

<b>Item No:</b>	<b>Classification:</b> Open	<b>Date:</b> 9 June 2020	<b>Decision Taker:</b> Strategic Director for Housing and Modernisation
<b>Report title</b>	Feasibility Grant Funding Approval (Elim Sites)		
<b>Ward(s) or groups affected</b>	London Bridge & West Bermondsey		
<b>From</b>	Director of New Homes		

## **RECOMMENDATION(S)**

### **That the Strategic Director of Housing and Modernisation**

1. Approves the project grant agreement for the Elim Site in Appendix 1 for Leathermarket CBS to deliver around 31 council homes, 3 homes for private sale and a community hub.
2. Notes that the Inception / Feasibility Report Milestone required to satisfy the Feasibility Stage and Planning Application Stage was presented to the Programme Delivery Board on 10 March 2020 and amended as directed by the board.
3. Approves up to £985,028 to be drawn down to complete the Planning Application Stage in line with the project grant agreement.

## **BACKGROUND INFORMATION**

### **Cabinet Decision**

4. 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**

5. 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.
6. 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.
7. The JMB is seeking to support in delivering 11,000 new genuinely affordable homes, 2500 of these by 2022.

### **Development Opportunities**

8. 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 will enable the JMB to unlock contentious sites and hidden homes.
9. 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.
10. 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.
11. A grant agreement was agreed by Cabinet in December 2019 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.
12. 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.

### **Elim sites**

13. The 3 Elim sites as set out in the rolling programme are the Ball Court Site, Garage Site and Triangle Site. The below provides an aerial view of these 3 sites:



## KEY ISSUES FOR CONSIDERATION

- 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.

### Delivery of Elim Site

- In order to progress the early feasibility for the Elim sites ahead of Cabinet, Council Officers approved the Inception Milestone and 'skeleton' feasibility budget. It was agreed that this would be reimbursed following Cabinet's decision in December 2019.
- Officers agreed the early Elim feasibility work would cover the 3 Elim sites – as set out in the CBS's rolling programme - Ball Court Site, Garage Site and Triangle Site and are set out below.
- In line with the Estate Improvement Plan and CBS rolling programme, the feasibility was aiming to test the potential of the Ball Court to provide replacement community facilities, a JMB Housing Office and affordable homes; with the aim of providing 46 Homes across the 3 sites.
- In 2019 CBS undertook extensive consultation with local residents and Bell Phillips Architects, and other professional consultants, were commissioned to produce an indicative design to stage 2 in collaboration with feedback from local residents.
- Feasibility was carried out which involved extensive consultation with residents and designs up to design stage 2.

### Elim feasibility findings

Site	Key comment	Further Details
Triangle site	Not viable for affordable housing.	Footprint restricts floor plate and right of light restricts number homes - 8 homes max considered; but feedback from planners indicated height would need to reduce significantly due to impact on townscape.

Site	Key comment	Further Details
		Even if 8 flats could have been achieved the build costs were estimated at £400k per unit – so value for money could not be achieved.
Ball Court	Significantly reduced scale – due to rights of lights issues	Potential to deliver 12-15 affordable homes & community hub  No capacity to also deliver JMB Housing Office
Garage site	Potential to deliver 20 affordable homes	

20. In line with the Programme Delivery Board's request at its meeting on 10th March 2020, the triangle site will remain part of the Elim scheme – but as it is not viable for affordable housing it is to be considered for private sale; with sales profit used to reduce grant levels to deliver CBS's affordable homes programme.
21. A redesign of stages 1 & 2 are required for the triangle site. Early indications suggest that 3 x 3 story market townhouses are likely to be achievable and profitable. A risk assessment will also be undertaken towards the end of stage 2 to identify (as far as possible) the Covid impact on the property sales market.
22. Developing proposals from the feasibility stage, the stage 2 proposed housing mix will deliver 31 council homes – for the Ball Court and Garage site.
23. Existing Ball Court is 337 sq. and proposed community hub is 298 sq. Pre app advice that a reduction due in community square footage could be accepted as community hub would provide an all year-round use.

### **The overarching agreement**

24. 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**

25. 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.
26. 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.

<b>Delivery Stage</b>	<b>Relevant Milestone</b>
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

27. The agreement restricts the use of grant to fund the project in accordance with the schedule of costs and for no other purpose.
28. 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.
29. 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.
30. 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.
31. The Elim Sites are at the Planning Application Stage with Feasibility Stage work still required on the Elim Triangle Site.
32. The costs that are broken down in the Feasibility Report are:

Stage	Cost	Status / Comment
Feasibility Stage Costs	£367,891	Completed – reimbursement
New Feasibility Stage Costs - Elim Triangle Site	£37,980	Redesign at the Deliver Programme Board Request
Planning Application Stage	£579,157	Progress schemes up to planning application.
Total	£985,028	

### **Project Grant Agreement requirements**

33. It is a requirement under the Project Grant Agreement, in order to meet the Inception Report Milestone it is a requirement within the Project Grant Agreement that the Programme Delivery Board has approved Feasibility Report.
34. **Feasibility Report** means a report comprising: details of the Site; details of the Development; the feasibility assessment including its results/conclusions in relation to the Development; the Outline Costs; the Programme; details of likely key delivery partners; and a assessment of risk in connection with the Project;
35. **Feasibility Report Milestone** means (prior to the Planning Stage): the Approval by the Authority of the Feasibility Report; and confirmation in writing by the Authority that it has sufficient funds available to meet the Delivery Stage Allocation Amount (as specified in the relevant Approved Schedule of Costs) for the Planning Stage. This will be confirmed by confirmation of this decision.
36. The Feasibility Report went to the Programme Delivery Board on 10 March 2020 and was approved to go for sign off. Amendments requested by the board have been made.

Feasibility Report Information Required	Milestone information provided
Details of the Site; details of the Development; the feasibility assessment including its results/conclusions in relation to the Development; the Outline Costs; the Programme; details of likely key delivery partners; and a assessment of risk in connection with the Project;	Detailed breakdown of information has been provided to the board on 10 March 2020. Amendments requested by the board have been made.

## Policy Implications

37. 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 will be careful to adhere to the council's own planning policies as well as the London Housing Design Guide and the council's Employers Requirements and design guide.

## Housing Strategy

38. 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
39. A refresh of the Housing Strategy is out to consultation until the 31<sup>st</sup> May 2020.

## Community impact statements

40. 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 assessments will be made as part of the feasibility stage once this information has been gathered and analysed.
41. The development of these sites will have wider regenerative benefits for the local community. No residents will be displaced as result of these schemes.
42. 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.
43. 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.
44. 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.

45. 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.
46. 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.
47. 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**

48. 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.
49. 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 of up to £985,028 provided to Leathermarket CBS will be accounted for as capital expenditure and will be met from resources supporting the Housing Investment Programme, including grant funding from the GLA and borrowing as appropriate. The grant is expected to be fully utilised during 2020-21. A project code will need to be set up before any drawdown is made. Should the scheme not progress, the costs incurred will need to be accounted for as revenue expenditure and met by the HRA.

### **Consultation**

50. The Leathermarket CBS is carrying out an exhaustive consultation on all the schemes.
51. Given the scale and significance of the proposals, the Leathermarket CBS is making substantial efforts to engage the community around the sites.
52. This engagement will be 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

53. 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.

54. 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 Strategic Director 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 20/021)**

55. 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 to Leathermarket Community Benefit Society Limited (Leathermarket CBS) towards the delivery of a potential 31 new council homes and community hub on the garage and ball court sites on the Joseph Lancaster estate. The amount to be drawn down is limited to £985,028 and will be spent in accordance with the terms and conditions of the project grant agreement.

**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).



23 June 2020

Signature..... Date.....  
**Michael Scorer, Strategic Director of Housing and Modernisation**



**PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:**

- 1) All key decisions taken by officers
- 2) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

<b>1. DECISION(S)</b>
As set out in the recommendations of the report.
<b>2. REASONS FOR DECISION</b>
As set out in the report.
<b>3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION</b>
Not applicable.
<b>4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION</b>
<b>5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST</b>
<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>
<b>6. DECLARATION ON CONFLICTS OF INTERESTS</b>
<b>I declare that I was informed of no conflicts of interests.*</b>
<b>or</b>
<b><del>I declare that I was informed of the conflicts of interests set out in Part B4.*</del></b>
(* - 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
<a href="http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MeetingId=6571">http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MeetingId=6571</a>		

## APPENDICES

No.	Title
Appendix 1	Elim Sites Grant Agreement
Appendix 1a	Elim Sites Claim Form

## AUDIT TRAIL

<b>Lead Officer</b>	Stuart Davis, Director of New Homes		
<b>Report Author</b>	Richard George, Strategic Programme Manager		
<b>Version</b>	Final		
<b>Dated</b>	9 June 2020		
<b>Key Decision?</b>	Yes		
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>			
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>	
Director of Law and Democracy	Yes	Yes	
Strategic Director of Finance and Governance	Yes	Yes	
<b>Cabinet Member</b>	N/A	N/A	
<b>Date final report sent to Constitutional Team</b>			23 June 2020