

GREATER **LONDON** AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2291

Title: Supporting developments with high levels of affordable housing

Executive Summary:

This decision seeks approval to redirect a revenue sum of up to £1,520,000 from the Housing Zones consultancy budget to support business case development, and legal and property due diligence, in relation to scheme proposals with high levels of affordable housing, including through the Affordable Homes Programme 2016-21 Innovation Fund and the Housing Infrastructure Fund in 2018/19 and 2019/20.

Decision:

The Mayor approves expenditure of up to £1,520,000, to be funded by reallocating the Housing Zones consultancy budget, to:

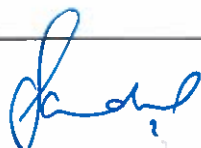
1. Support legal and property due diligence (£880,000) on proposals to deliver high levels of affordable housing, including through the Affordable Homes Programme 2016-21 Innovation Fund;
2. Support the development of business cases for bids and subsequent contracting with MHCLG (£640,000), subcontracting with delivery partners, and the development of service level agreements with TfL and OPDC, for the delivery of successful Forward Funding (FF) schemes under the Government's Housing Infrastructure Fund; and
3. Support legal contracting with MHCLG and London Boroughs in respect of successful Marginal Viability schemes (MVF) under the Government's Housing Infrastructure Fund.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision, and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

21/7/18

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. Introduction and background

- 1.1 The current Housing Zone (HZ) programme has committed £334m on grant funded interventions and £283m on commercial loan agreements, delivering around 25,000 affordable starts. The balance of the £406m grant budget relates to Estate Regeneration schemes; all consultancy and legal work has been completed for these schemes, but final decisions are “on hold” pending the publication of the Mayor’s ballot requirements.
- 1.2 MD2117 approved the current revenue budget of £3m for the HZ programme, which covered consultancy costs and revenue grant for Boroughs to support the delivery of their HZ schemes. The balance of remaining HZ revenue funding at the end of March 2018 is £1.78m - see Table 1 below.
- 1.3 The proposal is to use £1.52m of the remaining revenue to support project development and contracting for the Housing Infrastructure Fund (HIF) and Innovation Fund (IF). This includes the development of HMT Green Book compliant business cases for major infrastructure schemes to support GLA bids for Forward Funding under the Government’s Housing Infrastructure Fund (HIF) and property and legal consultancy support as needed for the delivery of schemes under HIF (both the Forward Funding and Marginal Viability Funding (MVF) schemes, described further below) and IF.
- 1.4 The balance of the £1.78m - £260k – is to be retained in its current revenue budget to fund on-going legal and property due diligence relating to HZ legacy costs.
- 1.5 MD2125 and MD2282 approved the funding for the Innovation Fund, which is part of the Affordable Homes Programme 2016-21. Further details in respect of this funding programme are set out in these mayoral decisions.
- 1.6 The HIF programme offers funding to local authorities for infrastructure to support new homes of all tenures. The fund is divided into two parts: MVF to provide the final piece of infrastructure funding to get additional sites allocated or existing sites unblocked quickly; and Forward Funding for a small number of strategic and high-impact infrastructure projects. Twelve MVF schemes within Greater London have been allocated £111m through the initial one-stage bidding round. MHCLG are currently assessing the bids and the GLA will receive the funding from MHCLG and enter into funding agreements with the successful bidders once the assessment has been undertaken. For the FF part of the HIF programme the GLA is a bidder rather than the funder. The GLA submitted expressions of interest in September 2017 and eight FF schemes have successfully made it through to the second (final) stage of the bidding process. Stage two of the bidding process involves the co-development (with MHCLG or their agent) of business cases, which will require technical consultancy support. Should the GLA be successful at stage two it will require legal consultancy support to contract with MHCLG and its delivery partners. The total funding bid for these schemes is £1.16bn, which are predominantly GLA owned sites.
- 1.7 The forecasts for property and legal consultancy support, included in Table 2, are based upon actual legal costs incurred to date on IF schemes and existing property consultancy fee rates. There are currently 12 IF projects being progressed which require a budget of £480,000, in order to commit this funding and secure the intended housing outputs. The HIF programme requires £400,000 to cover the costs of 12 MVF schemes where infrastructure investment is required to unblock or unlock sites; and 8 FF schemes where infrastructure investment is targeted towards strategic/high impact areas. The forecasts are based upon legal cost comparables for similar HZ infrastructure projects.
- 1.8 The HF Forward Funded technical consultancy support requirement is based on comparable costs for Business Cases commissioned in 2018-19.

Table 1: current HZ budget breakdown:

	2018-19
Q3 carry forward	£580,000
Consultancy support (property & legal)	£1,200,000
Total:	£1,780,000

Table 2: proposed forecast budget breakdown:

	2018-19
Consultancy support (property & legal)	£880,000
Technical consultancy to develop HIF FF business cases	£640,000
Legacy funding for Housing Zone projects *	£260,000
Total:	£1,780,000

* **note:** the "Decision" excludes Housing Zone legacy costs which will remain in place

2. Objectives and expected outcomes

Innovation fund:

- 2.1 The intention of the IF programme is to use GLA investment in an innovative way to deliver more affordable homes and contribute towards the Affordable Homes programme target of starting 116,000 affordable homes by March 2022. Within the affordable homes programme, it is proposed to proactively commission schemes which unlock and accelerate high levels of affordable housing. This could be through up-front funding to meet infrastructure, land assembly or remediation requirements, or through up-front investment.
- 2.2 The GLA is currently considering a range of proposals to support the delivery of high levels of affordable homes through the Innovation Fund. Further proposals will be reviewed as part of the additional funding for affordable housing approved by MD2282 and via continuing market engagement. These proposals will involve innovative methods of providing affordable and specialist housing, or tailoring housing investment to local circumstances to increase housing delivery. The appointment of external advisors in relation to property due diligence and the legal contracting process will ensure the GLA can fully assess the robustness of investment proposals. This approach will mitigate risks associated with these programmes and ensure value for money in delivery.
- 2.2 The first two (DD2175 and DD2147) proposals for the Innovation Fund have been contracted but further budget allocation is required to support legal advice on three additional projects, which have agreed Heads of Terms. There are an additional seven projects in the pipeline that have a contracting date before March 2019 and will require a resource budget. Additional proposals will be progressed through to formal due diligence when they are deemed ready and additional budget may be sought.
- 2.3 Property consultants will be appointed in accordance with existing call-off arrangements.
- 2.4 Legal consultants will be appointment using the legal panel framework.

Housing Infrastructure Fund:

- 2.5 The GLA are progressing several FF bids to the co-development stage. The bids have been assessed on their capacity to deliver a significant volume of new homes, including affordable homes, through high- impact infrastructure (roads, rail links and schools) with the intention of unlocking and creating new development opportunity areas.
- 2.6 There are additional benefits for the programme which include: making more land available for development and diversifying the housebuilding market by encouraging new market entrants and SMEs to deliver housing. The schemes which have successfully proceeded to stage two of the bidding process have also demonstrated a clear strategic fit and are strongly supported by Local Authorities and Local Enterprise Partnerships.
- 2.7 The GLA will deliver the MVF element of the programme, with the funding strongly geared towards infrastructure that will quickly unblock access to sites and enable the delivery of additional units. It is anticipated the 12 MVF schemes will contribute towards the delivery of 17,000 new homes.
- 2.8 The commissioning of external consultants to support the development of high quality business cases for HIF is expected to optimise the level of forward funding awarded for infrastructure investment. If all funding bids are successful, the GLA could secure in excess of £1bn, enabling the delivery of 149,000 additional homes in transport corridors and nascent opportunity areas by 2035.
- 2.9 In some cases external consultants have already been appointed by delivery partners to develop key elements of the infrastructure business case. To ensure continuity, it may be appropriate for the GLA to provide revenue funding to support delivery partners to extend the scope of current consultant contracts, rather than to directly procure this requirement using TfL.

3. Equality comments

- 3.1 The IF and HIF programmes are predominantly concerned with increasing housing supply. In May 2018, the Mayor published the revised draft London Housing Strategy following consultation in September to December 2017. In September 2017, the GLA published an impact assessment, including an equalities impact assessment, of that strategy. Policies related to increasing housing supply and delivering affordable housing, to which the IF and HIF will contribute, were also covered by the Integrated Impact Assessment (IIA) for the Draft London Plan, published in November 2017.
- 3.2 The IIA concluded that the cumulative impact of these policies combined with policies for flexible housing mix, inclusive design and accessible housing would contribute to creating inclusive communities, relieve housing pressures that disproportionately affect lower-income groups and ensure the needs of diverse groups are taken into account in housing design.
- 3.3 Under section 149 of the Equality Act 2010, as public authorities, the Mayor and the GLA are subject to a public-sector equality duty and must have 'due regard' to the need to (i) eliminate unlawful discrimination, harassment and victimisation; (ii) advance equality of opportunity between people who share a relevant protected characteristic and those who do not; and (iii) foster good relations between people who share a relevant protected characteristic and those who do not. Protected characteristics under section 149 of the Equality Act are age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage or civil partnership status.
- 3.4 Throughout the decision-making process relating to the Innovation Fund and HIF due regard has been – and will continue to be – had to the 'three needs' outlined above. The housing shortage in London disproportionately negatively affects people with certain protected characteristics. Increasing the supply of housing (by directly funding affordable housing through IF and funding infrastructure through HIF to unlock additional housing supply) will help to achieve positive impacts in line with the 'three needs'.

- 3.5 The delivery of new and additional homes will help to implement Objectives 1, 2, 3 and 4 of the Mayor's Equality, Diversity and Inclusion Strategy, "Inclusive London" (May 2018), through the creation of new homes, housing products and well-designed housing schemes.
- 3.6 In order to access IF or HIF funding any contracting party, be that private sector developer or Local Authority will be required to enter into contract with the GLA and / or GLA Land and Property Limited (GLAP) to deliver the schemes. Whilst there is a statutory obligation for parties to take account of the impact of schemes under the Equality Act 2010, to reinforce these obligations, the GLA / GLALP have included specific contractual clauses similar to the following in each funding agreement which will be in force for every scheme undertaken.
- 3.7 The funding recipient shall comply in all material respects with all relevant Legislation, including but not limited to legislation relating to health and safety, welfare at work and equality and diversity, and will use reasonable endeavours to enforce the terms of the Scheme Project Documents to ensure compliance with this clause. The funding recipient has, and is in full compliance with, a policy covering equal opportunities designed to ensure that unfair discrimination on the grounds of all protected characteristics directly or indirectly in relation to the Works is avoided at all times and will provide a copy of that policy and evidence of the actual implementation of that policy upon request by GLA / GLAP.

4. Financial comments

- 4.1 This decision requests approval to spend £1.52m (revenue) on business case development and legal and property due diligence for proposals for affordable housing and infrastructure funds. The spend is split:
- £480k for property and legal consultancy for 12 Innovation Fund Schemes
 - £400k for property and legal consultancy for 12 Marginal Viability Funded and 8 Forward Funded schemes under the Housing Infrastructure Fund
 - £640K for technical consultancy for the Housing Infrastructure Fund
- 4.2 The spend is to be funded by a transfer of £1.52m from the £1.78m Housing Zone consultancy support revenue budget which is not now forecast to be required.
- 4.3 The use of external advisors on property due diligence and legal contracting will ensure the GLA can fully assess the robustness of investment proposals for the Innovation Fund. The approach will mitigate risks and ensure value for money.
- 4.4 The support of consultants will also help develop high quality business cases for the HIF to optimise the level of Forward Funding awarded for affordable housing investment. The investment secured could be in excess of £1bn.

5. Legal comments

- 5.1 Detailed legal implications in respect of the Affordable Homes Programme 2016-21 (including the Innovation Fund) are set out in MD2125.
- 5.2 With regard to HIF, the provision of financial assistance (whether by grant or loan) and the delivery of infrastructure projects which unlock new housing supply are permissible under section 30(1) of the Greater London Authority Act 1999 (the GLA Act), if the Mayor considers that doing this will further one or more the Authority's principal purposes of: promoting economic and social development in Greater London, and improving the environment in Greater London.
- 5.3 In determining whether or how to exercise the power conferred by section 30(1) of the GLA Act, the Mayor must:

- (i) have regard to the effect that these decisions will have on the health of persons in Greater London, health inequalities between persons living in Greater London, the achievement of sustainable development in the United Kingdom and climate change and its consequences (sections 30(3-5) of the GLA Act);
- (ii) pay due regard to the principle that there should be equality of opportunity for all people (section 33 of the GLA Act); and
- (iii) have due regard to the Public Sector Equality Duty; namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010, and to advance equality of opportunity between persons who share a relevant protected characteristic (race, disability, gender, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it (section 149 of the Equality Act 2010);

5.4 As noted in section 3 above, in September 2017, the GLA published an impact assessment, including an equalities impact assessment, of the revised draft London Housing Strategy. Policies related to increasing housing supply and delivering affordable housing, to which the IF and HIF will contribute, were also covered by the Integrated Impact Assessment (IIA) for the Draft London Plan, published in November 2017. It is also noted in section 3 that the delivery of new and additional homes within the IF and HIF programmes will help to implement objectives in the Mayor's Equality, Diversity and Inclusion strategy, "Inclusive London".

5.5 Going forward, the Mayor will also need to have due regard to the Public Sector Equality Duty, and the matters set out in sections 30(3-5) and 33 of the GLA Act, when entering into any funding agreements.

5.6 In addition to the above, where the Mayor is proposing to use the power conferred in section 30(1) of the GLA Act, the Mayor must consider consulting in accordance with section 32 of the GLA Act. The Mayor will also need to consult in accordance with section 32 of the GLA Act, as appropriate, prior to entering into any funding agreements.

5.7 Under section 34 of the GLA Act, the Mayor is empowered to do anything (including the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the exercise of any functions of the Authority exercisable by the Mayor.

5.8 Appointment of property/technical consultants and external legal advisors should be conducted in accordance with the procedures set out in the relevant framework agreements.

6. Planned delivery approach and next steps

Activity	Timeline
Procure and appoint Business Case Consultants using TfL Professional Services Framework	July 2018
Procure and appoint property, legal and technical consultants (non-Housing Zone programmes).	Aug 2018
Property and legal revenue expenditure.	Up to Mar 2020

Appendices and supporting papers:

None.

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after approval or on the defer date.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? NO

If YES, for what reason:

Until what date: (a date is required if deferring)

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – YES

ORIGINATING OFFICER DECLARATION:

Drafting officer to
confirm the
following (✓)

Drafting officer:

Andrew Welsh has drafted this report in accordance with GLA procedures and confirms the following: ✓

Sponsoring Director:

David Lunts has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities. ✓

Mayoral Adviser:

James Murray has been consulted about the proposal and agrees the recommendations. ✓

Advice:

The Finance and Legal teams have commented on this proposal. ✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on the 2 July 2018.

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature

Date

TOM MIDDLETON on BEHALF OF MARTIN CLARKE
02.07.18

CHIEF OF STAFF:

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature

Date

D. Bellamy
2/7/2018.

