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| Committees: | Dates: | |
| Planning and Transportation Committee | 25 January 2017 | |
| Resource Allocation Sub Committee | Under Urgency | |
| Policy & Resources Committee | Under Urgency | |
| Subject: Bloomberg Development Highway Work: A. Water Runoff onto Highway; B. Highway Boundary Adjustment; and C. Re-phasing of Highway Work | Issue Report: Regular | Public |
| Report of: Director of the Built Environment Report Author: Christine Wong | | For Decision |
| <p style="text-align: center;"><u>Summary</u></p> <ul style="list-style-type: none"> • Dashboard: Green • Last Gateway approved: Gateway 5 (approved 2 August 2016 under delegation to Chief Officer) • Progress to date including resources expended: Highway construction started on 30 August 2016 and is progressing well. Expenditure of £3,263,480 has been incurred (as at 25 December 2016) from an approved budget of £4,899,000 consisting of an estimated total cost of £4,772,500 <i>plus</i> £126,500 maintenance cost. • Summary of issue This report addresses three issues in relation to the Bloomberg Highway Work project: <p>A. Water Runoff onto Highway</p> <p>The Development does not wish to install gutters, channels and downpipes on their building for architectural and aesthetic reasons. Instead the Development utilises other design features to manage the impact from water runoff onto the highway.</p> <p>The design characteristics of the Development (i.e. sheltered colonnade along all elevations and a commitment to net zero water usage) give rise to exceptional circumstances such that surface water runoff issues are considered to be adequately addressed albeit no gutters etc have been installed. The exceptional circumstances are therefore not considered to set an undesirable precedent.</p> <p>B. Highway Boundary Adjustment pursuant to s256 Highways Act 1980</p> <p>The public-private boundary at the Bloomberg Development (the Development) currently zig-zags largely as a legacy of the previous development Bucklersbury House. Straightening and adjusting the public-private boundary will result in better</p> | | |

articulation of the boundary for ease of identification and maintenance by respective parties.

This is proposed to be achieved by way of the s256 Highways Act 1980 (Power to exchange land to adjust boundaries of highways). The effect of the s256 mechanism is to extinguish existing public highway status and dedicate replacement highway. The procedure is subject to a public notice and appeal process.

Progressing the highway boundary adjustment will result in a net loss of 112 sqm of public highway for which a payment of £673,800 is proposed to be accepted to achieve equality of exchange (to be confirmed by the City Surveyors).

This sum is proposed to be applied to the improvements of the highway at Queen Victoria Street, Bucklersbury and Walbrook (around the City of London Magistrates Court) shown as the area hatched in green (and previously identified as being “Unfunded”) in Appendix 1.

The design for these improvements were approved as part of the Gateway 3 / 4 report in October 2015 and held in abeyance until such time as funding becomes available. The approved design is shown in Appendix 2.

C. Re-Phasing of Highway Work

Bloomberg has requested the highway improvements at Bucklersbury (from Queen Victoria Street to Walbrook) - where their main entrance is located - be delivered by 31 August 2017 at latest. The remaining works at Queen Victoria Street and Walbrook is scheduled to complete by the end of October 2017 before full occupation of the Development.

In order to meet this aspiration, highway works at Bucklersbury must commence in February 2017 subject to the equality of exchange payment being made prior to any costs being incurred by the City and in advance of the outcome of the highway boundary adjustment procedure, and at Bloomberg’s risk as set out in the report.

• Proposed way forward

It would not appear necessary for the City to take further action on the water runoff matter by requiring gutters, channels and downpipes for the reasons outlined above. If this were not the case, remedies under s163 Highways Act would be available.

As an additional precaution to ensure no unforeseen issues arise from the water runoff matter, a voluntary payment by Bloomberg to the City of London of £326,200 has been agreed towards “enhanced maintenance” for a period of five years. This will include - but is not limited to - winter maintenance and additional gully cleaning (including associated social apprenticeship).

Details of the “enhanced maintenance” package will be agreed between the City and Bloomberg, and this will be secured by way of a s278 Agreement. This is subject to part of the £326,200 being held as a contingency for the costs of the highway works should they exceed the estimated sum of £673,800 (subject to a separate Issues Report to increase the project budget if necessary).

It is further proposed that the highway boundary adjustment shown in Appendix 3 be progressed and for the costs to improve the public highway at Queen Victoria Street, Bucklersbury and Walbrook (the area around the City of London Magistrates Court) be accepted as payment to achieve equality of exchange for the net loss of highway land.

The cost to improve these areas is currently estimated at £673,800 with an additional sum of £70,000 of City's Cash resources being sought to enable improvements to be delivered concurrently to the City's Estate known as "The Grid" (adjacent to Mansion House).

Recommendations

It is recommended that the Planning & Transportation Committee:

- a) Authorise Officers to progress the highway boundary adjustments shown in Appendix 3 including any statutory procedures and any legal agreements required. Authority to consider any appeal / objection and to determine whether or not to proceed be delegated to the Director of the Built Environment (in consultation with the City Solicitor);
- b) Agree to the sum of £673,800 as payment to achieve equality of exchange (to be confirmed by the City Surveyors) and that this sum be used to carry out the approved but previously unfunded highway works at Queen Victoria Street, Bucklersbury and Walbrook (see Appendix 2);
- c) Agree a sum of £70,000 from City Cash to fund improvement works on the private land immediately in front of the Mansion House known as "The Grid" as set out in Appendix 2 (subject to approval of Recommendation (i) below);
- d) Agree that the highway improvement works referred to in Recommendation (b) above, be re-programmed to commence in February 2017, to meet Bloomberg's timetable aspirations subject to the equality of exchange payment being made prior to any costs being incurred by the City, in advance of the highway boundary adjustment procedure being determined and at Bloomberg's risk.
- e) Note the arrangement set out to manage water run-off and agree a voluntary payment from Bloomberg of £326,200 to be used to fund a five-year enhanced maintenance programme around the building with the proviso that this sum also be utilised as a contingency to meet any costs overrun on the highway works (subject to a separate Issues Report to increase the project budget if necessary);
- f) Agree that the detail of the enhanced maintenance programme be delegated to the Director of the Built Environment;
- g) Authorise the City Solicitor to enter into necessary arrangements to secure the voluntary payment £326,200;

It is recommended that the Resource Allocation Sub Committee and the Policy and Resources Committee (subject to implementation of the s256 procedure and receipt of the £673,800 balancing payment):

- h) Approve the allocation of the s256 balancing payment of £673,800 (which will accrue to the capital reserves of City Fund) for the purposes of highway improvements at Queen Victoria Street, Bucklersbury and Walbrook;
- i) Approve the allocation of £70,000 from 2016/17 City's Cash provision for new schemes to enable the City's Estate land known as "The Grid" to be improved concurrently with the public highway areas at Queen Victoria Street, Bucklersbury and Walbrook.

Main Report

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| 1. Issue description | <p>A. Water Runoff onto Highway</p> <p>For architectural and aesthetic reasons, the Development does not wish to install gutters, channels and downpipes on their building but instead utilise other design features to manage the impact from water runoff onto the highway. Water runoff has two potential impacts:</p> <p>(i) Water from the roof / any part of the premises falling upon persons using the highway;</p> <p>(ii) Water from premises flowing on to, or over, the footway of the highway.</p> <p>Section 163 of the Highways Act 1980 enables an authority to act if necessary by requiring gutters, channels and downpipes to be installed to prevent private surface water flowing onto the highway.</p> <p><u>Water falling upon persons using the highway</u></p> <p>Bloomberg has undertaken a water runoff assessment to determine the extent of runoff from their buildings. The assessment shows that although some dripping at the threshold may result and be a mild irritant, sheeting of water (waterfall effect) is unlikely to occur.</p> <p>Similarly, Officers completed an assessment to establish the impact from the lack of gutters, channels and downpipes at the Development. The impact assessment concluded that in spite of the high density of people that may be affected, the actual impact on the public from the lack of gutters, channels and</p> |
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| | <p>downpipes would be minimal.</p> <p>In assessing the impact to the public: Officers acknowledged the exceptional provision of a sheltered colonnade on all elevations at this Development. Most of this area is private land that will be publicly accessible thereby providing an attractive alternative route for the public in inclement weather.</p> <p>There is therefore no reason for any person to stand at the threshold of this Development (to be dripped upon) given the presence of the sheltered colonnade just beyond the threshold. This exceptional provision can reasonably be considered mitigation to address this part of the water runoff issue at this Development.</p> <p>In conclusion, based on the water runoff assessment which appears to Officers to be robust and credible, and the City's own impact assessment, there would appear to be little need for the City to take further action on this matter by requiring gutters, channels and downpipes. If this were not the case remedies under s163 Highways Act would be available.</p> <p><u>Water from premises flowing on to, or over, the footway of the highway</u></p> <p>The Development has made provisions to capture water falling onto horizontal planes of the building (e.g. roof and terraces) which is subsequently collected and re-used internally as grey water. However, no such provisions have been made to capture water falling onto vertical planes of the Development (e.g. façade of the building) which gutters, channels and downpipes would have addressed.</p> <p>The water runoff from the façade of the Development will therefore fall onto, and flow over, the footway of the highway. Highway requirements generally operate on the principle and premise of developers addressing any impact directly attributable to their development within the demise of the site, instead of infringing on or putting additional burden onto the public highway.</p> <p>Bloomberg has however demonstrated that the amount of water runoff from their building, and from privately-owned areas, onto the public highway is nominal. Further, the Development is committed to targeting net zero water usage within their site as part of Building Research Establishment Environmental Assessment Method (BREEAM) Certification (see Appendix 4).</p> <p>This efficient water usage (including two BREEAM innovations points) minimises the discharge into the combined sewer</p> |
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| | <p>system, and compensates for any nominal water runoff from the site that enters the combined system which the City manages on behalf of Thames Water.</p> <p>As further mitigation, Bloomberg is committing a sum of £326,200 to fund “enhanced maintenance” of the highway which may be affected by the water runoff from their building. This package of “enhanced maintenance” may include winter maintenance and additional gully cleaning (including associated social apprenticeships) for a period of five-years to ensure no unexpected issues arise. Details of this package are to be agreed between the City and Bloomberg, and the arrangement is to be secured by agreement with Bloomberg.</p> <p>(NB. Bloomberg has indicated that this is subject to a portion of the £326,200 being held as contingency to be used for the highway works at Bucklersbury / Walbrook (North) in the event that the costs exceed the estimated sum of £673,800. If not required, the full £326,200 would be available for enhanced maintenance measures. The portion to be retained as contingency is to be agreed and will be the subject of a separate Issues Report.)</p> <p>In conclusion, the design characteristics of the Development (i.e. sheltered colonnade along all elevations and a commitment to net zero water usage) give rise to exceptional circumstances such that surface water run-off issues are considered to be adequately addressed albeit no gutters etc have been installed. The exceptional circumstances are therefore not considered to set an undesirable precedent.</p> <p>B. Highway Boundary Adjustment pursuant to s256 Highways Act 1980</p> <p>The public-private boundary at the Bloomberg Development (the Development) currently zig-zags largely as a legacy of the previous development Bucklersbury House. Straightening and adjusting the public-private boundary will result in better articulation of the boundary for ease of identification and maintenance by respective parties.</p> <p>The proposed highway boundary adjustment is shown in Appendix 3. In addition to areas being exchanged, the drawing separately shows an area being dedicated as public highway in accordance with the s106 planning conditions (area highlighted in yellow).</p> <p>The legal mechanism being engaged to facilitate the boundary adjustment is under s256 Highways Act 1980 (Power to exchange land to adjust boundaries of highways). The process</p> |
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| | <p>under s256 allows opportunity for any objections to be made to the proposal by way of appeal to the Magistrates Court up to two months from the date of notices are published. The effect of the s256 legal mechanism is to remove the public highway status and dedicate replacement highway.</p> <p>This legal mechanism allows for the highway boundaries to be adjusted and for a balancing payment to be made to the City by the Developer (Bloomberg) to achieve <i>equality of exchange</i> for the net loss of 112 sqm of highway that would result from progressing this highway boundary adjustment.</p> <p>It is proposed that the payment to achieve equality of exchange be agreed in the sum of £673,800 (to be confirmed by the City Surveyor and subject to the implementation of the s256 process). It is further proposed that the sum be expended on highway improvements at Queen Victoria Street, Bucklersbury and Walbrook (the area around the City of London Magistrates Court).</p> <p>The highway improvements at this location were approved as part of Gateway 3 / 4 in October 2015 and held in abeyance until such time as funding becomes available. This was reiterated at Gateway 5 approved in August 2016. A funding shortfall of circa £743,800 was identified (at Gateway 5) as being required to progress these improvements which does not form part of the Developer's s278 obligation.</p> <p>The sum of £743,800 includes the £70,000 required to improve the land held by the City in its City's Estate capacity known as "The Grid" at Walbrook which Mansion House exclusively use for parking purposes. The proposal for the land was identified at Gateway 3 / 4 and is shown in Appendix 2.</p> <p>However, improvements to City's Estate land are appropriately funded from City's Cash, since the sum received in equality of exchange for highway land (which is a City Fund payment) should be expended on City Fund purposes. It is therefore proposed that a sum of £70,000 be sought from City Cash with the remaining £673,800 funded from the proceeds of the s256 balancing payment.</p> <p>Should City Cash funding not be forthcoming, the improvements to the public highway at Queen Victoria Street, Bucklersbury and Walbrook can be delivered independently of improvements to "The Grid" (City's Estate land). However this would not achieve the full potential benefits of streetscape improvements at what is a high-profile location outside Mansion House.</p> <p>C. Re-phasing of Highway Work</p> |
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| | <p>Bloomberg has requested highway improvements at Bucklersbury (from Queen Victoria Street to Walbrook) - where their main entrance is located - be delivered by 31 August 2017 at latest. The remaining areas around Queen Victoria Street and Walbrook is scheduled for completion by 31 October 2017 before full occupation of the Development.</p> <p>In order to meet this aspiration, highway works at Bucklersbury must commence in February 2017 in advance of the highway boundary adjustment procedure concluding.</p> <p>The area around the City of London Magistrates Court was originally programmed as the last phase of works from November 2017 to June 2018 pending funding. Subject to Committee approval, this is now proposed to be delivered between February 2017 and October 2017 to meet Bloomberg's aspirations. The project team will ensure affected key stakeholders are informed and will work closely with them to minimise disruptions.</p> <p>The project team will also ensure that no expenditure is incurred until it has received relevant funds from Bloomberg. Any balancing payment paid in advance of the s256 procedure completing is paid at Bloomberg's risk since sums expended will not be available to refund in the event of the procedure not completing.</p> | | | | | | | | | | | | |
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| 2. Last approved limit | <p>The last approved budget was £4,899,000 consisting of an estimated total cost of £4,772,500 <i>plus</i> £126,500 maintenance cost. This limit included the cost to improve the area around Queen Victoria Street, Bucklersbury and Walbrook subject to funding becoming available.</p> <p>This report seeks to confirm additional funding of about £673,800 from Bloomberg - as part of the balancing payment for the highway boundary adjustment - to progress improvements at Queen Victoria Street, Bucklersbury and Walbrook.</p> <p>A further £70,000 is being sought from City Cash so improvements to the City's Estate land known as "The Grid" adjacent to Mansion House can be delivered concurrently as the public highway works at Queen Victoria Street, Bucklersbury and Walbrook.</p> <p>The revised funding is summarised below:</p> <table><tr><th>Funding Source</th><th>Funding Required</th><th>Funding Available</th></tr><tr><td>s278</td><td>£ 3,001,900</td><td>£ 3,001,900</td></tr><tr><td>s106</td><td>£ 728,300</td><td>£ 728,300</td></tr><tr><td>s256</td><td>£ 673,800</td><td>£ 673,800</td></tr></table> | Funding Source | Funding Required | Funding Available | s278 | £ 3,001,900 | £ 3,001,900 | s106 | £ 728,300 | £ 728,300 | s256 | £ 673,800 | £ 673,800 |
| Funding Source | Funding Required | Funding Available | | | | | | | | | | | |
| s278 | £ 3,001,900 | £ 3,001,900 | | | | | | | | | | | |
| s106 | £ 728,300 | £ 728,300 | | | | | | | | | | | |
| s256 | £ 673,800 | £ 673,800 | | | | | | | | | | | |

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| | CIL | £ 425,000 | £ 425,000 |
| | City Cash* | £ 70,000 | TBC |
| | Total | £ 4,899,000 | £ 4,829,000 |
| * Subject to approval of the Resource Allocation Sub Committee and the Policy and Resources Committee. | | | |
| 3. Options | <p>This report seeks approval of recommendations to resolve several project issues in order to meet the needs of both Bloomberg and the City hence no meaningful options exist.</p> <p>The recommendation to implement highway improvements at Queen Victoria Street, Bucklersbury and Walbrook is consistent with the highway design approved at Gateway 3 / 4 in October 2015 and reiterated in Gateway 5 approved in August 2016. It is subject to the outcome of the s256 process and receipt of the balancing payment. The improvements to this area are in addition to the Developer's s278 obligation.</p> <p>The highway improvements at Queen Victoria Street, Bucklersbury and Walbrook can be progressed independently of improvements to the City's Estate land known as "The Grid". However, this would not achieve the full potential benefits of streetscape improvements at this high-profile location immediately outside Mansion House.</p> | | |

Background Papers

- 1) Bloomberg Place – Wind Driven Rain Runoff Study (November 2013)
- 2) Bloomberg Development – Impact Assessment from the Lack of Gutters, Channels and Downpipes (October 2016)

Appendices

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| Appendix 1 | Funding Overview |
| Appendix 2 | Approved highway changes (showing "The Grid") |
| Appendix 3 | Proposed highway boundary adjustment |
| Appendix 4 | Bloomberg Development: BREEAM Certification and Report |

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