

Item No:	Classification: Open	Date: February 2020	Decision Taker: Strategic Director for Housing and Modernisation
Report title	Joseph Lancaster Nursery Site Project Grant Agreement		
Ward(s) or groups affected	London Bridge & West Bermondsey, and Chaucer		
From	Director of New Homes		

RECOMMENDATION(S)

That the Strategic Director of Housing and Modernisation (in consultation with the Strategic Director of Finance and Governance):

1. Approves the project grant agreement in Appendix 1 for Leathermarket CBS to deliver 40 council homes at Joseph Lancaster Nursery Site.
2. Notes that the information required to satisfy the Building Contract Milestone was presented to the Programme Delivery Board on 14 January 2020.

BACKGROUND INFORMATION

Cabinet Decision

3. On the 17 December 2019 Cabinet resolved:
 - That the overarching grant agreement with Leathermarket CBS to deliver 161 council homes be approved.
 - That the project grant agreement for the delivery of individual projects outlined in the overarching grant agreement be approved.
 - That the approval of the grant following this report be delegated to the strategic director of housing and modernisation in consultation with the strategic director of finance and governance.
 - That it be noted that the council will own these properties and residents will be signed up on council tenancy agreements.
 - That it be noted that Leathermarket JMB will be ring-fencing the net rental income from the additional homes provided at Marklake Court and further schemes proposed for the first 10 years, which will bring additional benefits to the council and wider community, estimated at nearly £14m.
 - That it be noted that a separate agreement will be drawn up to agree the ring-fencing of this income, its use and including claw back mechanism by the council.
 - That it be noted that approximately £2m of this will be used to reduce the costs to the development programme.
 - That it be noted that the remaining £12m will be used to deliver an estimated additional 30-35 council homes. With the income accumulated from the new homes being used to start 10 of these homes by 2026/7.
 - That it be noted that the grant of £12,897,245 construction costs plus £2,904,245 professional fees and contingency will be given under the delegated approval to complete the work started on the Joseph Lancaster estate to deliver 40 council homes.

- That it be noted that the council will receive £4,000,000 of Council Homes for Londoners Grant for the successful delivery of these homes at Joseph Lancaster.
- That it be noted that an additional grant will be required to remediate the ground condition of the Joseph Lancaster Nursery Site, following recent asbestos discovery. To date, no archaeological finds have been discovered that may adversely influence programme and/or costs.

Leathermarket

4. In 1996 Southwark Council outsourced the management of around 1500 homes in North Bermondsey to the Leathermarket Joint Management Board (JMB). This decision proved successful as the Leathermarket JMB has had three successful continuation ballots with the latest seeing a 76% turnout and a 93% approval of secure tenants. Subsequently the council agreed to make the JMB the country's first self financing Tenant Management Organisation.
5. Leathermarket Community Benefit Society (CBS) was subsequently set up by the JMB in 2014 as a separate body to deliver affordable homes. The CBS was established in response to local residents raising concerns about the lack of affordable homes in the Leathermarket area.
6. The JMB is seeking to support in delivering 11,000 new genuinely affordable homes, 2500 of these by 2022.

Development Opportunities

7. The JMB is working with local residents, to design homes that meet local needs, in a way that is sympathetic to the immediate neighbours and allocating a proportion of these to residents on the estate. This approach at Marklake Court has been proven to have achieved a much greater level of local support than an outside developer could achieve. This approach will enable the JMB to unlock contentious sites and hidden homes.
8. Through a process of analysis of the JMB estate, in conjunction with local residents and professional advisors, a number of potential development sites have been identified and documented in the CBS/JMB Estate Improvement Plan. This includes the Joseph Lancaster estate and several other sites outlined in this paper to deliver an estimated 161 new council homes as part of a new grant agreement estimated at a cost of around £50m. The council affords Leathermarket to develop proposals to deliver new council homes as part of its commitment to provide 11,000 new council homes.
9. In October 2018 the council was notified that the bid for Council Homes for Londoners Grant was successful and £9.3m of funding was secured for the successful delivery of Joseph Lancaster and the Elim sites in the proposed Leathermarket programme.
10. A grant agreement is being proposed to give a clear arrangement for the delivery of the Leathermarket programme of new homes. This is structured as:
 - An overarching grant agreement: This agreement sets out the overarching principles upon which funding may be made available to the grant recipient and the grant recipient's role in securing the delivery of the outputs
 - Project grant agreements: Project grant agreements will set out the detailed terms and conditions upon which specific amounts of funding will be advanced to the grant recipient by the council.

11. The agreements set out the conditions upon which funding is provided from the council to the grant recipient. The agreement specifies the purpose for which grant is to be provided, the reporting arrangements, monitoring and evaluation, liaison and communication between the parties, and the funding provided to the grant recipient.

KEY ISSUES FOR CONSIDERATION

Delivery of Joseph Lancaster nursery site

12. The first scheme delivered under these agreements will be the Joseph Lancaster nursery site.
13. In March 2018 Cabinet noted that officers carried out a due diligence exercise on the Leathermarket Community Benefit Society in connection with the application for funding of a development of 40 new council funded homes at council rents on the former Joseph Lancaster nursery site and authorised the director of housing and modernisation to enter into negotiation on an agreement for the lease or a loan and grant of a long leasehold interest of the land on the Joseph Lancaster estate, with the Leathermarket Community Benefits Society (CBS) on the same basis as agreed for the first development site: undertaken by the CBS at Kipling Garages and that any variations be delegated to the Strategic Director of Housing & Modernisation.
14. In April 2019 Cabinet noted that Joseph Lancaster would now be built as council homes let on council tenancies and accounted for in the Housing Revenue Account.
15. Bell Phillips Architects were commissioned in May 2017 to produce an indicative design in collaboration with local residents. The development proposal for the site is based on the construction of 40 homes, consisting of a new staggered multi-storey building consisting of 34 flats, with the highest part being eight storeys; and six three-bed two-storey mews houses. The proposed buildings form an L-shape, with a proposed communal open space in the centre, incorporating landscaping, a re-provision of car parking and children's play space.
16. The tenure mix is based on providing 40 social rented homes, comprising of six three-bed terraced houses, seven one-bed flats, twenty four two-bed flats, three three-bed flats.
17. Planning permission (17/AP/4661) was granted in 10 Jan 2019.
18. The Joseph Lancaster contract was entered into in June 2019 by Leathermarket CBS with a break clause prior to entering the main contract. The contract is split 3 ways. Progress/timescales for each Section is as follows:

Contract Section	Works	Start date	Completion date
Section 00	Demolition	Completed	
Section 01	Trial pit investigation, UXO surveys	Completed	
	Ground works and archaeology	9 th Jan 2020	16 th March 2020
Section 2	Piling and construction	15 th April 2020	March 2022

19. The identification of asbestos containing material in the ground was found during demolition and at the start of the archaeological dig halted works on site for approximately 6 months. A revised strategy to minimise the archaeological dig was agreed with the Council, subject to no significant findings from trial pit investigations and UXO surveys.

20. The archaeological dig and pile mat can now be progressed as there were no significant findings from the trial pits and UXO surveys.
21. If during the asbestos removal and pile mat works identifies any significant archaeological findings which renders the scheme unviable, the employer has the right by written notice to the contractor to terminate the employment of the contractor under this building contract at any time prior to the date of possession for Section 2.
22. The homes provided at Joseph Lancaster will contribute to the council's commitment to deliver 11,000 new homes by 2043 and to deliver 2,500 of those new homes by 2022.
23. Subject to achieving 50% local lettings across the agreed programme under the overarching grant agreement it is currently proposed that 43% of the homes at Joseph Lancaster will be locally let.

Scheme	Total Council Homes	Local Allocations	Boroughwide Allocations	Local Percentage
Joseph Lancaster Nursery, Deverell Street	40	17	23	43%

24. Officers will be working with officers of the Leathermarket CBS to ensure it delivers the scheme as efficiently and effectively as possible. As well as regular contact, a quarterly review meeting is already in place and highlight reports will be required

The overarching agreement

25. The project grant agreement sits under the overarching agreement that which sets out that the council (in exercise of its powers) has agreed in principle
 - To make available the project funding in an aggregate principal amount equal to the maximum amount agreed in the project agreement; and.
 - To make this project funding available to the grant recipient subject to and in accordance with the terms of the project agreement.

Project Grant Agreement

26. The project grant agreements set out the detailed terms and conditions upon which specific amounts of funding will be advanced to the grant recipient by the council.
27. The grant recipient may submit a claim for an instalment of the grant to fund or part-fund a delivery stage upon meeting the relevant milestone, which the council must approve. These will be sent to the Delivery Programme Board and formal approval will subsequently be from the director of housing and modernisation, who will consult with the the strategic director of finance and governance.

Delivery Stage	Relevant Milestone
Feasibility Stage	Inception Report Milestone
Planning Application Stage	Feasibility Report Milestone
Detailed Design & Contract Procurement	Planning Milestone
Construction Stage	Building Contract Milestone
Final Payment Stage	Retention Milestone

28. The agreement restricts the use of grant to fund the project in accordance with the schedule of costs and for no other purpose.
29. The agreement also sets out the monitoring and reporting requirements for the grant recipient including quarterly financial reports, a risk register and health and safety reports.
30. The council has discretion to withhold or suspend payment of any grant instalment in a number of circumstances including that the grant period has expired or the authority considers that unsatisfactory progress with the project has been made.
31. The agreement sets out observance of statutory requirements to the grant recipients including the Equality Act 2010, the Health and Safety at Work Act 1974 and the Modern Slavery Act 2015. It also requires the recipient so make sure that all Relevant Staff employed or engaged by it are paid an Equivalent Hourly Wage which is equal to or exceeds the London Living Wage.
32. Joseph Lancaster is at the construction stage.

Project Grant Agreement requirements

33. It is a requirement under the Project Grant Agreement, in order to meet the Building Contract Milestone it is a requirement within the Project Grant Agreement that the Programme Delivery Board has approved the building contract information – this is provided or referenced in the below table.
34. This building contract information went to the Programme Delivery Board on 14 January 2020.

Building Contract Milestones	Milestone information provided
Building Contract	Signed building contract
a report submitted by the Grant Recipient to the Authority demonstrating to the Authority's satisfaction that detailed design of the Development to reflect completion of RIBA Stage 4 Technical Design has been completed	RIBA Stage 4 tracker
construction programme and;	Construction Programme
details of any retention(s) monies	Building contract clause 4.18.1 (p9) confirms retention is set at 5%
evidence of the Grant Recipient's compliance with Authority procurement requirements (including provision of appropriate public liability insurance);	Tender Report Enquiry/Invitation to Tender
evidence that warranties to the Authority's satisfaction have been or will be obtained from the appointed Building Contractor in favour of each of the Grant Recipient and the Authority;	The Authority to require a warranty from the contractor

the Schedule of Costs; and	Overall Schedule of Costs Client Schedule of Costs
an updated risk assessment in connection with the Project	Project risk register

Policy Implications

35. The development of this site will provide much needed genuinely affordable housing built to the highest of standards in terms of both design and energy efficiency. In particular the architects have been careful to adhere to the council's own planning policies as well as the London Housing Design Guide and the council's Employers Requirements.
36. The properties will be built to code level 4 of the code for sustainable homes and therefore will have to reduce carbon emissions, conserve fuel and energy as set out in building regulations (Part L) Value the Environment.

Housing Strategy

37. The long-term housing strategy for the borough was agreed by Cabinet on 27 January 2014. It contains a vision for the future of housing in the borough, which consists of four principles.
 - Principle 1: We will use every tool at our disposal to increase the supply of all kinds of homes across Southwark.
 - Principle 2: We will demand the highest standards of quality, making Southwark a place where you will not know whether you are visiting homes in private, housing association or council ownership.
 - Principle 3: We will support and encourage all residents to take pride and responsibility in their homes and local area
 - Principle 4: We will help vulnerable individuals and families to meet their housing needs and live as independently as possible
38. A refresh of the Housing Strategy is underway.

Community impact statements

39. The new homes created as part of this resident led programme will enable some households to move from over crowded conditions whilst others will be downsizing, allowing the release of a range of different sized units to be re-let to others in housing need. An equalities impact assessment has been carried out to assess the implications of developing the Joseph Lancaster estate and further assessments will form part of the future schemes progression through the grant milestones.
40. The development of these sites will have wider regenerative benefits for the local community. No residents will be displaced as result of these schemes.
41. Under the Public Sector Equality Duty General Duty public authorities must have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation as well as to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.
42. The protected groups covered by the equality duty are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnerships, but only in respect of eliminating unlawful discrimination.

43. The council's "Approach to Equality", which was agreed by cabinet in December 2011, outlines the council's legal duties under the PSED General Duty and its obligations under the Human Rights Act 1998. It also sets out the council's commitment to embedding equality and human rights within the day-to-day responsibilities of all members, officers and contractors, as a part of day to day business.
44. It is essential that when decisions are made they take into account the public sector equality duty's general duty (PSED General Duty) as set out in section 149 of the Equality Act 2010. Officers will undertake further equality analysis as the service works through implementation of the changes.
45. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors and subcontractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. The grant agreement requires Leathermarket CBS and its contractors and subcontractors pay LLW and that this will result in quality improvements for the council and provides best value for the council. Anticipated benefits include a more incentivized workforce and improved staff retention. Following award, these quality improvements and any cost implications will be monitored.
46. The impacts of the proposal on those being part of a group with a protected characteristic as defined by the Equality Act are relatively limited and it is view of officers that these are significantly outweighed by the benefits of the additional housing. However, this is for the decision maker to determine.

Resource implications

47. The overarching grant agreement sets out the principles upon which council funding may be made available to Leathermarket CBS, and the role of the CBS in securing the delivery of new council homes, which will be managed by Leathermarket JMB on behalf of the council. It is anticipated that 161 council homes will be delivered through this agreement at an estimated cost of £50 million.
48. All the future schemes approvals are subject to project agreements and milestone approvals. The non housing deliverables within the overall agreement are to enable later delivery of council homes. The grant funding provided to Leathermarket CBS will be met from resources supporting the Housing Investment Programme, including grant funding from the GLA and borrowing as appropriate.

Consultation

49. The Leathermarket CBS is carrying out an exhaustive consultation on all the schemes.
50. Given the scale and significance of the proposals, the Leathermarket CBS is making substantial efforts to engage the community around the sites. There was a significant amount of resident engagement for the Joseph Lancaster site in the formulation of the scheme design. CBS also engaged with a number of other stakeholders throughout the preparation of the planning application including local councilors and officers.
51. This engagement resulted in a number of amendments to the proposal that are

outlined in the statement of community involvement and design and access statement submitted with the planning application.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law Democracy

52. The report refers to the resolution of Cabinet in December 2019 which is set out at paragraph 6. This approved the overall principle of funding to the Leathermarket CBS but delegated authority for the specific grants for separate sites to the Strategic Director for Housing and Modernisation in consultation with the Strategic Director of Finance and Governance. The Strategic Director therefore has clear authority to take the decision which is the subject of this report.
53. The power to provide housing accommodation on land acquired by the Council (as local housing authority) is set out in Section 8 of the Housing Act 1988. The Council has the power, at Section 111 of the Local Government Act 1972 to do any thing including acts involving the expenditure of money) which is incidental to the discharge of a function. The provision of funding for the construction of housing accommodation to CBS is therefore a measure which is ancillary to the discharge of the council's housing function. In addition, the council has the general power of competence under Section 1 of the Localism Act 2011 to do anything that an individual may do. This would encompass the provision of funding to CBS for the delivery of council housing.
64. Paragraph 50 of the report refers to the benefits of the new homes. These need to be weighed against the impacts of the scheme which are considered in the Equalities Impact Assessment which is annexed to this report. The Cabinet Member needs to balance these elements when the decision is taken so as to ensure that due regard is taken and the Public sector Equality duty discharged

Strategic Director of Finance and Governance (H&M 19/160)

54. This report seeks approval from the strategic director of housing and modernisation in consultation with the strategic director of finance and governance to allocate further grant funding of finance, 716 to Leathermarket Community Benefit Society Limited (Leathermarket CBS) towards the delivery of 40 new council homes on the site of the former Joseph Lancaster nursery on the Joseph Lancaster estate.

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the council's constitution, I authorise action in accordance with the recommendation(s) contained in the above report (and as otherwise recorded in Part B below).

Signature

Date 12 March 2020

Designation

Strategic Director of Housing & Modernisation

1. DECISION(S)

1. DECISION(S)	
1.	Approves the project grant agreement in Appendix 1 for Leathermarket CBS to deliver 40 council homes at Joseph Lancaster Nursery Site.
2.	was presented to the Programme Delivery Board on 14 January 2020.

2. REASONS FOR DECISION	
1.	<p>This follows the Cabinet decision to approve:</p> <ul style="list-style-type: none"> a. the overarching grant agreement with Leathermarket CBS to deliver 161 council homes b. the project grant agreement for the delivery of individual projects outlined in the overarching grant agreement. c. that the grant following this report be delegated to the strategic director of housing and modernisation in consultation with the strategic director of finance and governance.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION	
1.	Do nothing. The council will not deliver on 11,000 homes commitment.
2.	Do it ourselves. The council is committed to working with community organisations in the Housing Strategy. Without the support and delivery in partnership with Leathermarket is delivery of these schemes would be harder and they may not progress.

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION (IF APPLICABLE)*	
None.	

*Contract standing order 4.5.1 states that for contracts with an Estimated Contract Value of over £100,000, the lead contract officer (LCO) must consult with the relevant cabinet member before a procurement strategy is implemented.

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST	
<p><i>If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.</i></p>	

6. DECLARATION ON CONFLICTS OF INTERESTS

I declare that I was informed of no conflicts of interests.*

or

I declare that I was informed of the conflicts of interests set out in Part B4.*

(* - Please delete as appropriate)

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Leathermarket Grant Agreement	Housing and Modernisation, Southwark Council, 160 Tooley Street, London SE1 2QH	Richard George, Programme Manager 020 7525 1222
http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&MeetingId=6571		
Kipling Garages, Weston Street, Bermondsey, SE1 – Housing Grant Agreement	Housing and Modernisation, Southwark Council, 160 Tooley Street, London SE1 2QH	Richard George, Programme Manager 020 7525 1222
Link: http://moderngov.southwark.gov.uk/documents/s62971/Report%20Kipling%20Garages%20Weston%20Street%20Bermondsey%20SE1%20Housing%20Grant%20Agreement		
Former Joseph Lancaster School and Land at the Lawson Estate SE1	Housing and Modernisation, Southwark Council, 160 Tooley Street, London SE1 2QH	Richard George, Programme Manager 020 7525 1222
Link: http://moderngov.southwark.gov.uk/documents/s81924/report%20former%20joseph%20lancaster%20school.pdf		
Joseph Lancaster Estate, Deverell Street, SE1 – Grant of Long Lease and Housing Funding Agreement	Housing and Modernisation, Southwark Council, 160 Tooley Street, London SE1 2QH	Richard George, Programme Manager 020 7525 1222
Link: http://moderngov.southwark.gov.uk/documents/s74553/Report%20Joseph%20Lancaster%20Estate%20Deverell%20Street%20SE1%20		

APPENDICES

No.	Title
Appendix 1	Joseph Lancaster Project Grant Agreement

AUDIT TRAIL

Cabinet Member	Councillor Leo Pollak, Social Regeneration, Great Estates and New Council Homes		
Lead Officer	Michael Scorer, Strategic Director of Housing & Modernisation		
Report Author	Stuart Davis, Director of New Homes		
Version	1.0		
Dated	28 February 2020		
Key Decision?	Yes		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER			
Officer Title	Comments Sought	Comments Included	
Director of Law and Democracy	Yes	Yes	
Strategic Director of Finance and Governance	Yes	Yes	
Cabinet Member	N/A	N/A	
Date final report sent to Constitutional Team			

1.

