

Cabinet Member delegated decision 07 February 2019

Brixton Townscape Heritage Initiative – Reliance Arcade grant offer

Wards: Coldharbour

Report Authorised by: Sandra Roebuck, Acting Strategic Director – Neighbourhoods & Growth

Portfolio: Councillor Matthew Bennett, Cabinet Member for Planning, Investment & New Homes

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Report summary

This report seeks authorisation to offer a grant from the Brixton Townscape Heritage Initiative (THI) to South Coast Furnishing Company Ltd., the freeholders of Reliance Arcade, 455 Brixton Road, SW9 8HH, to carry out repairs and renovation of this Grade II listed building which is on Historic England's Heritage At Risk register, in accordance with the aims and objectives of the THI grant scheme.

Finance summary

A capital grant of £598,356.27 is proposed towards total estimated project costs of £854,118.34.

The grant is made up of £588,356.27 from the Brixton THI Common Fund and a £10,000 grant from the Heritage of London Trust. The balance of £255,762.07 will be paid by the owners.

Recommendations

- (1) To approve the issue of a formal grant offer to South Coast Furnishing Company Ltd. for £598,356.27 (capital) for heritage focused refurbishment and improvements in respect of Reliance Arcade, 455 Brixton Road, SW9 8HH.
- (2) To approve the inclusion of an additional 'rent agreement' clause within the THI Grant Agreement in order to protect existing tenants.

1. Context

- 1.1 The Brixton Townscape Heritage Initiative (THI) is a £2.6m 5-year heritage-led regeneration scheme which aims to economically and physically regenerate a key part of Brixton's historic town centre, focused around Electric Avenue. The project is funded by a £1.95m grant from the Heritage Lottery Fund (HLF) and £650,000 of Council capital which together make up the Common Fund. All HLF funds must be spent and reclaimed by December 2019.
- 1.2 The objective of the scheme is to preserve and enhance the unique historic character and appearance of the THI area through building repair and restoration grants to identified Priority Properties (see map at Appendix A), helping to support existing local businesses by attracting more people to visit and shop in the area as well as bringing wider heritage benefits to the local community.
- 1.3 Of the total Common Fund, £2,030,000 is available for building grants, of which £491,166.70 has been offered and spent to date on three Priority Properties. The THI target is to improve 12 eligible properties by December 2019. A grant offer of £58,736.53 for 16-24 Electric Mansions (28 & 30/32 Electric Avenue) is pending approval, leaving £1,480,096.77 available to offer.

2. Background

- 2.1 Reliance Arcade is the only listed Priority Property in the Brixton THI area and the oldest of Brixton's three Grade II listed indoor markets, built in 1925/6 and a key part of the area's cultural and built heritage. The arcade has been owned and run by South Coast Furnishing Company Ltd., a small family-owned business, since its construction.
- 2.2 The arcade provides 40 small retail units, leased by 23 tenants, of which the majority are small, local-owned businesses. As noted in Historic England's listing description for Brixton's indoor markets, their historic interest is that they '*formed the commercial and social heart of the extensive Afro-Caribbean community that settled in Brixton after WWII*'. Reliance Arcade still retains an element of this special character in the businesses and customers that frequent the arcade.
- 2.3 The current appearance and physical condition of the building is poor, with a range of repairs needed to prevent further deterioration, as well as a number of unsympathetic later alterations to remove to improve its appearance and functionality and restore the historic character. The building has been on Historic England's Heritage At Risk register since 2014.
- 2.4 It is therefore important to help support these existing businesses to continue trading and enable them to thrive in the current challenging retail environment. A THI grant has the potential to help improve the external appearance and internal environment of the arcade to enhance its appeal as a retail destination as well as improving staff facilities and working environment.

3. Proposal and Reasons

- 3.1 The applicants, South Coast Furnishing Company Ltd, have worked over the past 18 months on various iterations of the schedule of works, including discussions with the council's planning team to ensure these were acceptable in Listed Building terms. This phase also included public consultation with arcade tenants and customers, including feedback on three different options for the Brixton Road 'rainbow' frontage, and feedback was positive. No objections to the planning or listed building consent applications were received.

- 3.2 Planning and Listed building Consent were obtained on 8 October 2018 and the owners then put the works out to tender. The prices that came back were higher than estimated due to the contractors factoring in additional risk, time and out of hours working on the project due to our requirement that the tenants remain in occupation throughout the works. However, minimising the impact on tenants is a priority for both the council and the arcade owners and the use of grant funding will help to mitigate these increased costs that would otherwise make restoration and repair with sitting tenants unviable.
- 3.3 After the value engineering and tender revision exercise, the lowest tender price was £548,667.35 from Coniston Ltd. The **proposed grant offer of £598,356.27** is calculated by applying HLF's approved fixed rate grant percentages for work elements classed as either building repair (60%) or restoration of architectural features (85%) to Coniston's priced schedule of works (see Appendix C) with contingency, VAT and professional fees added. The **total estimated project costs are £854,118.34**, of which £831,941.75 are eligible. The grant is made up of £588,356.27 from the Brixton THI Common Fund (75% Heritage Lottery Fund grant and 25% Council capital) and a £10,000 grant from Heritage of London Trust. The **owner's expected contribution will be £255,762.07**.
- 3.4 The valuation report obtained from BNP Paribas notes that '*we do not consider that the rental income would increase as a direct result of the repair works*'. However, they state that the capital value of the arcade would be expected to increase as potential investors would apply a lower yield due to an expectation of having to spend less on repairs due to the improved condition of the building. BNP Paribas put the uplift in value at £230,000.
- 3.5 In addition to the standard Brixton THI grant terms and conditions, it is proposed to include an additional 'rent agreement' clause in order to protect existing tenants from any possibility of rent rises as a direct result of improvements to the arcade from the grant-funded works (though as noted above this is not expected).
- 3.6 There are 40 units within the arcade, occupied under 27 tenancies. Of those tenancies, 10 are up to date in terms of their rent reviews and lease renewals, with the rest outstanding and holding over. Most of the tenants benefit from security of tenure under the Landlord and Tenant Act 1954. The landlords have been working through the process of reviewing and renewing leases for all units since 2017, in negotiation with tenants, and aim to complete the process this year.
- 3.7 Independent valuation work commissioned by the Council from BNP Paribas has confirmed that the market rents that would currently be achievable for each unit are higher, in most cases, than the Estimated Rental Value (ERV) that the landlord has either agreed with existing tenants under recent lease renewals/rent reviews or is seeking from existing tenants where rent reviews are outstanding. Therefore, BNP Paribas have recommended that any rent agreement clause caps rents at the landlord's current ERV, not at current passing rent rates (which would disadvantage those existing tenants who have engaged in and completed recent rent reviews).
- 3.8 The proposed clause will cap rents at the landlord's current ERV for five years from the start of the works for all existing tenants. This ensures that any outstanding rent reviews are able to be completed to a level in line with neighbouring tenants but that no rent increases can be imposed as a result of improvements to the arcade.
- 3.9 The Council's legal team advised that imposing a rent agreement as a condition of the grant would be lawful and enforceable as it would '*further the objectives of the grant funding*' through '*preserving the cultural*

heritage of the arcade which is one of the reasons for its special interest'. The condition would be incorporated in the Grant Agreement which is entered as a Land Charge against the property.

4. Finance

4.1 The projected cost of the capital works is £854,118.34. Table 1 below details the funding.

Table 1 – Projected Costs and Funding Sources

Projected Cost	£854,118.34	% Share
Funded by		
Brixton THI Common Fund	£588,356.27	68.88%
Heritage of London Trust	£10,000.00	1.17%
Owners' Contribution	£255,762.07	29.95%

4.2 From the initial £2,030,000 THI Common Fund for building grants (of which 75% is HLF funding and 25% is match funding) £491,166.70 has been committed to date leaving an available balance of £1,538,833.30.

4.3 The detailed cost and grant calculations (Appendix C) is based on fixed rate grant percentages agreed by HLF and applied to the schedule of works prepared by Hugh Cullum Architects and tendered prices from Coniston Ltd.

4.4 If the actual cost of the works is lower than the estimates on which the grant offer is based then there will be a proportionate reduction in any grant payments. If the final costs are higher there is no obligation for the council to increase the grant.

4.5 The grant will be paid in arrears against completed eligible works on presentation of paid invoices and an architect's certificate. The works must be completed and all grant claimed no later than 30 November 2019.

5. Legal and Democracy

5.1 Section 1 of the Localism Act 2011 provides the Council with the power to do anything that individuals generally may do. This power extends to doing things that an individual may do which are unlike anything that the Council currently, or public bodies do. This power can be used for commercial purposes or otherwise for a charge, or without a charge. The Council may exercise this power for, or otherwise than for, the benefit of the authority, its area, or persons resident or present in its area. This general power is limited by any restrictions in any existing or future legislation.

5.2 Section 111 of the Local Government Act 1972 provides powers for a local authority 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.

5.3 The grant offer will be subject to the recipient entering into a Grant Agreement with the Council, in accordance with HLF requirements. The Agreement will seek to protect the public investment through

imposing suitable terms and conditions, including the requirement to maintain the property and the grant-aided works after completion.

- 5.4 A Local Land Charge will be registered against the property to ensure the ability to claw back a proportion of the grant paid if any terms and conditions are contravened and/or if the property is sold within 10 years.
- 5.5 The Heritage Lottery Fund have confirmed that the European Union has deemed Townscape Heritage Initiative grants to comply with State Aid provisions because *'grants in cases where the retention or appropriate repair of heritage assets entails additional costs part or all of which are to be defrayed by grant promotes culture and preserves heritage without affecting trading conditions and competition'*.
- 5.6 This proposed key decision was entered in the Forward Plan on 21 November 2018 and the necessary 28 clear days' notice has been given. In addition, the Council's Constitution requires the report to be published on the website for five clear days before the proposed decision is approved by the Cabinet Member. Any representations received during this period must be considered by the decision-maker before the decision is taken. A further period of five clear days - the call-in period – must then elapse before the decision is enacted. If the decision is called-in during this period, it cannot be enacted until the call-in has been considered and resolved.

6. Consultation and co-production

- 6.1 The Brixton THI was developed in conjunction with a local stakeholder group, the Brixton Heritage Regeneration Partnership (HRP). They helped to identify eligible properties for THI building grants and agreed that Reliance Arcade was a priority due to its listed status, poor condition and key function to Brixton town centre as a location for small independent local businesses and value to the local community.
- 6.2 The proposals for the repair and restoration of the arcade have been developed by the owners in conjunction with the Council's planning and conservation officers and the Brixton THI Project Manager. Once a deliverable scope of works was agreed, the proposals were exhibited to tenants and the public prior to submission of the planning and Listed Building Consent applications. This included canvassing views on three different options for the treatment of the Brixton Road 'rainbow' façade, with the comments directing the final approach.

7 Risk management

- 7.1 The key risk of the project is the potential disruption to existing tenants from the building works (though short term disruption should be mitigated by longer term benefits to businesses from the improved arcade). To mitigate this, a detailed construction management plan and programme for the works phasing will be drawn up between the architects, owners and main contractor as soon as a grant is confirmed, and prior to works starting on site. Tenants will be invited to comment on this before it is finalised. The general principle is that the working area (roof and upper levels) will be separated from the trading space at the beginning of the works to minimise disruption. In addition, some work will take place out of hours to minimise disruption and make access easier for the builders (i.e. scaffold erection).
- 7.2 Liaison with tenants will continue prior to works starting on site and throughout the building contract by both the owner's agent and the main contractor's site manager, who will be able to address any concerns directly. The THI Project Manager will also liaise between tenants, the owners and the contractor to ensure the project runs smoothly and any tenant concerns are addressed if and when they arise.

- 7.3 The risk of the improved condition of the arcade leading to increased rents is not expected (see section 3.2), however to reassure tenants and give them certainty as to rent levels for the medium term, a 'rent agreement' clause will be included in the Grant Agreement to fix rents for existing tenants at the landlord's current Estimated Rent Levels (which are lower in most cases than the current market rates) for a period of five years from the date of the grant offer.

8. Equalities impact assessment

- 8.1 The proposed decision will not have an adverse effect on any of the Council's protected equalities groups. The public investment via THI grant funding will secure the restoration of Reliance Arcade, benefitting the current tenants and customers, a significant number of whom are from a BAME background.

9. Community safety

- 9.1 The renovation of Reliance Arcade is intended to have a positive impact on community safety within Brixton town centre by improving the lighting within the arcade and at both entrances, fronting Brixton Road and Electric Lane. All relevant works will be Secure by Design and the installation of an open-link shutter and glazed shopfront to Brixton Road will increase the sense of and actual night time overlooking/surveillance and discourage anti-social behaviour in that area.

10. Organisational implications

10.1 Environmental

The retention and repair of this historic building using traditional methods and materials will contribute to reduction in carbon emissions through effective reuse of an existing building and its embodied energy, which is less resource intensive than new build construction. Sustainable timber and other materials will be used wherever possible.

10.2 Staffing and accommodation

The staffing costs of the THI project management are met from a separate budget within the overall THI Common Fund.

10.3 Procurement

The building owner is responsible for procurement on this project and the main contractor has been chosen via a competitive tender process, in line with HLF funding requirements for expenditure over £50,000.

10.4 Health

No direct impacts, although some indirect related positive benefits for those working in and visiting the arcade due to an improved environment.

11 Timetable for implementation

- 11.1 If approved, the grant will be offered as soon as the statutory call in period for a key decision has expired. In the meantime the owner and contractor will have to progress various preliminary activities 'at risk' in order to achieve an end of February start on site date and ensure completion within the THI deadline of December 2019.

Phase	Workstream	Date
Preparation & Planning	Listed Building Consent and Planning consent approved	8 October 2018
	Tender period	12 October – 19 November 2018
	Tender Value Engineering and revision	10 December – 17 December 2018
	Valuation report from BNP Paribas (property value, heritage deficit, market rent analysis)	10 January 2019
	Final grant calculation (on tendered costs)	10 January 2019
	Preliminaries, detailed surveys, licences, building regs., discharge of planning conditions etc.	January - February 2019
Approvals & Offer	HLF Permission to Offer a Grant to a Third Party	25 January 2019
	Cabinet Member Decision	28 January 2019
	Call in period	28 January – 4 February 2019
	Formal Council decision to offer a grant	4 February 2019
	THI Grant Offer and Grant Agreement signed	4 February 2019
Delivery	JCT Intermediate Contract for building works signed	4 February 2019
	Works on site (30 weeks)	24 February – 20 October 2019
	Practical Completion	20 October 2019
	Final grant payment due on Practical Completion	20 November 2019
	Defects Liability Period (6 months)	20 October 2019 – 20 April 2020
	Final retention payment due (after resolution of any defects)	20 April 2020

Audit trail				
Consultation				
Position	Name	Date Sent	Date Received	Comments in para:
Acting Strategic Director, Neighbourhoods and Growth	Sandra Roebuck	21.01.19	22.01.19	
Assistant Director Area Regeneration	Tom Bridgman	18.01.19	21.01.19	Throughout
Head of Area Regeneration (Brixton & Clapham)	Will Steadman	18.01.19	18.01.19	Throughout
Legal Services	David Thomas	18.01.19	21.01.19	5
Democratic Services	Maria Burton	18.01.19	23.01.19	5
Finance	Paul Badiani	18.01.19	21.01.19	4
Cabinet Member for Planning, Investment & New Homes	Cllr Matthew Bennett	25.01.19	30.01.19	

Report history	
Original discussion with Cabinet Member	27.07.17
Report deadline	N/A
Date final report sent	N/A
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	Yes
Date first appeared on forward plan	21.11.18
Key decision reasons	Expenditure in excess of £500,000
Background information	<p>Cabinet member decision – Brixton THI bid http://modern.gov.lambeth.gov.uk/ieDecisionDetails.aspx?ID=3299</p> <p>Reliance Arcade statutory list entry: https://historicengland.org.uk/listing/the-list/list-entry/1393881</p> <p>Historic England Heritage At Risk Register entry for Reliance Arcade: https://historicengland.org.uk/advice/heritage-at-risk/search-register/list-entry/2053226</p>
Appendices	<p>Appendix A: Brixton THI Priority Projects map</p> <p>Appendix B: Consented proposals for Reliance Arcade 18/03333/FUL and 18/03334/LBC</p> <p>Appendix C: Reliance Arcade THI grant calculation</p> <p>Appendix D: draft Reliance Arcade THI grant offer</p> <p>Appendix E: draft Reliance Arcade THI grant agreement</p>

APPROVAL BY CABINET MEMBER OR OFFICER IN ACCORDANCE WITH SCHEME OF DELEGATION

I confirm I have been consulted on this report:

Signature _____ **Date** _____

Post: Tom Bridgman, Assistant Director – Area Regeneration

I confirm I have consulted the relevant Cabinet Members, including the Leader of the Council (if required), and approve the above recommendations:

Signature _____ **Date** _____

Post: Matthew Bennett, Cabinet Member for Planning, Investment & New Homes

Any declarations of interest (or exemptions granted):

Issue

Interest declared