

GREATER LONDON AUTHORITY

REQUEST FOR DIRECTOR DECISION – DD2413

Housing Infrastructure Fund: Marginal Viability Funding – LB Brent, Northwick Park & South Kilburn Regeneration; LB Lambeth, 8 Albert Embankment; LB Lewisham, Lewisham Gateway; and LB Barnet, Finchley Central

Executive Summary:

MD2341 of 11 October 2018, approved the receipt of up to £110.7 million of Marginal Viability Funding (MVF) from the Government's Housing Infrastructure Fund (HIF) following a competitive bidding process by London Boroughs. The decision delegates authority to the Executive Director of Housing and Land to approve the detailed expenditure profiles and contractual terms with the successful boroughs.

The GLA will receive the funding from Government under section 31 of the Local Government Act 2003 and, acting in accordance with the memorandum of understanding (MoU) between the GLA and Ministry of Housing, Communities and Local Government (MHCLG), the GLA will disburse the funds through individual funding agreements with the successful boroughs to deliver agreed outputs and outcomes.

Following the Government's detailed validation and clarification process, this Director's Decision seeks approval for the detailed expenditure profiles and contractual terms for interventions required to unlock 4,264 homes on developments in Barnet, Brent, Lambeth and Lewisham.

Decision:

That the Executive Director of Housing and Land approves the expenditure profiles and detailed contractual terms for the provision of HIF MVF grant of:

- £10 million to the London Borough of Brent for Northwick Park to unlock 1,300 homes in Brent;
- £10 million to the London Borough of Brent for the South Kilburn Regeneration to unlock 1,576 homes in Brent;
- £10 million to the London Borough of Lambeth for 8 Albert Embankment to unlock 443 homes in Lambeth;
- £13.5 million to the London Borough of Lewisham for Lewisham Gateway to unlock 530 homes in Lewisham; and
- £5,705,671 to the London Borough of Barnet for Finchley Central to unlock 415 homes in Barnet

AUTHORISING DIRECTOR

I have reviewed the request and am satisfied it is correct and consistent with the Mayor's plans and priorities. It has my approval.

Name: Rickardo Hyatt

Position: Interim Deputy Executive Director of Housing and Land

Signature:



Date:

4 December 2019

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

Introduction

- 1.1. On the 11 October 2018, MD2341 approved receipt of up to £110.7 million of Marginal Viability Funding (MVF) that was provisionally allocated to London Boroughs from the Government's Housing Infrastructure Fund (HIF) following a competitive bidding process.
- 1.2. Following a due diligence exercise undertaken by external consultants from the Homes England panel, funding has now been confirmed by the Government for ten MVF schemes in London. Total grant funding of £90.2 million has been confirmed by MHCLG, subject to contract.

Borough MVF Schemes

Scheme Name	Borough	HIF Confirmed up to	Homes unlocked	Outcome of Due Diligence	GLA Approval
Grand Union Ave Phase 3	Ealing	£1,000,000	171	Approved	DD2406
Northwick Park	Brent	£10,000,000	1,300	Approved	DD2413
South Kilburn Regeneration	Brent	£10,000,000	1,576	Approved	DD2413
8 Albert Embankment	Lambeth	£10,000,000	443	Approved	DD2413
Somerleyton Road	Lambeth	£10,000,000	268	Approved	DD2406
Lewisham Gateway	Lewisham	£13,500,000	530	Approved	DD2413
Abbey	Camden	£10,000,000	105	Approved	DD2406
Grange Farm	Harrow	£10,000,000	574	Approved	DD2376
Finchley Central	Barnet	£5,705,671	415	Approved	DD2413
S. Circular - Catford Town Centre	Lewisham	£10,000,000	1,500	Approved	DD
TOTAL		£90,205,671	6,882		

- 1.3. MD2341 delegated authority to the Executive Director of Housing and Land to approve, via Director Decision, the detailed expenditure profiles and contractual terms with successful boroughs and agree appropriate substitute schemes with the Government and successful boroughs where approved schemes are no longer able to be delivered within the timescales of the programme. To access this funding, the boroughs are required to enter into a funding agreement with the GLA to deliver the infrastructure works.
- 1.4. The HIF award for the five projects is recommended following a due diligence exercise, undertaken by external consultants from the Homes England panel on behalf of MHCLG. The proposals were assessed against the key programme criteria including strategic fit, value for money and deliverability.
- 1.5. This decision seeks the Executive Director of Housing and Land's approval, to commit:
 - £10 million for Northwick Park to unlock 1,300 homes (40% affordable) in LB Brent;
 - £10 million for the South Kilburn Regeneration to unlock 1,576 homes (48% - 60% affordable) in LB Brent;
 - £10 million for 8 Albert Embankment to unlock 443 homes (40% affordable) in LB Lambeth;
 - £13.5 million for Lewisham Gateway to unlock 530 homes (20% affordable) in LB Lewisham; and
 - £5,705,671 for Finchley Central to unlock 415 homes (40% affordable) in LB Barnet.

LB Brent, Northwick Park

- 1.6. Located directly south of Northwick Park underground station, the Northwick Park Growth Area is proposed to run parallel to Northwick Park Hospital, the University of Westminster's Harrow Campus and a park owned by LB Brent.
- 1.7. Northwick Park is identified as a growth area in the borough's emerging Local Plan, with the capacity for 3,600 homes. Phase 1 is proposed to deliver 1,300 homes, with 40% affordable, involving the combined redevelopment of a) an existing housing scheme owned by Network Homes (a Housing Association) and b) adjacent land to the north owned by London Northwest Healthcare NHS Trust. It will also deliver 40,427 square feet of commercial space.
- 1.8. Network Homes has acquired the additional land from the NHS Trust to deliver phase 1 in sub-phases, starting with the NHS Trust land.
- 1.9. The infrastructure required to unlock the housing relates to the construction of a new section of road (by adding a carriageway to a one-way system to create a two-way system and increase local highway capacity, which is currently at maximum) and a new energy centre.
- 1.10. The estimated infrastructure costs total £25 million - £10 million for the new section of road and £15 million for the energy centre. The MVF of up to £10 million will be used to fund the delivery of the new section of road. The energy centre is to be funded through a land collaboration agreement between public sector partners working together under One Public Estate, which will include provisions to enable the LB Brent to deliver the infrastructure on the NHS Trust land.
- 1.11. Planning permission for the infrastructure is targeted for March 2020. The site has an allocation in the emerging Local Plan for housing and commercial space and Network Homes has agreed a planning strategy with LB Brent under which planning permission for phase 1 is expected in advance of the Local Plan being adopted.
- 1.12. A plan of the proposed infrastructure works is shown below, with the phase 1 housing site edged red.

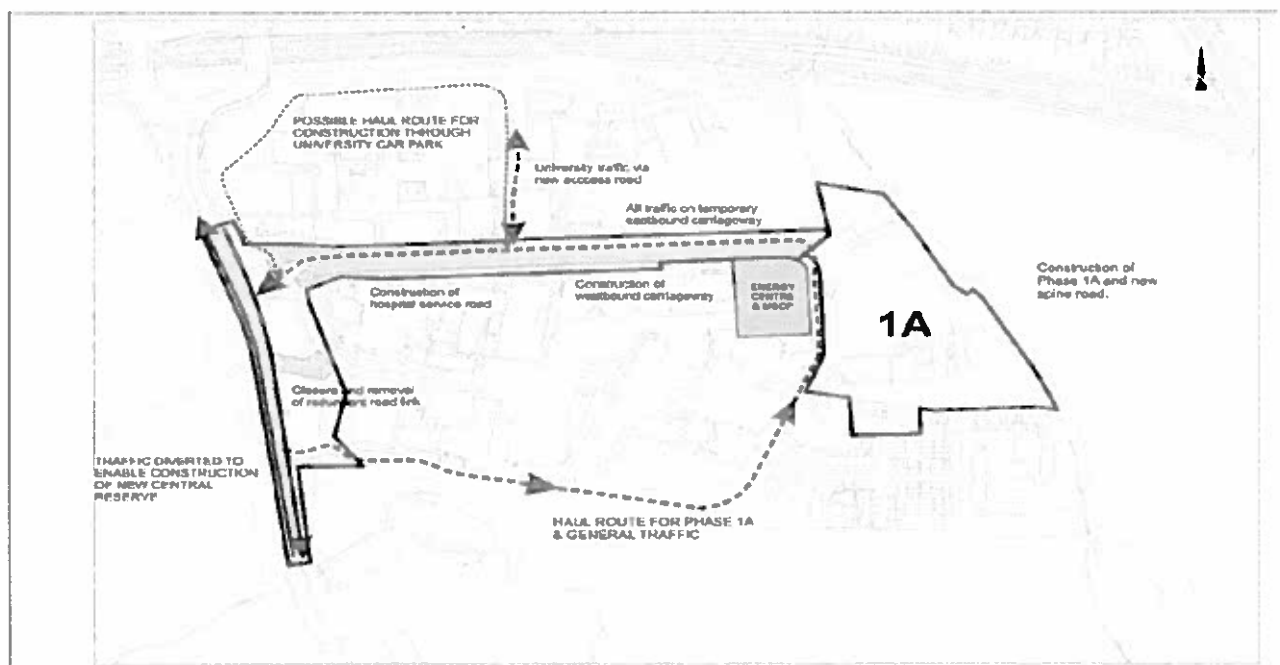


Figure 1.1 Proposed infrastructure works

- 1.13. The HIF funding is due to be drawn down by the GLA from MHCLG and transferred to LB Brent as follows:

MVF 239 Scheme: LB Brent – Northwick Park: £10,000,000			
	2019/20	2020/21	2021/22
April		£386,271	£3,032,672
October		£214,046	£6,367,011
Total		£600,317	£9,399,683

Project Delivery and Key Milestones

Milestone	Date
HIF Funded Works Start date	28 September 2017
HIF Funded Works Backstop date	31 March 2022
Completion of first homes in Phase1	31 March 2022
Completion of Phase 1 - 1300 Homes	30 December 2026

LB Brent, South Kilburn Regeneration

- 1.14. The South Kilburn Regeneration scheme adjoins Maida Vale to the East with Willesden to the West and North. The connecting point to the M1 close the Brent Cross Shopping Centre is also to the north of the site and the main A5 runs in a north to southerly direction, running past the eastern boundary of the site into Maida Vale and the City of Westminster. The A4003 is also to the north of the site which connects to the A5 and leads to the north circular road to the northeast.
- 1.15. The regeneration programme consists of a total of 11 sites to be delivered in 8 different phases. The development is halfway through delivery and is seeking to transform the area into a sustainable and mixed development neighbourhood. This will result in the replacement of 1,200 low quality homes with 2,643 new higher quality housing units of different tenures. To date, 1,073 new homes have been delivered, with around 60% new homes being made available to existing council tenants. LB Brent has invested significant sums into the programme by securing other funding sources and recycling capital receipts. So far, phases 1 and 2 of the total 8 phases are nearing completion.
- 1.16. The South Kilburn Regeneration Site is in Phase 3 of the programme and comprises site wide infrastructure and site assembly. Countryside Properties is the selected developer for this phase and LB Brent is to deliver the wider infrastructure.
- 1.17. Most of the infrastructure land is in the ownership of LB Brent, except for the Queens Park Cullen House (QPCH) Gyratory where the Transport for London (TfL) building is to be acquired. TfL is supportive of the scheme although it will not vacate until its new building is completed in June 2020.
- 1.18. The remainder of the homes in the programme's 8 phases, i.e. units in phases 3-8, will be unlocked through the proposed highway works to be funded by the MVF. This will also fund the acquisition of the Blue Box lease interest which is to be used to deliver an additional 201 homes in accordance with the current masterplan proposals. The replacement of the existing and delivery of the new homes, are dependent on the reconfiguration and expansion of the highways network and none of the homes in phases 3-8 can be delivered without these works. This will unlock 1,576 homes in total, with between 48% to 60% affordable housing depending on viability of individual schemes.
- 1.19. The infrastructure that the MVF is to fund consists of the improvements to existing roads, with some having updated typology, the QPCH Gyratory road works and relocation of the TfL office and depot, and the Blue Box long-leasehold acquisition contribution.

- 1.20. The amount of MVF grant requested is insufficient to address the total funding gap associated with phases 3-8 of the scheme. However, LB Brent has various mitigations it can use to cover this deficit including using anticipated overage payments from the scheme to cover the gap or re-profiling the tenure mix of the new homes to be delivered in the later phases. The MVF is therefore capped at £10 million with a condition that LB Brent is responsible for covering any additional deficit.
- 1.21. The QPCH Gyratory road works are scheduled for completion on 28 February 2022 and the rest of the highway works should be fully completed by 31 December 2021. The Blue Box acquisition is currently scheduled for completion by 31 May 2020.
- 1.22. Planning permission is in place for the QPCH highway works and most of the other highway works do not require planning permission. Full planning permission is in place for 239 homes with outline planning consent secured for 124 houses. A further 678 homes have in-principle consent, whilst the remaining homes have yet to receive planning consent.
- 1.23. A map of the scheme is shown below.

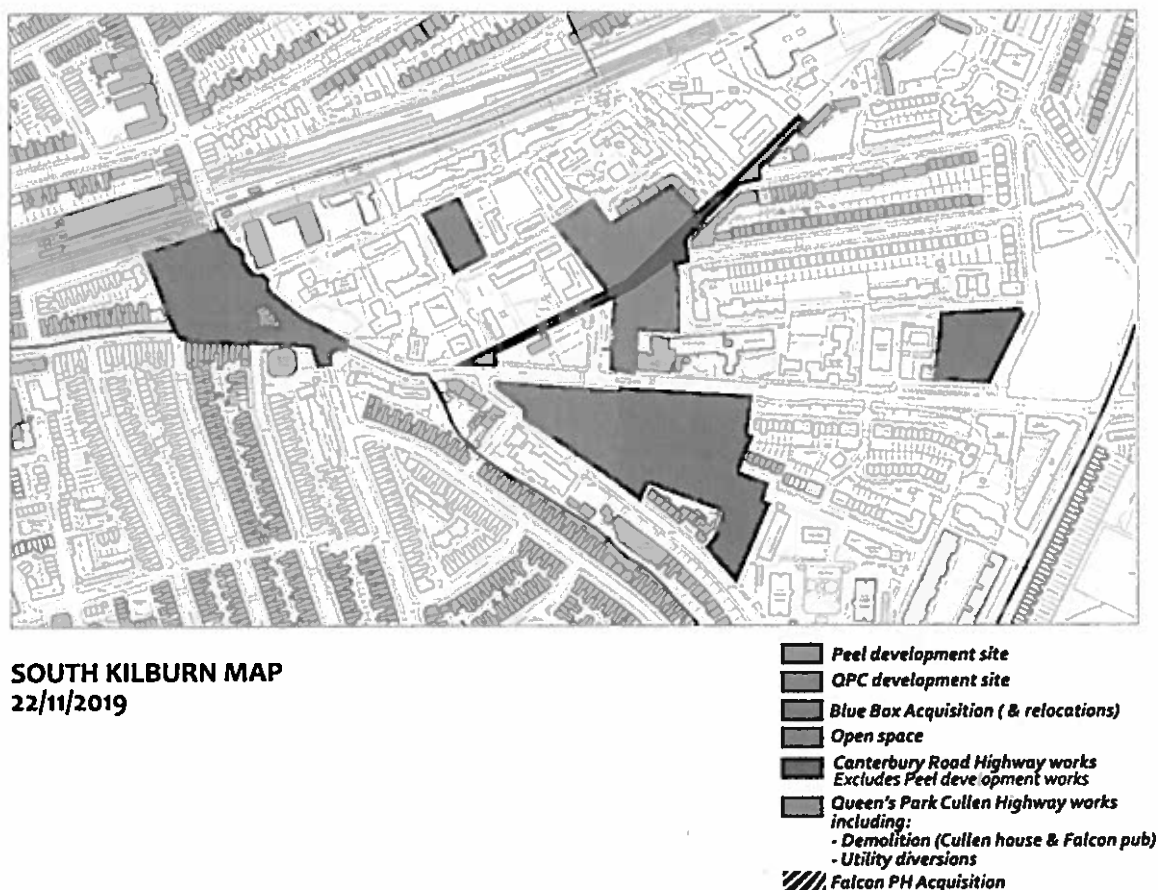


Figure 1.2 Map of the scheme.

- 1.24. The HIF funding is due to be drawn down by the GLA from MHCLG and transferred to LB Brent as follows:

MVF 425 Scheme: LB Brent – South Kilburn Regeneration: £10,000,000			
	2019/20	2020/21	2021/22
April		£4,721,866	£2,163,058
October		£1,711,970	£1,403,106
Total		£6,433,836	£3,566,164

Project Delivery and Key Milestones

Milestone	Date
HIF Funded Works Start date	30 November 2019
HIF Funded Works Backstop date	28 February 2022
Completion of first homes	30 June 2021
Completion of 1,576 homes	31 December 2029

LB Lambeth, 8 Albert Embankment

- 1.25. 8 Albert Embankment, situated approximately 600 metres to the north of Vauxhall Bridge and 200 metres to the south of Lambeth Bridge, covers three freehold sites owned by the London Fire Commissioner.
- **West Site.** This site includes the Grade II London Fire Brigade former headquarters building, the communications mobilising centre, the drill tower, the obelisk and an operational Fire Station. The main building is broadly rectangular, measuring 4,170 square metres. The site fronts onto the Albert Embankment along its western boundary overlooking the River Thames.
 - **Central Site.** This site includes an area of parking that fronts onto Lambeth High Street, behind which is a four storey building. As part of the meanwhile use for the site, the building has since November 2016 been used as a temporary LFB Museum and event space and by local charities, social and start-up enterprises and artists. It includes the Migration Museum and Institute of Imagination.
 - **East Site.** This is a cleared hard-standing former car park, located at the corner of Black Prince Road and Newport Street. It is currently in temporary use as a small community garden, on a licence arrangement with Vauxhall One.
- 1.26. The sites are within the Vauxhall Nine Elms, Battersea Opportunity Area, from Lambeth Bridge in the north, to Chelsea Bridge in the west, covering the Albert Embankment, Vauxhall and part of north Battersea, including Battersea Power Station. The Opportunity Area will deliver 20,000 new homes, 2.8 million square feet of retail and leisure space and over 3 million square feet of office space, with new town centres at Vauxhall and Battersea Power Station.
- 1.27. The regeneration scheme for the sites at 8 Albert Embankment is to be delivered by the London Fire Commissioner and U and I (8AE) Limited (a subsidiary company of U and I Group PLC, a major developer). The viability of the scheme is challenging because of the planning constraints and public infrastructure which must be provided (including a new fire station), the high alternative use value predominately due to the location of the site, and a planning requirement to provide 35% affordable housing. Without HIF funding the amount of affordable housing will reduce or the scheme will not proceed.

- 1.28. The MVF is to contribute towards a regeneration scheme across the sites that will deliver a total of 443 residential units including 172 affordable homes (comprising 40% by habitable rooms in the scheme), as well as commercial floor space, museum, hotel, employment space, restaurants, retail and a gym (the Wider Project). The regeneration is dependent on providing the new fire station and the London Fire Brigade museum on the western frontage of the West Site, which then unlocks the rest of the site for redevelopment. The funding requirement relates to re-enforcement of electricity infrastructure, demolition, excavation and sub-structure works across the sites.
- 1.29. A key risk relates to the grant of planning permission. A scheme was previously refused planning permission due to affordable housing levels, massing and rights of light. The applicant has been working with the planning authority to address these issues in the regeneration scheme, and the current planning application (reference 19/01304/FUL) is moving towards determination by LB Lambeth on 3 December 2019. The MVF is therefore conditional upon planning permission being secured that will allow the delivery of the infrastructure works by 31 March 2022.
- 1.30. A map of the sites outlined in red is shown below.

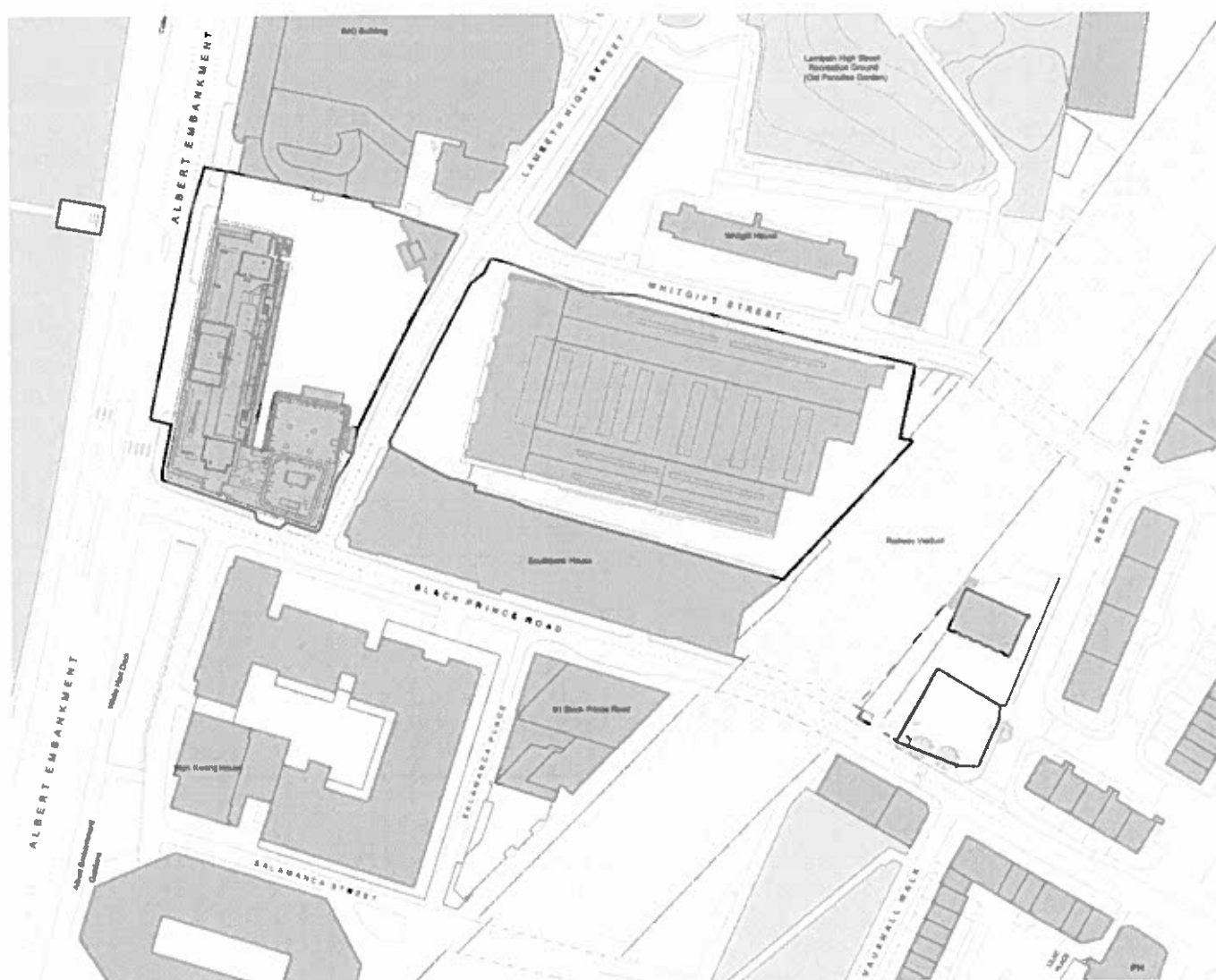


Figure 1.3 Site boundaries

- 1.31. The HIF funding is due to be drawn down by the GLA from MHCLG and transferred to LB Lambeth as follows:

MVF 589 Scheme: LB Lambeth – 8 Albert Embankment: £10,000,000			
	2019/20	2020/21	2021/22
April			£4,330,000*
October		£5,670,000	

Total		£5,670,000	£4,330,000
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**This relates to expenditure to be incurred up to March 2022.*

Project Delivery and key Milestones

Milestone	Date
HIF Funded Works Start date	1 May 2020
HIF Funded Works Backstop date	31 March 2022
Wider Project Start date	1 May 2020
Wider Project Completion date	31 March 2026

LB Lewisham, Lewisham Gateway

- 1.32. The Lewisham Gateway is a mixed-use regeneration scheme delivering c.900 new homes as well as commercial and community facilities. Outline planning permission was granted in 2006 (reference DC/06/62375). Located between Lewisham town centre and the Lewisham Station transport interchange, the land is owned by LB Lewisham, GLA Land and Property Limited and Transport for London with Lewisham Gateway Developments Limited (LGDL) appointed as the development partner delivering the infrastructure. LGDL is a wholly owned subsidiary of Muse Developments.
- 1.33. The first phase of the development comprises 362 homes – 193 homes were completed in autumn 2018 and construction of the remaining 169 homes in Phase 1 has commenced.
- 1.34. The HIF MVF application relates to the 530 homes that will be delivered within Phase 2. Of these, 106 homes (20%) will be affordable housing at London Living Rents (LLR), with 424 homes provided as private rental on a forward-funded basis. In addition, Phase 2 includes the development of 119 co-living units.
- 1.35. The forecasted cost of the infrastructure combined with the need to provide 20% affordable housing led to LB Lewisham requesting £10 million of HIF MVF. A further £9.6 million of funding will be provided by LB Lewisham to aid delivery of the scheme. Subsequently, MHCLG confirmed that the HIF MVF could be increased to £13.5 million following Homes England's advice that this was value for money.
- 1.36. The infrastructure to be funded, which includes eligible costs incurred since 27 September 2017, consists of: a basement energy centre for the LLR homes, sub-station and utility supplies, highways and public-realm works, pedestrian routes and landscaping.
- 1.37. A plan of the site is shown below: Phase 1A coloured yellow; Phase 1B coloured blue; and Phase 2 coloured pink.

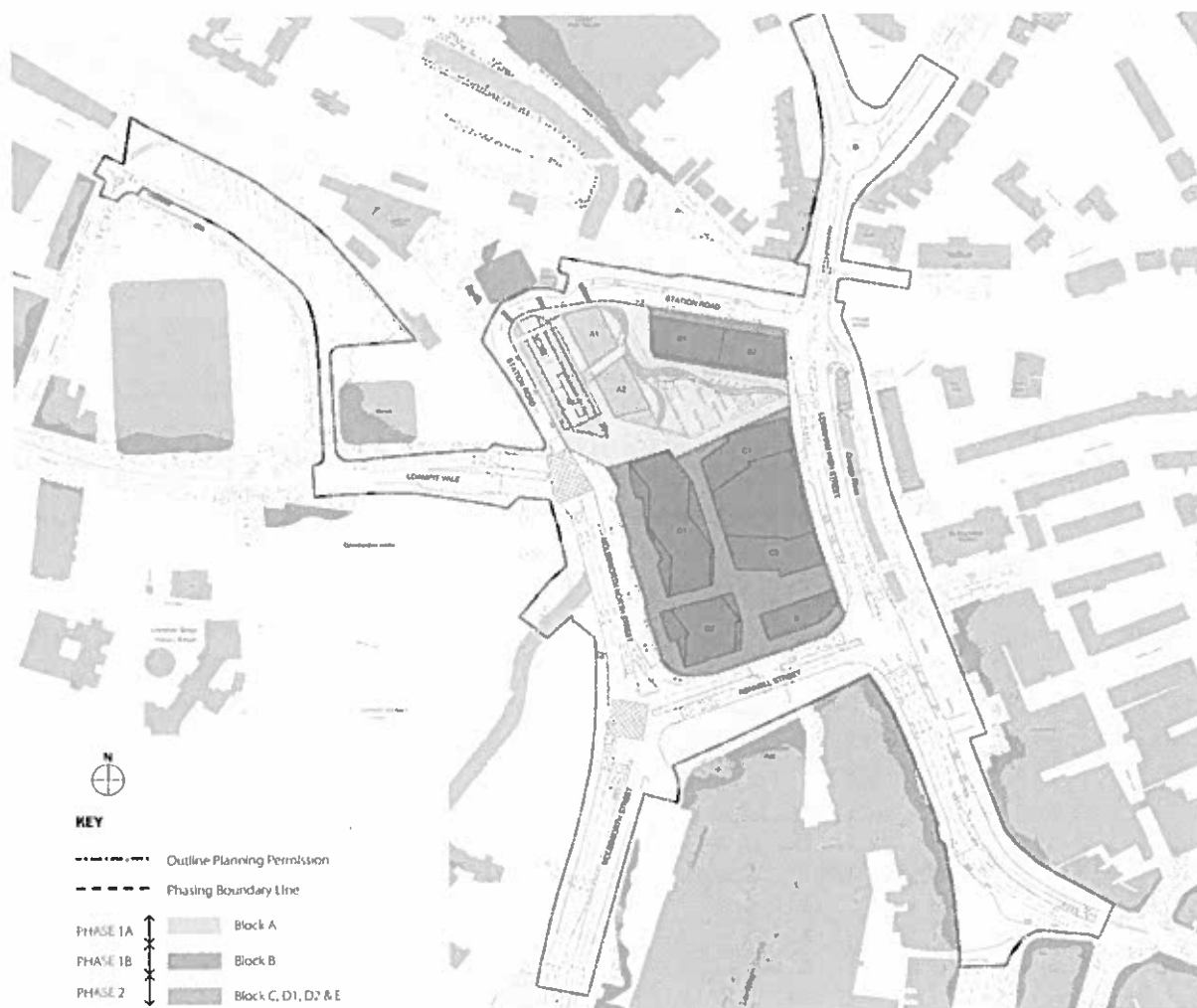


Figure 1.4 Site Plan.

1.38. The HIF funding is due to be drawn down by the GLA from MHCLG and transferred to LB Lewisham as follows:

MVF 282 Scheme: LB Lewisham – Lewisham Gateway: £13,500,000			
	2019/20	2020/21	2021/22
April			
October	£7,000,000	£6,500,000	
Total	£7,000,000	£6,500,000	

Project Delivery and Key Milestones

Milestone	Date
HIF Funded Works Start date	28 September 2017
HIF Funded Works Backstop date	31 August 2021
Start of 530 Homes	30 June 2019
Completion of 530 Homes	31 March 2023

LB Barnet, Finchley Central

1.39. This site is all owned by London Underground Limited, a legal entity within the wider TfL Group. It comprises the station car park to the south east of Finchley Central station together with surplus land

adjacent to the railway. This will need to be formally released from operational use by the Department for Transport under section 163 of the Greater London Authority Act 1999.

- 1.40. The scheme is for the delivery of a high-density residential-led development around the existing station on land that is currently occupied by the station car park as well as on surplus land on the existing railway cutting. This will also improve public space and pedestrian access between the high street and the station by creating a deck adjacent to the existing road bridge over the railway line and a new building structure over the embankment areas with active ground-floor uses and the residential above. This infrastructure work means that the scheme is unviable without grant funding.
- 1.41. The HIF MVF infrastructure will release plots for development by constructing a substructure on the railway cutting, as well as providing additional and altered utilities. The scheme will create 592 residential units along with retail and commercial units (the Wider Project). On its own the release of the station car park would unlock 177 homes, so the HIF MVF infrastructure releases capacity for an additional 415 homes. The scheme proposes delivery of 40% affordable housing.
- 1.42. There are limited options for development in the area and LB Barnet and TfL are keen to maximise the units delivered at this site. The development will also improve place-making, by bringing the two parts of the high street together and will deliver better public realm and an improved commercial offering.
- 1.43. Some of the infrastructure works can be done under permitted development rights, with the planning application to be submitted for the Wider Project in March 2020 in the expectation that the reserved matters will be approved by April 2021.
- 1.44. The outline of the development is shown on the map below, with the site edged red.

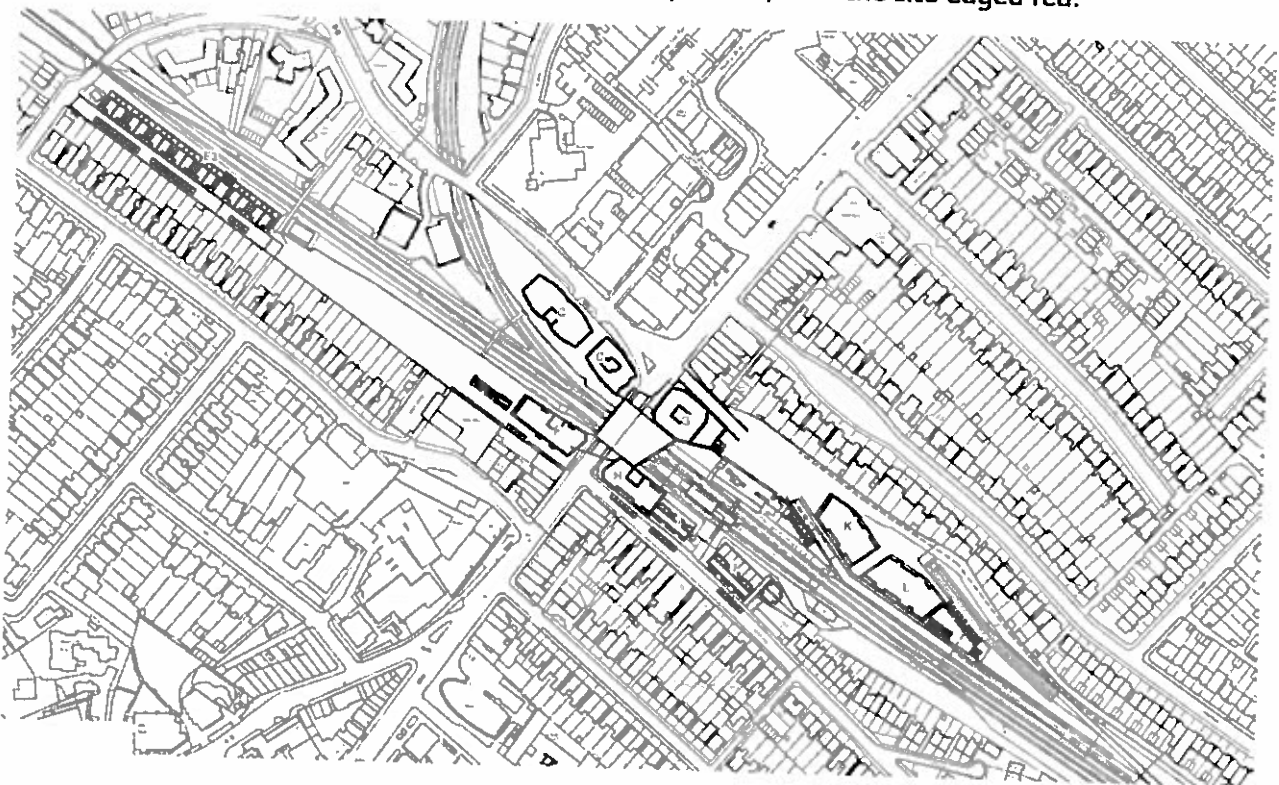


Figure 1.5 Outline of the development and of the site

- 1.45. The HIF funding is due to be drawn down by the GLA from MHCLG and transferred to LB Barnet as follows:

MVF 537 Scheme: LB Barnet – Finchley Central: £5,705,671			
	2019/20	2020/21	2021/22
April		£260,000	£2,327,484
October		£515,000	£2,603,187
Total		£775,000	£4,930,671

Project Delivery and Key Milestones

Milestone	Date
HIF Funded Works Start date	1 December 2019
HIF Funded Works Backstop date	31 March 2022
Wider Project Start date	30 September 2020
Wider Project Completion date	30 April 2026

Stakeholders / Contractual Arrangements

- 1.46. The counterparties in respect of HIF MVF funding agreements for each of the schemes are the respective boroughs as stated above.
- 1.47. Subject to satisfactory progress in delivery against project milestones, the GLA will provide grant at half-year intervals. Grant may be drawn down in advance of spend based on borough cashflow forecasts, which will be updated as necessary during the availability period. Grant claims will be supported by regular monitoring and progress reports from the boroughs to the GLA. Any underspends will be subject to reconciliation in the following six-month period. All claims for grant funding must be signed-off by the respective borough's section 151 officer.
- 1.48. Failure to deliver the HIF funded infrastructure described above, as applicable, or to meet a milestone for such infrastructure, will be an event of default within the funding agreement. In such circumstances the grant funding may be recovered. The boroughs will also be contractually required to use reasonable endeavours to deliver wider-project outputs, including delivery of the agreed number of homes, in accordance with specified milestones. The wider project will be subject to an assurance framework which requires the boroughs to engage in quarterly review meetings with the GLA and to provide progress and monitoring reports at quarterly intervals until the final claim is submitted and thereafter annually until the wider project completion date.
- 1.49. The GLA will report on progress quarterly and engage in an annual performance review with MHCLG in accordance with the terms of the MoU as set out in paragraph 1.54 below.

Due Diligence

- 1.50. Due diligence has been undertaken by external consultants from the Homes England panel. They have recommended funding for the schemes. GLA officers have reviewed this due diligence and recommend that the GLA provides the funding subject to the following conditions, which must be discharged before the GLA's obligations in respect of the grant become binding:
- 1.51. Each borough must confirm and provide evidence that:
- it believes the scheme can be delivered in budget, and that it will fund any cost overruns;
 - the funding complies with State Aid legislation;
 - it (or the borough's delivery partner) has or will have sufficient legal control and access to the site necessary to enable delivery of the infrastructure and homes, and;
 - where relevant, it has resolved to exercise Compulsory Purchase Order (CPO) powers or appropriation in relation to the scheme.

Governance

- 1.52. The London MVF Programme will be overseen by the HIF Programme Delivery Board which is chaired by the Executive Director for Housing and Land and includes representatives from the GLA, TfL, London Councils and MHCLG. The terms of reference for the board include the following:

- provide the leadership and support necessary to ensure successful delivery of the HIF Programme in London by identifying and leveraging synergies, mitigating risks and managing dependencies;
- oversee programme management of the MVF in London, proactively monitoring and managing underspends and, where necessary, proposing substitute schemes for approval by MHCLG;
- ensure a robust programme assurance framework is in place to ensure value for money and appropriate risk management in relation to project outputs and outcomes, including the delivery of a significant number of new homes;
- monitor programme delivery to ensure compliance with all applicable legal requirements including state aid, public procurement law and the Public Sector Equality Duty;
- receive quarterly reports on MVF schemes and monitor progress in the delivery of infrastructure and spend against project profile and programme longstops;
- provide quarterly reports to Housing and Land Directors Management Team on project risks and progress in delivery;
- provide periodic reports to the Corporate Investment Board (minimum intervals of six months) and update the Corporate Risk Register; and
- commission evaluation surveys of London HIF projects, as necessary, to meet MHCLG requirements.

1.53. Area Managers from the GLA's Housing and Land Directorate will manage the relationships as part of their borough portfolios and chair the quarterly progress and monitoring meetings.

1.54. The GLA will provide project updates and monitoring returns to MHCLG on a quarterly basis to enable programme oversight in accordance with the MoU between the GLA and MHCLG. The GLA will also engage in an annual performance review with MHCLG. The review will confirm spend and delivery targets and milestones for the forthcoming financial year and provide assurance to MHCLG that the next instalment of funding can be released.

Legacy

- 1.55. The funding of Northwick Park is expected to unlock 1,300 homes (40% affordable) plus 40,427 square feet of commercial space, and a new two-way carriageway to increase local highway capacity.
- 1.56. The funding of the South Kilburn Regeneration scheme is expected to unlock 1,576 homes (between 48% to 60% affordable depending on the viability of individual schemes), the improvement to local roads and the relocation of the TfL office and depot.
- 1.57. The funding of 8 Albert Embankment is expected to unlock 443 homes (40% affordable by habitable rooms) and the delivery of commercial floor space, museum, hotel, employment space, restaurants, retail, gym and a new fire station.
- 1.58. The funding of Lewisham Gateway is expected to unlock 530 homes (20% affordable at London Living Rents) and the delivery of an energy centre, sub-station, with improved public realm and pedestrian routes between the town centre and the transport hub.
- 1.59. The funding of Finchley Central is expected to unlock 415 homes (40% affordable) along with retail and commercial units, with improved space and pedestrian access between the high street and the station.

2. Objectives and expected outcomes

2.1. To provide the agreed funding for:

- Northwick Park that will facilitate the acquisition of land to construct the new highway and the associated infrastructure works, and unlock the delivery of 1,300 new homes;
- South Kilburn Regeneration that will facilitate the acquisition of land for redevelopment and to improve the roads along with the associated infrastructure works, and unlock the delivery of 1,576 new homes;
- 8 Albert Embankment that will facilitate the infrastructure works, and unlock the delivery of 443 new homes;
- Lewisham Gateway that will facilitate the infrastructure works, and unlock the delivery of 530 new homes;
- Finchley Central that will facilitate the construction and infrastructure works and unlock the delivery of 415 new homes.

3. Equality comments

- 3.1. In September 2017, the GLA published an impact assessment, including an equalities impact assessment, of the London Housing Strategy. Policies related to increasing housing supply and delivering affordable housing, to which the MVF HIF schemes will make a significant contribution, 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 different groups are taken into account in housing design.
- 3.3. The delivery of new and additional homes will help to implement Strategic Objective 1 of the Mayor's equality, diversity and inclusion strategy 'Inclusive London' (May 2018) to increase the supply of homes that are genuinely affordable to buy or rent. The HIF will help fund the supporting infrastructure needed to unlock priority schemes for LB Barnet, Brent, Lambeth and Lewisham, contributing to the delivery of up to up to 4,264 new homes, including affordable homes.
- 3.4. 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.
- 3.5. Throughout the decision-making process relating to 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 funding infrastructure to unlock additional housing supply) will help to achieve positive impacts in line with the 'three needs'.
- 3.6. Under the terms of the funding agreement, boroughs will be required to comply with, and assist and co-operate with the GLA in order that it can comply with (and require third parties who benefit from the grant and any appointed contractors do the same, if applicable), the Public Sector Equality Duty.

4. Other considerations

Key Risks

Delivery Risks

- 4.1. *Delays could arise from the land assembly process which may take longer than expected.* Where this risk is relevant, it has been mitigated by the inclusion of specific milestones and outputs for completing the necessary acquisitions and gaining full legal control of the land. Failure to achieve milestones and outputs relating to the HIF funded infrastructure works is an event of default which, if it cannot be remediated, may result in termination of the funding agreement and recovery of all or part of the grant funding. Further, where relevant, the borough will also warrant that it has resolved to exercise CPO powers or appropriation where necessary.
- 4.2. *Further funding required.* This risk has been mitigated by the contractual condition that will be placed on the boroughs to fund any cost overruns.
- 4.3. *The homes are not delivered in accordance with the wider project milestones and outputs:* the purpose of the HIF grant awarded to LB Barnet, Brent, Lambeth and Lewisham is to unlock the delivery of homes. These wider project outputs are subject to an assurance framework which requires boroughs to use reasonable endeavours to procure the delivery of the homes. However, boroughs will not be in default if they fail to achieve the wider project milestones and outputs and the grant will not be subject to clawback in these events, provided the boroughs have used reasonable endeavours.

Financial Risks

- 4.4. *Detailed due diligence on each scheme has been undertaken by external consultants from the Homes England panel.* Whilst the GLA has reviewed the due diligence, there is a risk for the GLA not having been party to this detailed review, particularly as the GLA is responsible for monitoring and managing the MVF programme in London. This is mitigated by the detailed reporting required from the boroughs which is required to be passed on to MHCLG. If the borough fails to achieve any HIF funded infrastructure works output or HIF funded infrastructure works milestone, and is unable to remedy the default, the GLA may suspend or withhold payment of any further grant instalments and recover all or part of the grant. Additionally, the borough may be required to repay any underspend or overpayments to the GLA immediately (unless the GLA agrees an amendment to the project cashflow) where this has arisen as a result of delays in the works or an overpayment with respect to State Aid law.
- 4.5. *The borough has submitted a valid claim for funding, but the GLA has not received funds from MHCLG.* This risk is mitigated by a payment framework agreed with MHCLG and contractual clauses that agree that the GLA will only forward funds on agreed claims following receipt of funding from MHCLG.
- 4.6. *The borough has drawn down funding but does not deliver the expected infrastructure.* Failure to deliver an MVF project by the agreed backstop date is the only event in which MHCLG may recover an underspend from the GLA in accordance with the MoU. If any HIF funded infrastructure works output is not delivered in line with agreed HIF funded infrastructure works milestones, the GLA may suspend or withhold payment of any further grant instalments and recover all or part of the grant.

State Aid Compliance

- 4.7. Each borough is required to provide the GLA with confirmation that it has received an opinion, satisfactory to the borough as to the state aid treatment of the project.

Links to Mayoral Strategies and Priorities

- 4.8. The draft new London Plan 2017 (LP) and the London Housing Strategy 2018 (LHS) set ambitious new targets to deliver the homes necessary to meet housing need. To create this step-change in housing delivery, the Mayor is committed to targeting investment to accelerate and de-risk housing and regeneration sites across London, including securing a significant share of the Government's

Housing Infrastructure Fund (LHS Policy 3.2). This Marginal Viability Funding provides necessary investment to assist in unlocking future phases of land and estate regeneration in the boroughs, making an important contribution toward meeting the London Borough's ten-year housing targets. It also complements existing Programmes, including the Mayor's Affordable Homes Programme 2016-2021.

- 4.9. The London MVF schemes announced by central government in February 2018 include several major estate regeneration programmes. MVF will help unlock these by mitigating infrastructure viability gaps. Since funding decisions about whether a scheme receives MVF are made by MHCLG, the Mayor cannot require the award of MVF to be contingent on an affirmative resident ballot. However, the Mayor expects estate regeneration programmes otherwise to be delivered in accordance with 'Better Homes for Local People – the Mayor's Good Practice Guide to Estate Regeneration', meaning any funding from his Affordable Homes Programme must be subject to his funding condition around ballots.

Declarations of Interest

- 4.10. The officers involved in the drafting or clearance of this form do not have an interest to declare in accordance with the GLA's policy on registering interests which might, or might be seen to, conflict with this Director's Decision.

5. Financial comments

- 5.1 This Decision seeks approval for payment of £49.2 million of grant to five schemes under the Marginal Viability Fund as set out in paragraph 1.5. The expenditure profile is for £7 million to be spent in the financial year 2019-20, £20 million to be spent in the financial year 2020-21 and £22.2 million to be spent in the financial year 2021-22.
- 5.2 HIF MVF projects will be funded by Government capital grant and therefore are at net nil-capital cost to the GLA. The GLA will need to administer the grant claims process, but LB Barnet, Brent, Lambeth and Lewisham will only be paid after the grant is received from MHCLG so there is no cashflow risk. In addition, project overspend, and delivery risk will also be borne by the boroughs.

6. Legal comments

- 6.1 Under section 30(1) of the Greater London Authority Act 1999 (as amended) ("GLA Act"), the GLA has the power to provide the funding for these schemes provided that doing so will further one or more of its principal purposes of: promoting economic development and wealth creation, social development, and the improvement of the environment in Greater London. The schemes are intended to unlock the delivery of up to 4,264 homes, including affordable housing, and it is open to the GLA to take the view that funding them will promote both social and economic development, and is therefore within its power, contained in section 30(1) of the GLA Act.
- 6.2 In exercising the power contained in section 30(1) of the GLA Act, the GLA must have regard to the matters set out in sections 30(3-5) and 33 of the GLA Act, and also the Public Sector Equality Duty in section 149 of the Equality Act 2010, which are explained in paragraph 6.2 of the legal comments of MD2341 relating to the Housing Infrastructure Fund Marginal Viability Fund. Reference should be made to section 3 above in this respect.
- 6.3 In addition to the above, where the GLA is proposing to use the power conferred in section 30(1) of the GLA Act, the GLA must consider consulting in accordance with section 32 of the GLA Act. The GLA has engaged with LB Barnet, Brent, Lambeth and Lewisham in relation to the schemes which are the subject of this Director Decision. GLA officers have confirmed it is not considered necessary or appropriate for the GLA to consult with any other persons or bodies including those specified in section 32(2) of the GLA Act for the purposes of this Director Decision.

- 6.4 With reference to paragraph 4.7 above, it is recommended that the GLA obtains each borough's confirmation that it has received a satisfactory opinion as to the state aid treatment of the relevant scheme before the GLA enters into the funding agreement with that borough. This is to provide assurance that the funding is capable of being applied in a state aid compliant manner before it is committed and, if necessary, to enable any scheme-specific state aid provisions to be inserted into the funding agreement for compliance purposes.
- 6.5 External lawyers have advised GLA officers in relation to the form of funding agreement between the GLA and LB Barnet, Brent, Lambeth and Lewisham.

7. Planned delivery approach and next steps

Activity	Indicative Date
Complete HIF-MVF funding agreement with boroughs	By 16 December 2019
HIF funded infrastructure works start on site	By June 2020
HIF funded infrastructure works completion	By March 2022
Wider projects start on site	By July 2022
Wider projects completion	By December 2029

Appendices and supporting papers:

None.

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) 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 it has been approved 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 - Sensitive information

Only the facts or advice that would be exempt from disclosure under FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form - NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to
confirm the
following (✓)

Drafting officer:

Peter Carney has drafted this report in accordance with GLA procedures and confirms the following:

✓

Assistant Director/Head of Service:

Nick Taylor has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Financial and Legal advice:

The Finance and Legal teams have commented on this proposal, and this decision reflects their comments.

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 2 December 2019.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

M. D. Allen

Date

3.12.19

