Services to execute all legal formalities once decisions have been made by those with delegated authority, in agreement with the Lead Member for Value, to enable the Council to proceed with the scheme including:
 - The main grant agreement between GLA and the Council
 - Award of the main construction contract to Roof Ltd

3. To recommend to full Council that the Capital budget be increased by £1.8m, funded through capital receipts, to secure development of the residential element of the Rainham Library scheme.

REPORT DETAIL

1. Background

- 1.1 At it's meeting on 24th June 2009, Cabinet agreed a series of proposals for Rainham Regeneration including:
 - a) That the principle of building a new library, community learning facility and community space be provided, to be funded by the London Thames Gateway Development Corporation, Havering College and the Council with details to be approved by Cabinet Members for Culture and Community and Finance & Commerce
 - b) That the fit out of the library space be funded from the capital programme for Cultural Services and the sale of the existing library site, subject to a further report to be agreed by the Cabinet Member for Culture & Community.
 - c) That authority be delegated to the relevant Lead member in consultation with the lead member for Finance and Commerce to authorise the commencement of tenders and award contracts to implement the recommendations in this report up to a value of £5million
- 1.2 At that time it was anticipated that the project would be procured, managed and funded by London Thames Gateway Development Corporation (LTGDC) with the Council's role being limited to the funding of the Library fit-out (since quantified at a cost of £1.2 million and funding approved accordingly within the Capital Programme).
- 1.3 In addition to providing a new Library and Lifelong Learning Centre, the project also comprises 2 retail units, 16 residential units (2 bedroom flats) and public open space and is a key feature within the Rainham Compass regeneration proposals.
- 1.4 Since 2009, the design of the scheme has been completed, planning permission has been granted and enabling works undertaken comprising site levelling, piling, foundations and construction of the concrete floor slab. All enabling and "Shell & Core" works to date have been funded by the LTGDC.
- 1.5 The Council has also concluded a conditional land-swap with LTGDC whereby the Council acquires the freehold site for the new library, in return transferring to LTGDC the existing library for subsequent sale/redevelopment once the new library has been completed. Part of LTGDC's receipt from the subsequent sale will be re-invested into the Rainham area. Under this arrangement the Council will lease back the

existing library (at a peppercorn rent) in order to preserve continuity of library facilities until the new library becomes operational. As a 'safety' clause, the land swap agreement allows for both parties to repurchase their original assets for £1, up to the point where the Council awards the construction contract.

2. Contract award

- 2.1 Having concluded the design specification for the new Library and associated development, the main construction contract was the subject of a competitive tender in late 2011, managed by Jones Lang Lasalle (external project managers). Four parties made it through to the final tender stage, but only two made submissions, Roof and ISG.
- 2.2 The tender includes both the shell & core works and the Library fit out works (the latter being funded directly by the Council from the existing £1.2m allocation within the agreed capital programme)
- 2.3 In addition to the compliant bid, Roof submitted a variant bid (as provided for within the tender documentation) indicating scope for further savings. Following tender analysis, JLL confirmed their recommendation to proceed with Roof Ltd based primarily on their compliant bid.
- 2.4 In February 2012, the Council entered into a Pre-Construction Services Agreement (jointly funded with LTGDC) with Roof Ltd to finalise the detailed design and specification, providing the opportunity to 'value engineer' the original specification and achieve cost reductions. Separate grant funding has been provided by LTGDC to cover their proportion of the fees related to this work. This exercise resulted in a confirmed reduction in the contract sum to a revised figure of £4,311,778 with the possibility of achieving further savings subject to planning and BREEAM requirements being satisfied.
- 2.5 Award of the main construction contract for the scheme, was deferred as further grant funding from LTGDC has been reliant on the sale of other LTGDC assets. As a result, the period for the tender to remain valid has now expired, although discussions with the preferred contractor have indicated that they are prepared to extend their tender price in the short term. Whilst labour prices have not increased in the interim, material costs, particularly steel continue to rise so there are likely to be cost risks if the award of the contract were delayed for much longer resulting in a need to re-tender the contract. However, there is obviously a risk the developer will not hold this price for any prolonged period of time.

3. Dissolution of LTGDC

- 3.1 In April of this year, Government proposals to reduce the number of quangoes resulted in the winding-up of the London Thames Gateway

Development Corporation, prior to the grant funding to complete the scheme being made available.

- 3.2 LTGDC's functions and assets have subsequently transferred to the Greater London Authority (GLA). Officers have accordingly focussed efforts on agreeing with the GLA the most appropriate funding and delivery arrangements to complete the project.
- 3.3 It is proposed that the Council now take responsibility for managing and delivering the scheme, supported by grant funding from the GLA. A fortunate aspect of the transfer from LTGDC to GLA is that the latter body has more immediate access to capital funding as a result of which the GLA has recently agreed to provide grant funding of £2.2m subject to the Council accepting a novation of responsibility to manage and deliver the outstanding elements of the project and completion of an appropriate Agreement. LTGDC had already appointed a multi-disciplinary design team with whom Council officers have been working. Novation of the existing design team contracts from LTGDC to the Council has been carried out, preserving continuity - their remaining fees are provided for within the £2.2m grant funding available from the GLA.
- 3.4 The Grant Agreement itself is linked to the cost plan for the project in relation to the core shell of the building and is based on Roof's tender sum. The grant amount at the time of writing is £2.2m.

4. The residential element of the scheme

- 4.1 The original proposal was that 16 flats comprising the residential element be pre-sold to a Registered Social Landlord, relying on high levels of Social Housing Grant. The position has changed in that grant at the levels assumed is no longer available and it has not been possible to find an RSL to proceed and provide the necessary level of funding contribution.
- 4.2 LGTDC obtained a variation to the condition on planning permission to enable the properties to be sold to the private sector to preserve the economic viability of the scheme. LGTDC carried out marketing for the development, including an advert in the Estates Gazette. Only one offer was received at £1.6m but the potential purchaser subsequently withdrew.
- 4.3 The Council has received advice from Glennys LLP Chartered Surveyors on the subsequent disposal of the 16 apartments which confirms that total sales value exceeds the £1.8m cost, although any risks associated with the sales process will need to be managed by the Council.
- 4.4 To cover the funding shortfall, it is proposed that the Council allocate a further £1.8m to the scheme, as an addition to the capital programme,

funded from receipts. In addition to procuring the Library, the Council would own the freehold interest of the 16 residential units which could either be retained as public sector residential stock, or sold in the open market in order to recoup part of the Council's overall investment. As freehold owner of the entire development the Council will also enjoy the rental income streams from the two retail units, estimated in an aggregate sum of £20,000 pa.

5. Havering College

- 5.1 At the time of the original report to Cabinet in June 2009, preliminary discussions had taken place with Havering College as a potential partner for the Lifelong learning element of the project. These discussions have not yet progressed to a detailed conclusion and in the event of there being no substantive progress in this respect, the Libraries Service propose to engage in discussion with other potential education providers to fulfil a similar role. As a result, no financial contribution has been assumed by the education provider as part of the overall funding arrangement, though the opportunity to achieve a capital and/or revenue contribution will be sought as part of subsequent negotiations

REASONS AND OPTIONS

Reasons for the decision:

The project is key to the Rainham Compass Regeneration scheme. Following an earlier start on site by LTGDC, the scheme is currently at risk of being 'mothballed' with foundations and floor slab already completed. The GLA have offered £2.2.m grant funding specifically for the purpose of progressing the construction and the additional £1.8m investment from the Council will cover the remaining funding cap. There is an option for the Council to recoup this additional funding, if it chooses to do so, from selling the residential units on the open market.

Having tendered the scheme at the end of 2011, the tenders submitted have already expired, but the preferred contractor has agreed to hold their current tender price in the short term, thereby avoiding the need to repeat the tendering exercise if the contract can be awarded shortly

Other options considered:

Pre -sale of the residential units on the open market - was the original proposal but no longer viable due to changes in Social Housing Grant.

Pre-sale of the residential units to a private investor – the option has already been pursued but stimulated little interest

IMPLICATIONS AND RISKS

Financial implications and risks:

The following is a summary of the proposed costs and funding. (The figures exclude expenditure on works/fees already incurred by LTGDC):-

Main construction/fit out contract, including agreed PCSA savings	4,311, 778	
Contingency @10%	<u>431,177</u>	
Works total	4,742,955	
Fees	204,000	
<i>Total projected expenditure</i>		<i>£ 4,946,955</i>
Funding:		
Library fit-out budget (LBH – existing commitment)	- 1,200,000	
GLA Grant funding	- 2,200,000	
Additional LBH contribution to residential element	- 1,800,000	
<i>Total funding</i>		<i>£5,200,000</i>

The works contract award will not be made until there is a satisfactory, and confirmed, Grant Agreement in place (see also Legal Implications).

The Council's financial exposure for the 'fit out' works remains unchanged for the original proposal - these are funded in the existing capital programme at £1.2m as above.

Cost risks have been reduced as follows:

1. Ground works including piling and ground beams have already been completed - hence costs are known and covered by LTGDC.
2. Majority of design work has been completed – hence associated fees are known and covered by GLA grant

In the event that the Council agrees the additional £1.8m funding allocation, the total funding exceeds the anticipated costs by around £250,000. Upon completion of the project, any cost savings against the project budget will be shared between the GLA and the Council by negotiated agreement. It is likely the council may bear risk if the project spend exceeds total funding.

The Council retains the opportunity to sell the residential units in the open market, should it wish to recoup a significant proportion of its investment

Conway Mulcahy – Finance Business Partner

Legal implications and risks:

Conclusion of the project is subject to the completion of various legal formalities namely:

- The negotiation and execution of the main grant agreement between GLA and London Borough of Havering
- Award of the main construction contract to Roof Ltd

There are a number of risks to the Council which revolve around the execution of the Grant agreement and award of the construction contract.

The Grant Agreement is currently under negotiation, but on its present terms would expose the Council to a number of risks set out below. Officers will use their best endeavours to negotiate out the clauses which expose the Council to unacceptable risk.

The agreement as it is currently written splits the payments into a “Development Phase” and a “Delivery Phase”. The extension of the Agreement and payment of funds under the Delivery Phase once the Development Phase is complete is at the sole discretion of the GLA.

The funding amount under the Grant Agreement will be a fixed amount. As the document is yet to be completed and funding figures inserted there is uncertainty as to whether or not there is the ability to receive additional funding should there be unforeseen expenditure with the development. Should there be an ability to receive additional funding this would be at the sole discretion of the GLA.

Once executed funding under the Agreement is paid when the GLA is satisfied that all conditions, milestones of the Agreement have been met by the Council. Changes to the project not consented to, failure to deliver the Project or meet project objectives, or to comply with any terms and conditions gives the GLA absolute discretion to reduce, suspend or withhold the funding or terminate the grant agreement. The payments will be made in accordance with a funding schedule (still to be determined) and not as a lump sum payment. There is a risk therefore of Council having to meet any shortfall in funding in these circumstances.

The Grant Agreement currently allows for the GLA (in addition to the termination/suspension rights noted above) to terminate the agreement at its sole discretion and at any time by giving two calendar months notice in writing, (the exact notice timeframe is yet to be determined) meaning that Council would be contractually bound to meet the obligations (contractual and financial) under the

novated agreements, the Construction contract and any others it enters into while being faced with a shortfall in funding.

At this stage any sale, charge, loan or disposal in relation to a Capital Asset of the project or any change in the purpose for which a Capital Asset is used can only be completed with written consent of the GLA and such consent may be conditional upon repayment or partial repayment of the grant to the GLA out of any funds received. Under the contractual definition within the agreement the residential units and the retail units are capital assets.

Whilst steps have been taken to minimise the risks to the Council, in particular ensuring that there is sufficient confirmed funding in place before entering into contractual commitments, there is always the risk of unforeseen expenditure on building projects which might not be covered by funding obligations of others

Ian Burns – Acting Assistant Chief Executive/Head of Legal Services

Human Resources implications and risks:

The are no Human Resource implications arising from this report

Geraldine Oakley – HR Business Partner

Equalities implications and risks:

This decision will support the delivery of a much needed learning and community facility to Rainham residents, thereby promoting equality of opportunity within the borough.

Martha Goodhill – Diversity Programme Manager

BACKGROUND PAPERS

Report to Cabinet -24th June 2009 – Rainham Regeneration

Executive Decision 11/8/11 - The disposal of the current Rainham Library and the acquisition of land for a new library at the junction of Ferry Lane and the Broadway, Rainham

Cabinet, 11 July 2012

Executive Decision 19/4/12 Revision to the agreed executive decision dated 9 August 2011 for the disposal of the current Rainham Library and the acquisition of land for a new library at the junction of Ferry Lane and the Broadway, Rainham