

Date: 16 February 2016

Item: Barking Riverside Rail Extension

This paper will be considered in public

As provided for under section 100B(4)(b) of the Local Government Act 1972, the Chairman is of the opinion that this item should be considered as a matter of urgency. A decision is required urgently, to enable the prompt progression of the Barking Riverside Rail Extension project following the recent issue of a Mayoral Direction to Transport for London on 25 January 2016 (Mayoral Direction 1594).

1 Summary

Barking Riverside Rail Extension				
Existing Financial Authority	Estimated Final Cost (EFC)	Existing Project Authority	Additional Authority Requested	Total Authority
£91.2m	£263.2m	£4.7m	£258.5m	£263.2m
<p>Authority Approval: Additional budgeted Project Authority of £258.5m and unbudgeted Financial Authority of £172m (from third party funding) is requested to:</p> <ol style="list-style-type: none"> 1. enter into agreements to obtain external funding of £172m required for the Barking Riverside Rail Extension (BRE); and 2. progress the detailed design of the BRE to a Network Rail GRIP 5 stage of development; and 3. submit an application for an order under the Transport and Works Act 1992 (TWAO) to obtain powers to construct and operate the BRE. 				
<p>Outputs and Schedule: The purpose of the proposed BRE is to enable the development of the Barking Riverside site, which will provide up to 10,800 new homes. The key outputs, under this Financial and Project Authority request, will be:</p> <ol style="list-style-type: none"> 1. the entry into agreements with Barking Riverside Limited (BRL) to secure the financing and delivery of the BRE; 2. submission of a TWAO application to progress the scheme through a likely public inquiry; and 3. development of the design to a Network Rail GRIP stage 5. <p>The target year of opening is 2021.</p>				

- 1.1 On 3 February 2016, the Board delegated authority to the Committee to approve any decisions that are reserved to the Board for determination in relation to the BRE project in order to enable matters that may require consideration and decision at short notice to be taken at short notice.
- 1.2 A paper is included on Part 2 of the agenda which contains exempt supplementary information. The information is exempt by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972 in that it contains information relating to the business affairs of TfL. Any discussion of that exempt information must take place after the press and public have been excluded from this meeting.

2 Recommendations

2.1 Under the authority delegated by the Board on 3 February 2016, the Committee is asked to note this paper and the related paper on Part 2 of the agenda and to:

(a) note the direction issued by the Mayor to TfL on 25 January 2016;

(b) approve:

(i) £172m of unbudgeted Financial Authority to meet TfL's current estimated costs of delivering the Barking Riverside Extension (BRE) project (that sum to be provided by Barking Riverside Limited (BRL) pursuant to the funding agreement referred to at paragraph 2.1(c)(ii)1 below); and

(ii) additional Project Authority of £258.5m, giving a total Project Authority of £263.2m for the following:

1. to receive external funding of £172m from BRL;

2. making an application for an order under the Transport and Works Act 1992 by TfL to secure the rights and powers (Order) that provides all the necessary land rights and planning permissions required to construct and operate the BRE; and

3. the development of the BRE designs to a Network Rail GRIP stage 5 detailed design; and

(c) authorise the:

(i) making of an application for an Order (including obtaining the Mayor's written consent as required by the Greater London Authority Act 1999) and related consents to provide all the rights necessary for the delivery of the BRE including, without limitation, the submission of documentation that may be entered into in connection with, or submitted to third parties in support such applications and consents; and

(ii) entry into and execution (whether by deed or otherwise) of agreements required to facilitate the delivery of the BRE (the Agreements), including:

1. a funding agreement with BRL governing BRL's provision of £172m of funding toward TfL's costs of delivering the BRE; and
2. a land and works agreement with BRL governing how TfL and BRL will: progress their respective projects (for TfL the Project and BRL their mixed use development of the Barking Riverside site); interface with each other; and support each other in their proposals,

the terms of both of which shall be consistent with the direction issued by the Mayor on 25 January 2016;

(d) note, subject to approvals and authorisations set out at paragraphs 2.1(b) and (c) being given by the Committee:

(i) that TfL Officers and Subsidiaries (as described in paragraph 2.2 below) have authority, delegated to them by the Board on 3 February 2016, to:

1. finalise, agree and execute (whether by deed or otherwise) the terms of the Agreements and submit any documentation that may be entered into in connection with, or submitted to third parties including, without limitation, those in support of an application for the Order;
2. agree the final terms of the application (including the land and interests, environmental scoping and deemed permission to be subject of the Order) for the Order and related consents;
3. obtain the Mayor's written consent to apply for the Order (as required by the Greater London Authority Act 1999); and
4. do everything else necessary or desirable to facilitate the making of the Order including, without limitation promoting the Order including responding to any objections and dealing with any public inquiry that may be held in relation to the proposals; and

(ii) that further Financial and Project Authorities required for delivery of the BRE will be sought from the Board in due course should an Order be granted.

2.2 The following Officers and Subsidiaries are authorised for the purposes of any decision made by the Committee pursuant to paragraphs 2.1(b) and (c) above:

- (a) TfL Officers: the Commissioner; Managing Director Finance; Managing Director Rail and Underground; Managing Director Planning; and General Counsel; and
- (b) Subsidiaries of TfL including without limitation Transport Trading Limited and any other subsidiary (whether existing presently or to be formed) of Transport Trading Limited - any of the directors of these

subsidiaries shall be authorised to act for and on behalf of any such subsidiary.

3 Background

- 3.1 The recommendations in this paper are aligned with the direction issued by the Mayor on 25 January 2016 (Mayoral Direction 1594).
- 3.2 Barking Riverside is the largest brownfield development site in east London, with planning permission for 10,800 new homes. To unlock the full scale of the development, planning permission for the site was granted on the basis of significant investment in transport infrastructure.
- 3.3 An extension of the Gospel Oak to Barking line, from its current terminus at Barking to a new station in the heart of Barking Riverside would be 4km in length, including 1.5km of new track. Four London Overground trains per hour (tph) would operate from Barking station along the existing Tilbury Loop Line (TLL) and then via a new section of railway, heading south towards Barking Riverside. This would extend current London Overground services between Gospel Oak and Barking to a new station at Barking Riverside.
- 3.4 The principles of a funding package for the BRE were agreed in principle in 2014, when it was agreed that BRL would contribute £172m towards the construction costs of the BRE. It was also agreed that TfL would meet costs exceeding that sum, unless the increased costs are the direct result of scope changes initiated or necessitated by BRL.
- 3.5 TfL entered into non-binding heads of terms with BRL on 23 October 2015, which set out the key principles of the funding agreement to govern BRL's provision of its contribution to TfL's costs of delivery. The heads of terms were also agreed with BRL's private sector partner.
- 3.6 On 25 January 2016 the Mayor directed TfL to enter into agreements with BRL in respect of the funding, and a land works arrangement necessary to facilitate the financing and construction of the BRE.
- 3.7 The proposed BRE supports the Mayoral policy to develop London's transport system in order to accommodate sustainable population and employment growth. As a key enabler of regeneration and growth in east London, the BRE supports the Mayor's Transport Strategy objectives and the London Riverside Opportunity Area Planning Framework.
- 3.8 Procurement Authority for the award of the main works contract will be sought from the Board in 2017, alongside the remaining Project Authority required for the construction of the BRE, subject to TWAO powers being granted and satisfaction of conditions precedent to be set out in the funding agreement with BRL.

4 Proposal

- 4.1 The preferred option involves the construction of a twin tracked route between Renwick Road and Barking Riverside. The design of the alignment is significantly constrained by the geography of the site. The eastbound line, towards Barking Riverside, would spur directly from the Tilbury loop passenger line, east of Barking station. The westbound line (towards Barking) would merge with the westbound Tilbury loop passenger line to the west of the Ripple Lane sidings. A plan of the proposed alignment is included in Appendix 1.
- 4.2 Barking Riverside station will consist of a single elevated, central island platform. The station will be served by four car electric trains, with passive provision for a future extension to five car trains.
- 4.3 The station will be designed to accommodate passenger flows from the completed 10,800 home development. The station will provide full step free access to enable free and unassisted movement between the train and street level.

Benefits

- 4.4 The purpose of the BRE is to meet the rail related planning obligations required to enable the full build out of BRL's Barking Riverside development.
- 4.5 Planning obligations for the development limit Barking Riverside to 1,500 occupied homes until powers to construct a rail link are granted. Once an Order has been granted no more than 4,000 homes can be occupied until the rail link becomes operational.
- 4.6 The BRE assists the enabling of the development of the largest brown field site in east London and will provide much needed housing, in line with Mayoral policy.

Delivery of Preferred Option

- 4.7 Rail and Underground is sponsoring the BRE project. The project is being managed and delivered by the London Overground Programme Delivery team which is best placed to manage the project due to its close working relationship with Network Rail and experience of delivering other projects on Network Rail infrastructure.
- 4.8 It is intended that a single, build only contract will be let via an OJEU compliant process for the main construction works.
- 4.9 The project team has a direct relationship with the Network Rail Gospel Oak to Barking electrification scheme. The base scope of the BRE requires the electrification of the new line to future proof the operation of the service.

4.10 The key milestones up to the main works contract award are set out below:

Milestone	Target Date
TWAO submission	Spring 2016
Completion of GRIP 5 design	Spring 2017
Award Main Works Contract	Autumn 2017
Train services commence	2021

5 Funding

5.1 The estimated final cost (EFC) of the project EFC is £263.2m.

5.2 TfL has made provision for £95m in its Business Plan for transport interventions in the Barking Riverside area and is currently forward funding the preparation of an application for an Order. The Project Authority requested by this paper will be drawn down from TfL's budgeted £95m contribution in the first instance, and drawing against the £172m to be provided by the developer, BRL, when it is available.

5.3 A breakdown of the full funding package is detailed below:

Available Funding	£m
TfL	
Growth Fund	30
Business Plan funding	65
Sub total	95
BRL	
Private Sector Partner	70
GLA	93
BRL assets	9
Sub total	172
Total Funding	267
Project EFC@P50	263.2

5.4 Non-binding heads of terms setting out the principle terms for the funding agreement were agreed between BRL and TfL in October 2015. The heads of terms were also agreed with BRL's private sector partner who provided a letter stating that it understood and accepted that the heads will inform the content of the funding agreement.

5.5 The heads are subject to the satisfaction of a set of conditions precedent.

5.6 Expenditure up to the point of main works contract award, when Procurement Authority will be requested from Board in autumn 2017, is not anticipated to exceed £26.7m The breakdown of the anticipated expenditure in the current phase of the project is summarised below:

Item	£m
Existing Committed Spend	£4.70m
Detailed Design (GRIP 5)	£8.81m
Possession & TOC/FOC compensation	£0.25m
Supervision / PM costs	£2.40m
NR Asset protection	£1.80m
HS1 Asset protection (tunnels)	£0.25m
Operational Modelling	£0.20m
Early Contractor Involvement	£0.30m
Rail Industry Standard Mandated Safety Assessments	£0.35m
TWAO / legal	£2.80m
BRL Station Change	£0.36m
Sub Total	£17.52m
Risk (25%)	£4.48m
Total	£26.70m

6 Key Impacts

Environmental Considerations

- 6.1 An Environmental Impact Assessment (EIA) is being carried out on the BRE project and an Environmental Statement is being prepared which will form part of the application documents for the Order, in line with the Transport and Works Act 1992 procedures.

Compulsory Acquisition of Land

- 6.2 Government guidance on seeking powers to compulsorily acquire land, states that such powers should only be exercised when there is a compelling case in the public interest. It also makes it clear that an acquiring authority should be sure that the purpose for which the powers of compulsory purchase are required justify interfering with the rights of those with an interest in the land affected.
- 6.3 The application process for an Order involves consultation with a number of parties, including affected landowners and the London Borough of Barking and Dagenham. All interested parties will be given the opportunity to make representations to TfL and the Secretary of State for Transport. They will also have the right to be heard at any public inquiry into the making of the Order that the Secretary of State may decide to convene.
- 6.4 The compulsory acquisition of land interferes with owners' rights of property under Article 1 of the First Protocol to the European Convention on Human Rights which forms part of English law under the Human Rights Act 1998. However, it is considered that the implementation of the Project is of significant public benefit and therefore, legitimate.

6.5 Where any party has land that is compulsorily purchased for the BRE project, their entitlement to compensation is governed by and will be dealt with in accordance with the statutory compensation code. Any party with a legal interest in the land will be entitled to make a claim for compensation proportionate to any losses that it might incur as a result of the use of the land.

7 Programme Dependencies

7.1 TfL's ability to submit an application for an Order is dependent on:

- (a) the finalisation and execution of a funding agreement with BRL to govern the provision of BRL's funding contribution to TfL's delivery costs;
- (b) the finalisation and execution of a land and works agreement to govern how TfL and BRL will: progress their respective projects (for TfL the Project and BRL their mixed use development of the Barking Riverside site); interface with each other; and will support each other in their proposals;
- (c) BRL's private sector partner completing their share purchase; and
- (d) BRL submitting a Section 73 Town and Country Planning application to amend the conditions of its current planning permission for the Barking Riverside site from "DLR" to "rail extension" (submitted 29 January 2016).

7.2 The latest an application for an Order could be submitted to achieve the current delivery date of 2021 is summer 2016.

List of appendices to this paper:

Appendix 1: Plan of the proposed BRE alignment.

List of background papers:

None

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