

CABINET MEMBER DELEGATED DECISION 02 JUNE 2020

Report title: Elizabeth House Infrastructure Payment

Wards: Bishop's

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

Report Authorised by: Eleanor Purser and Sara Waller: Strategic Directors for Sustainable Growth and Opportunity

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Report summary

This report recommends that the partial cost of delivering a lift shaft to the Northern Line at Waterloo Station is accepted as an Infrastructure Payment in satisfaction of part of the Community Infrastructure Levy (CIL) due in respect of the Elizabeth House development. The value of the payment in kind will be limited to £2.3m. This is the only opportunity to provide step-free access from street level to the Northern Line and the council will work with TfL and the developers to deliver this.

Finance summary

The report recommends that Lambeth council accepts a payment in Kind from the developer in lieu of a Lambeth CIL payment.

It is proposed that £2.3m payment in kind will part fund the projected £4.5m costs of delivering a lift shaft at Waterloo station.

Recommendations

1. To agree to accept the part delivery of new lift access to the Northern Line at Waterloo Station as an Infrastructure Payment to the value of £2.3m in satisfaction of £2.3m of the Community Infrastructure Levy due in respect of redevelopment of Elizabeth House under planning permission ref: 19/01477/EIAFUL.
2. To delegate to the Strategic Directors for Sustainable Growth and Opportunity the authority to negotiate and enter into an Infrastructure Agreement and take all necessary steps to implement Recommendation 1.

1. CONTEXT

- 1.1 On 15 October 2019, the Lambeth Planning Applications Committee resolved to approve the planning application for the redevelopment of Elizabeth House adjacent to Waterloo Station (planning ref: 19/01477/EIAFUL). The development is for the demolition of the existing building and construction of a new building to provide 146,170sqm of office space (including affordable workspace) and 8,900sqm of flexible retail space. It also includes new extensive public realm that will provide new routes through the site and into Waterloo Station. It is a strategic development that will transform the centre of Waterloo.
- 1.2 Waterloo station currently lacks full step free access to the Bakerloo and Northern Lines. To make these lines fully accessible will require works within the Elizabeth House site. The works to provide access to the Bakerloo Line could be undertaken any time. However, due to physical constraints the works to provide access to the Northern Line would only be possible while the site is clear following demolition of the existing building and before construction of the new building. The redevelopment of Elizabeth House presents a 'once in a generation' opportunity to provide step free access to the Northern Line.
- 1.3 The cost of providing a lift shaft to the Northern Line (not including any fit out works) is estimated to be £4.5m. The amount of funding that can be justifiably secured through a section 106 contribution to the council is £2.2m. This figure was calculated by Transport for London and is based on the level of additional demand on the Underground that can be attributed directly to the Elizabeth House development. Consequently, there is a funding gap of £2.3m. However, it is possible that this gap could be met by offsetting the cost of the work against part of the development's CIL liability. This would be achieved by accepting the provision of the lift shaft as an infrastructure payment under section 73A of the CIL Regulations 2010. The cost of fitting out the shaft (including installing the lift itself) would be an additional cost that would need to be met by other sources. However, delivering the lift shaft would safeguard the opportunity to provide full step free access in future.

2. PROPOSAL AND REASONS

Proposal

- 2.1 The proposal is to agree to accept the provision of a lift shaft for step free access to the Northern Line at Waterloo Station as an infrastructure payment to the value of £2.3m of CIL out of a total Lambeth CIL liability of £23,455,115.06. The balance of Lambeth CIL and the full value of the Mayoral CIL would be accepted as a payment in the usual way.
- 2.2 If agreed, the works would be secured by way of an "Infrastructure Agreement" which would be entered into (at the Developer's cost) before commencement of the development and would secure the following:
 1. The infrastructure would be transferred to TfL for use in connection with their operation of Waterloo Underground Station at no cost to TfL.
 2. Provide that the infrastructure in kind will be made available within 46 months of commencement of the development or otherwise agreed.

3. Where the works are not made available by this date (or any agreed extension thereto) the Agreement will provide that the developer must pay the full CIL amount in cash together with interest.
4. Where there is a cost overrun, that the value of the CIL Infrastructure payment is no greater than £2.3m and where there is a cost underrun, that additional infrastructure required to fit out the lift can be accepted as an infrastructure payment to a total value of no more than £2.3m or the balance will be paid as part of the final Lambeth CIL Liability.
5. A method of assessing the cost of the works (including design costs), by an independent person at the cost of the Developer, and for the payment of any unspent funds or interest to be paid to the Council to be used on other infrastructure projects.

Reasons

- 2.3 Providing an accessible transport network aligns with the Council's ambition for Sustainable Growth in the Borough Plan 2019-2021 and is supported by Policies T4 and Q1 of the Lambeth Local Plan 2015 and Lambeth's Transport Strategy 2019. The opportunity to safeguard step free access to the Northern Line at Waterloo is of particular value given the station's strategic importance and high volume of passengers.
- 2.4 The cost of providing step free access across all of Waterloo Underground Station is estimated to be £45m. This would consist of lifts for the Northern and Bakerloo Lines and two diagonal lifts serving other parts of the station. The Northern Line lift shaft is proposed to be accepted as an infrastructure payment due to the limited opportunity to construct it.
- 2.5 The alternatives would be to:
 - (i) not accept the works as an infrastructure payment; or
 - (ii) accept only part of the works as infrastructure payment, i.e. a value lower than £2.3m
- 2.6 Not accepting the infrastructure payment would mean the lift shaft cannot be delivered as there is no alternative funding for it. The council would instead receive the full amount of Lambeth CIL as a monetary payment plus a payment of £2.2m through the s106 agreement towards other transport improvements. This money could be spent on other transport improvements but the opportunity to provide step free access to the Northern Line would have been lost.
- 2.7 Accepting a lower value of infrastructure works would also mean that the lift shaft cannot be delivered as there is currently no other funding to cover the gap and it is likely that no funding will be made available during the limited window there is to construct the lift shaft. As discussed above, if the lift shaft is not delivered the developer will default to paying the full Lambeth CIL amount plus section 106 money but the opportunity to provide step free access to the Northern Line will be lost.
- 2.8 Therefore, it is recommended that:
 - (a) The infrastructure payment is agreed.
 - (b) Delegated authority is given to the Directors of Development, Planning and Housing Growth to enter into an infrastructure agreement under Section 73 of The Community Infrastructure Levy Regulations 2010.

3. FINANCE

- 3.1 The report recommends that Lambeth Council accepts a £2.3m payment in Kind from the developer in lieu a Lambeth CIL payment to part fund the projected £4.5m cost of delivering a lift shaft in Waterloo station.
- 3.2 Table 1 below details the indicative CIL liabilities

Table 1: Projected CIL Liabilities

Indicative CIL Liability	Amount
CIL Liability	£23,455,115
Mayoral CIL	£24,914,544
Total	£48,369,660
Less Payment in Kind (Lift)	£2,300,000
Revised Indicative CIL Liability	
Revised Indicative CIL Infrastructure	£21,155,115
Revised Mayoral CIL	£24,914,544
Revised CIL Liability	£46,069,660

- 3.3 The developer will bear any financial risks for any overspends. In addition, if the final costs are less than the projected £4.5m, then additional infrastructure required to fit out the lift shaft to a maximum total value of £2.3m will be accepted or the balance will be paid as part of the final Lambeth CIL liability.
- 3.4 The legal costs of drafting the agreement would be met by the Developer.
- 3.5 Any collected Mayoral CIL payment is paid directly to TFL less an 4% administration fee.
- 3.6 Monitoring the infrastructure payment would be managed within existing resources of the s106/CIL team.

4. LEGAL AND DEMOCRACY

- 4.1 The Community Infrastructure Levy Regulations 2010 allow the council as a charging authority to accept one or more infrastructure payments in satisfaction of the whole or part of the CIL due in respect of a chargeable development. An infrastructure payment is the provision of one or more items of infrastructure by a person who would be liable to pay CIL in respect of a chargeable development on commencement of that development.
- 4.2 The Planning Act 2008 defines infrastructure as including transport facilities.
- 4.3 Regulation 73A of the 2010 Regulations requires the council to enter an agreement with the person liable to pay the CIL to ensure that the infrastructure is provided and if it isn't, the council receives the full amount of CIL in cash together with interest.

4.4 This proposed key decision was entered in the Forward Plan on 17 February 2020 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.

5. CONSULTATION AND CO-PRODUCTION

5.1 Informal consultation was undertaken with Ward Councillors. They expressed concern that a CIL payment be substituted by a payment in kind and instead the full CIL amount should levied and directed towards other borough/local priorities. They felt that there were alternative funding sources for the lift shaft.

5.2 The reasons accepting the infrastructure payment are set out in paras 2.3 to 2.7. The lift shaft would safeguard the opportunity to provide infrastructure that would be of local and wider benefit. Funding has been discussed with TfL and it has been confirmed that there is no immediate funding for the lift shaft. Given the limited opportunity there is to physically deliver the shaft, accepting an infrastructure payment is considered appropriate.

6. RISK MANAGEMENT

6.1 The main risks that impede on the successful delivery of this procurement and contract are:

Table 1 – Risk Register

Item	Risk	Likelihood	Impact	Score	Control Measures
1	Developer does not enter into infrastructure agreement	1	8	8	The council will instead receive the full CIL amount as a payment
2	Lift shaft is not delivered due to the developer not reaching agreement with TfL	1	8	8	As above
3	Lift shaft is not delivered due to engineering or technical difficulties	1	8	8	As above
4	Elizabeth House development does not go ahead	1	8	8	None. This is outside of the Council's control
5	Elizabeth House development is delayed	2	1	2	The timescales in the infrastructure agreement will have flexibility to be amended to account for any delays

Key

Likelihood	Very Likely	4	Likely	3	Unlikely	2	Very Unlikely	1
Impact	Major	8	Serious	4	Significant	2	Minor	1

7. EQUALITIES IMPACT ASSESSMENT

- 7.1 Accepting the infrastructure payment-in-kind as proposed would facilitate the provision of step free access to the Northern Line at Waterloo Underground station, which would have a positive impact for those requiring step free access.
- 7.2 A full Equalities Impact Assessment was carried out in 2013 for the adoption of Lambeth's CIL Charging Schedule and other supporting documents. It continues to be relevant and accurate. That report states: "The infrastructure and services that CIL will provide (for example schools, medical and community facilities, improvements to green open spaces, and transport) will enhance accessibility and liveability of all sectors of society, including all equality groups.
- 7.3 The proposal would have not have a detrimental impact on any of the equalities groups.

8. COMMUNITY SAFETY

- 8.1 The proposal would facilitate improved access to the Northern Line at Waterloo station which would have a neutral on community safety.

9. ORGANISATIONAL IMPLICATIONS

Environmental

- 9.1 Step free access to the Northern Line would encourage more sustainable patterns of travel with associated improvements to air quality and reduced carbon emissions.

Health

- 9.2 Step free access to the Northern Line would encourage more active patterns of travel and improve transport opportunities for those with disabilities thereby improving health and wellbeing.

Corporate Parenting

- 9.3 None.

Staffing and accommodation

- 9.4 None.

Responsible Procurement

- 9.5 None.

10. TIMETABLE FOR IMPLEMENTATION

- 10.1 A simple table to show stages and deadlines for implementing recommendations, or a list of measurable aims and outcomes with the date by which they should be achieved.
- 10.2 The table below details the stages and deadlines for implementing the recommendations:

Activity	Proposed Date
Date published on Forward Plan	17.02.2020
Publication on Decisions online	22.05.2020
Decision date	02.06.2020

AUDIT TRAIL				
Consultation				
Name and Position/Title	Lambeth Directorate	Date Sent	Date Received	Comments in paragraph:
Councillor Matthew Bennett	Cabinet Member for Planning, Investment and New Homes	20.04.20	06.05.20	Report Summary
Councillor Jack Hopkins	Leader of the Council	20.04.20	22.05.20	-
Councillor Kevin Craig	Ward Councillor, Bishop's	03.03.20	10.03.20	See section 5
Councillor Ibrahim Dogus	Ward Councillor, Bishop's	03.03.20	05.03.20	-
Councillor Jennie Mosley	Ward Councillor, Bishop's	03.03.20	10.03.20	See section 5
Sara Waller & Eleanor Purser, Co-Strategic Directors	Sustainable Growth and Opportunity	09.04.20	18.04.20	5.1 and 5.2
Rob Bristow, Director of Development, Planning and Housing Growth	Sustainable Growth and Opportunity	09.04.20	18.04.20	-
Michael Munnely, Head of Business Development and Investment Monitoring	Sustainable Growth and Opportunity	25.02.20	25.02.20	-
Benny Clutario, CIL/S106 Manager	Sustainable Growth and Opportunity	25.02.20	25.02.20	-
Paul Badiani Group Manager	Finance and Property	25.02.20	03.03.20	Finance Summary, 3.1-3.6
Peter Flockhart, Senior Planning Lawyer, Legal Services,	Legal and Governance	18.02.20	20.02.20	Report Summary, Recommendation, 1.2, 1.3, 2.1, 2.2, 2.4, 2.7, 2.8, 4.1-4.5
Maria Burton, Democratic Services	Legal and Governance	20.02.20	21.02.20	4
Ross Whear, Strategic Applications Manager	Sustainable Growth and Opportunity	26.02.20	28.02.20	Rec. 1, 2.2, 3.1, 7.1

REPORT HISTORY	
Original discussion with Cabinet Member	17.02.2020
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	17.02.2020
Key decision reasons	Expenditure, income or savings in excess of £500,000. Meets community impact test.
Background information	Community Infrastructure Levy Regulations 2010

	Officer's report to the Lambeth Planning Applications Committee – 19/01477/EIAFUL Elizabeth House
Appendices	Appendix A – Plans showing location of lift shafts

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

I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board, and taken account of their advice and comments in completing the report for approval:

Signature: _____ **Date:** _____

Post: Jeffrey Holt, Principal Planner - Strategic Applications, Planning Transport and Development, Sustainable Growth and Opportunity

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

Any declarations of interest (or exemptions granted): None.

Any conflicts of interest: None.

Any dispensations: None.