

## REPORT OF THE STRATEGIC DIRECTOR, PLACE

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TO  
PROPERTY AND REGENERATION BRIEFING  
ON 12TH JULY 2021 (BRIEFING)  
ON 26TH JULY 2021 (FOR DECISION)

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**TITLE:** Brownfield Housing Fund, Greengate sites

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### RECOMMENDATIONS:

It is recommended that the City Mayor:

Note the proposals detailed below on the terms set out in the body of this report and on the detailed terms set out in an accompanying Part 2 report for approval elsewhere on the agenda.

1. Approves the Council entering into a grant funding agreement with Greater Manchester Combined Authority (GMCA) in relation to the Brownfield Housing Fund for Greengate Site 3.
  2. Approves the Council entering into a grant funding agreement with Greater Manchester Combined Authority (GMCA) in relation to the Brownfield Housing Fund for Greengate Site 4.
  3. Provides delegated authority to the Strategic Director Place, City Solicitor and Chief Finance Officer to negotiate and finalise the detailed financial, commercial and contractual arrangements in respect of the proposed grant from GMCA to the Council.
  4. Authorises the Strategic Director Place to enter into and complete all necessary agreements or documents to give effect to the above recommendations.
  5. Approves the delivery option, as set out in the report, as the most appropriate delivery mechanism for the remaining Greengate development sites.
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### EXECUTIVE SUMMARY:

The Council has received a grant allocation from Greater Manchester Combined Authority (GMCA), as part of the GM Brownfield Housing Fund (BHF) to support the unlocking of stalled, brownfield sites across Greengate for housing. The two sites are identified as

Greengate site 4, King St Car Park (plot 1 on attached plan) and Greengate site 3, Waterloo Pub (plots 2, 3, and 4 on attached plan) (Appendix 1).

To draw down the grant from GMCA a grant funding agreement is required to be entered into between the Council and GMCA.

The purpose of this report is to seek approval for the grant funding arrangement to deliver the Brownfield Housing Fund project in Greengate and outline the delivery strategy to ensure the schemes can be delivered satisfactorily to the BHF timescales. Further approvals will be sought as required during the delivery process in relation to the appointment of a delivery partner and/or exercising of Compulsory Purchase powers to realise the completion of the housing-led development within Greengate.

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## BACKGROUND DOCUMENTS:

Greengate Regeneration Strategy (February 2018).

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## KEY DECISION: YES

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## DETAILS:

### 1.0 Background

- 1.1 In August 2020, GMCA were awarded an initial allocation of £81.1m of Brownfield Land grant from MHCLG – part of the Government’s five-year £400m Fund to bring forward more homes by unlocking brownfield land.
- 1.2 MHCLG withheld 10% of the allocation and sought on a competitive basis, bids from Mayor Combined Authorities in England. In liaison with GM districts, GMCA submitted a bid for the full £40m retained grant from MHCLG. The £40m bid to support housing development schemes with a start on site by March 2025.
- 1.3 Using this criteria Salford submitted an initial bid to the GMCA, to bring forward housing development on sites in Pendleton and Greengate.
- 1.4 MHCLG confirmed earlier this year that the GMCA had been successful in the process and would receive £16m of the retained Brownfield Housing Fund capital grant. GMCA confirmed to Districts that they would only consider the named sites included in the original £40m bid to MHCLG for this additional Brownfield fund allocation.
- 1.5 As Pendleton Phase 3 had already secured necessary Brownfield grant via the separate tranche 1 process, this was no longer considered for the £16m funding. The revised position following a further due diligence process, and approved by GMCA, was to support acquisition of the two identified sites within Greengate for housing development.

## **2.0 Grant Funding Agreement**

- 2.1 In order to claim back expenditure on eligible activities, a grant funding agreement (GFA) will be put in place between GMCA and Salford Council. This will show the grant allocation, along with more detailed guidance about delivery, tailored to local authorities and the specific activities covered by the Fund.
- 2.2 A generic GFA has been issued to provide an example of the contracting document which will be signed with Salford Council. Shared legal services have been instructed and are currently in the process of reviewing the draft documents for agreement. GMCA has indicated that the current timeframe for individual agreements to be ready for exchange will be end July 2021.
- 2.3 Under the general terms of the agreement the BHF is only to be used for the approved scope of activities. Eligible expenditure is for Capital spend to support viability on the Greengate sites, specifically towards land acquisitions, working in partnership with an appointed development partner to accelerate housing delivery. For costs to be eligible to this project, the Council will need to ensure that it can achieve the outputs and outcomes as agreed within the grant agreement and by the dates set out.
- 2.4 In certain circumstances the GMCA may withhold payment of the grant and the Council may also be required to repay all or part of the BHF. Generic clawback provisions include for if there is a failure on the Council's part to comply with the conditions of the grant, for example:
- the funding is not spent on eligible activity;
  - delays with delivery of the scheme result in allocated spend not being made; and,
  - scheme proposals change materially insofar as the original stated outputs would therefore not be realised.
- 2.5 The general terms of the grant agreement also include overage provisions whereby if land is sold that has benefitted from the BHF a proportion of the uplift in value will be payable. In addition, overage is to be paid on returns over and above an agreed level set out in the agreement.

## **3.0 Delivery of Housing**

- 3.1 Greengate sits in the heart of City Centre Salford and is experiencing a period of intensive development activity and growth. There has been a longstanding vision for Greengate dating back to 2005, which led to the first planning guidance in 2007 that sought to fundamentally reconnect the historic cores of Salford and Manchester with a vision of improved physical links and a network of high-quality public realm extending from Manchester's Cathedral quarter. Since that time much progress has been made and The Greengate Regeneration Strategy (GRS), adopted in May 2018, provides an updated vision; for the area to become a dynamic residential and commercial place with an exceptional public realm.

3.2 The GRS highlights the opportunities offered by underutilised land such as surface car parks, older industrial premises and vacant railway arches, together with supporting existing cultural uses. The main constraints are the physical characteristics of the area (including the river and railway viaduct) as well as fragmented land ownership. The strategy outlines priorities to include:

- Delivering more new homes, workplaces, cultural opportunities, retailing and leisure;
- High density development to provide a vibrant area; and,
- Development of high-quality public realm

3.3 Greengate has continued to experience great success with extensive development ongoing, completed and planned. This development has seen the majority of sites within the strategic area come forward in line with the objectives of the GRS.

Most recent development includes:

- Embankment West, City Suites 2 & residential – Practical completion 2021-22
- Embankment 101 – commercial grade A office space, completed June 2020
- Anaconda Cut – residential, completed 2018
- Phase 1 – Renaker, on site practical completion 2023-24
- Fifty5 Queen Street – on site practical completion Q4 2022

3.4 The above are the most recent examples of where the Council has worked very successfully alongside private sector partners to bring forward comprehensive regeneration of the Greengate area in line with the objectives of the Regeneration Strategy. The Council now wants to move forward to completing the Greengate area and there remains a small number of stalled sites which the Council have identified as the key barriers to the completion of regeneration of this significant area of Salford. This includes the former Waterloo Pub and King St car park sites which are both subject to the Brownfield Housing Grant.

3.5 To date the Council has worked successfully with landowners and developer partners to realise delivery. Dialogue continues with a number of developers in the area to bring forward the remaining sites.

3.6 Property Services have engaged with the landowners of the two subject sites, which fall into three separate ownerships. Whilst there is optimism that terms will be agreed with the owners it is anticipated greater powers may be required as negotiations progress, including reference to and use of Compulsory Purchase Powers.

3.7 The Greengate Regeneration Strategy states selective use of CPO powers may be justified for specific prioritised development and infrastructure activities and to give certainty to the development process. Given the extensive development success to date the potential of exercising powers to support completion of the area is increasing.

A report will be brought to a future Property and Regeneration meeting for an in-principle CPO resolution, should this be required.

- 3.8 In order to progress the process of site acquisition, and to be able to deliver the associated housing within the timescales linked to the funding, the Council will seek to identify and appoint a developer partner with the credentials and capability to deliver high quality, housing-led development across Greengate with an initial primary emphasis on the two stalled sites identified. Indicative appraisals submitted as part of the grant funding assessment identify a potential 257 housing units could be achieved across the two sites.
- 3.9 The successful applicant will enter into a development agreement with Salford City Council and prepare schemes in accordance with the Greengate Regeneration Strategy and SCC Planning Policy to secure planning permission for the sites. The applicant will support the Council as it seeks to acquire the stalled sites within the area. Salford City Council will then continue to work with the successful applicant, so that the consented schemes may be completed to the agreed programme. In the event that the BHF does not cover the full value of the site, the developer will be expected to part contribute to finance the purchase of the site(s). In line with the Brownfield Housing Fund, a target date for start on site for the housing developments is September 2024.
- 3.10 The current timetable for the appointment of a developer partner is set out below:

Stage	Date(s)
Issue of information memorandum and application form	2 <sup>nd</sup> Aug 2021
Queries/Clarifications:	26 <sup>th</sup> Aug 2021 deadline for submission to the Council 10 working days prior to submission of the application
Submission deadline for Application	10 <sup>th</sup> Sep 2021
Expected date of evaluation conclusion and identification of Preferred Applicant	End Oct 2021
Development Agreement commenced	End Dec 2021

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## KEY COUNCIL POLICIES:

Greengate Regeneration Strategy (February 2018).

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## EQUALITY IMPACT ASSESSMENT AND IMPLICATIONS:

There are no specific equality impact matters following the proposals contained in this report.

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## ASSESSMENT OF RISK: Medium

At the time of writing legal agreements were in an early draft stage and Heads of Terms in the form of a standard GMCA Grant Agreement Proforma have been agreed.

As set out in paragraphs 2.3-2.5 above, in the event that the project is not progressed satisfactorily in line with the agreed milestone dates or delivered by the completion date, or other conditions of the Grant Agreement are not met, the Council could be deemed to be in breach and be liable to GMCA.

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### LEGAL IMPLICATIONS Supplied by: Lauren Armstrong/ Tony Hatton, Legal Services Grant Funding Agreement:

Legal Services has been provided with two grant funding agreements issued by GMCA's legal advisors (Greengate 3 and 4). As indicated above, these are pro-forma grant agreements which flow down GMCA conditions and any MHCLG requirements in connection with the Brownfield Housing fund. GMCA's position is that, other than terms listed in a separate "gaps list", the terms are non-negotiable. SCC is also required to register a restriction on title with Land Registry in favour of GMCA over the two funded sites and undertake full investigation of title and searches. Colleagues in the property legal team will be able to assist with these requirements.

Legal has reviewed the proposed terms, and whilst the terms contain some risk to SCC (as highlighted in paragraphs 2.3-2.5), from a legal perspective the terms could be accepted (subject to satisfactory agreement of the Schedules which will set out the project specific conditions and commercial principles). If the funding is not spent within the grant period, it is not spent on eligible expenditure as defined in the agreements, or the project specific conditions or outputs as detailed in the grant schedules are not met within specific timescales, then there is a risk to SCC that some or all of the funding may be withdrawn or subject to clawback. Therefore it is important that SCC is broadly comfortable with the commitments it is giving to GMCA under this agreement and the proposed timescales are achievable. Any relevant commitments should also be contractually "flowed down" to SCC's delivery partner under the terms of a delivery agreement, particularly where SCC is reliant on the delivery partner to these.

Legal shall provide a detailed review to SCC client officers on the terms of the grant. A subsidy control legal opinion (formerly referred to as 'State Aid') is being sought from external solicitors.

#### Nature of agreement with development partner:

Instructions provided and discussed with client officers so far indicate that the development agreement and related property transactions will not be a works contract(s) caught by the Public Contracts Regulations 2015.

A works contract is a contract which has as its object any of the following:

(i) the execution or both the design and execution of works specified in schedule 2 to the PCR (various types of construction activities referred to

(ii) the execution or both the design and execution of a work

(iii) the realisation by whatever means of works corresponding to the requirements specified by the authority exercising a decisive influence on the type or design of the work.

The last point is the one that is most relevant to development agreement type arrangements. There would need to be an enforceable obligation to build/construct, and the reference to "decisive influence" and how it is interpreted is important. The more the Council will be asking for and approving the plans, designs; drilling down the type of the development and for them to be enforceable obligations, identifying the features of the development and asking the developer to prepare more detailed proposals, changes to the development needing to be agreed by the Council etc would all start to point towards more of a works contract and being caught by the Regulations.

Control(s) by way of planning permission wouldn't trigger the procurement rules, that would be consistent with a property transaction and planning regulatory regime. Having site of or consultation on proposals, designs, wouldn't trigger the procurement rules either. A land disposal bid exercise with some additional elements such as looking at relevant experience of an applicant for example, wouldn't trigger the procurement rules

Delegation to negotiate and agree the development agreement and lease(s)/transfers will no doubt follow as part of the process and applications from interested parties are being considered. Legal Services will continue to work with officers to ensure there is a suitable form of development agreement, any ancillary agreements, and will seek to ensure that the Council is in the best position as a recipient in the grant funding agreements as possible, with any relevant protections in place.

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## **FINANCIAL IMPLICATIONS** Supplied by: Natalie Birchall. Tel 793 2316

The purpose of this report is to seek approval for the grant funding arrangement with SCC and GMCA to deliver the Brownfield Housing Fund project in Greengate at site 3 and 4.

Further detailed reports will be required for approval as the project develops.

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## **PROCUREMENT IMPLICATIONS** Supplied by: Deborah Derbyshire. Tel 686 6244

The details in the report relate to a property transaction and on the advice from legal that this is not a works contract, therefore there are no procurement implications.

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## **HR IMPLICATIONS** Supplied by: n/a

There are no HR implications arising from this proposal.

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## **CLIMATE CHANGE IMPLICATIONS** Supplied by: Sarah Heslop

The proposals set out in this report relate to the appointment of a developer partner to deliver housing-led development on stalled sites within the Greengate area of the City Centre, in line

with the Greengate Regeneration Strategy 2018. The successful Developer's approach to sustainable design and development principles will be tested at the planning application stage.

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## OTHER DIRECTORATES CONSULTED:

Property Services

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### CONTACT OFFICER:

Sarah Heslop

### TEL NO:

Currently working from home and available via email [sarah.heslop@salford.gov.uk](mailto:sarah.heslop@salford.gov.uk) and MS Teams

Kurt Partington

Currently working from home and available via email [kurt.partington@salford.gov.uk](mailto:kurt.partington@salford.gov.uk) and MS Teams

Joe Costello

Currently working from home and available via email [joe.costello@salford.gov.uk](mailto:joe.costello@salford.gov.uk) and MS Teams

Andrew Cartwright

Currently working from home and available via email [andrew.cartwright@salford.gov.uk](mailto:andrew.cartwright@salford.gov.uk) and MS Teams

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**WARDS TO WHICH REPORT RELATES:** Blackfriars and Trinity