

GREATER LONDON AUTHORITY

REQUEST FOR DIRECTOR DECISION – DD2263

Title: Small Sites, Small Builders – 2018/19 programme

Executive Summary:

Under MD2133 the Mayor gave delegated authority to the Executive Director for Housing and Land to approve expenditure of up to a further £14.703m from April 2018 until April 2021 (including £13.215m which has been approved in principle by the London Enterprise Action Partnership Investment Committee) to expand the Small Sites, Small Builders programme. This approval was subject to a review of the pilot and confirmation of funding from Government. The pilot programme of ten TfL sites was launched in February 2018. Overall the pilot was a success, with a good level of interest from bidders who proposed innovative designs that offered more units and more value than anticipated. The programme should continue, and should be reviewed on an annual basis to monitor effectiveness.

Decision:

That the Executive Director of Housing and Land approves:

Expenditure of up to £3,872,201 in 2018/19 on the Small Sites Small Builders Programme (£3,355,000 which has been approved in principle by the London Enterprise Action Partnership Investment Committee, £468,000 is from a transfer from the H&L Reserve and is £49,201 accrued from underspend in 2017/18).

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: David Lunts*

Position: Executive Director Housing and Land*

Signature



Date:

30/07/18

* SIMON POWELL ON BEHALF OF DAVID LUNTS - ASSISTANT DIRECTOR - STRATEGIC PROJECTS + PROPERTY.

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

- 1.1 The London Housing Strategy sets out how the number of small builders operating in London has reduced significantly over the last 15 years, resulting in an over-reliance on large sites and a relatively small number of large developers to build new homes in London. The reasons for the decline in small builders are well documented and include difficulty in obtaining finance, planning uncertainty, risk, and lack of available sites. The boroughs and other public-sector landowners often struggle to bring forward small sites because of a lack of available resources, and a perceived imbalance between the effort involved and the benefits received.
- 1.2 Under MD 2133 The Mayor authorised expenditure of up to £473,000 to pilot an innovative programme to unlock publicly-owned small sites by bringing forward around ten TfL small sites for development by small and medium builders (SMEs) and community-led housing groups. Subject to evaluation of this pilot the Mayor also delegated to the Executive Director Housing and Land authority to authorise total expenditure of up to a further £14.703m from April 2018 to April 2021.
- 1.3 The programme aims to provide public landowners with an alternative mechanism to bring small sites forward, which seeks to balance the convenience of land auctions with some of the delivery controls in development agreements. By taking a proportionate approach to those controls, the bidding/selection process will be simpler than a regulated procurement process, the complexity of which tends to exclude smaller builders. Beyond the pilot, the programme can also provide funding for landowners to carry out due diligence on their sites, to provide more certainty to bidders, and to help to unlock unviable sites.
- 1.4 The pilot of ten TfL sites was launched in February 2018 using a marketing portal on the GLA website. 130 bids were received from 80 different organisations across the spectrum of the SME sector, including from registered providers and community-led housing groups. Overall the successful bids offered more units and more value than anticipated and included a range of high quality and innovative schemes. The pilot has been successful in demonstrating the value of the concept and therefore the full programme should be developed, subject to consideration of the lessons learnt from the pilot, as set out in detail below, and approval on an annual basis to review ongoing effectiveness. Approval for expenditure of up to £3,872,201 in 2018/19 is sought.

2. Objectives and expected outcomes

- 2.1 The main aim of the programme in 2018/19 is to secure commitments from London boroughs to bring sites through the programme, further TfL sites are also expected to be brought forward. The expenditure of £3,872,201 is a combination of capital and expenditure and is profiled in the table overleaf. The split between revenue and capital expenditure is fixed. The profile for the revenue expenditure is indicative, to allow flexibility depending on the demand from land owners.

Revenue	
Programme administration	
Standard Contracts (Legal and Commercial)	£16,201
Online platform (gradually increasing functionality)	£60,000
Advertising / Marketing for platform	£12,000
Dedicated staff costs	£140,000
Evaluation	£20,000
Site Preparation (due diligence etc)	£504,000
Site Identification/Community Housing Support	£240,000
Total Revenue	£992,201
Capital	
Site preparation (unlocking unviable sites)	£2,880,000
Total budget for 2018/19	£3,872,201

- 2.2 At least £744,000 of revenue funding is available to land owners for site identification and due diligence (such as ecology, arboricultural and ground condition surveys, reports on title, valuations, daylight/sunlight, rights to light and transport assessments). The aim of this funding is to enable landowners to bring sites to the market through the GLA portal, the due diligence reduces risks to potential bidders by providing certainty on issues such as ground conditions and title, enabling them to prepare more credible and deliverable schemes. Based on the costs associated with the pilot this would fund due diligence for around twenty site and site identification for two boroughs A total of £2.880,000 of capital funding is available to unlock unviable sites. These could be sites that have been identified as a result of site identification and due diligence funding or sites that have already been identified by the borough. It is anticipated that this would support between five and ten sites, depending on the level of funding required. It is anticipated that this would fund capital works, such as demolition, de-contamination or utilities diversion, the cost of which would otherwise render the scheme unviable.
- 2.3 A key outcome of the evaluation of the pilot was determining how to ensure that successful bids were proposing high quality and innovative design solutions. To help achieve this, the funding to landowners for due diligence and unlocking unviable sites will be in the form of a grant agreement, which will set out requirements that land owners will need to comply with, in order to receive funding. This will include:
- Setting out the role of the GLA in assessing bids when the sites are marketed, in particular assessing design quality.
 - Requiring bids to demonstrate compliance with policy D4 (Housing quality and standards) of the draft London Plan.
- 2.4 The bidding guidance will emphasise the Mayor's expectations around design quality and best practice and encouraging collaborations between designers, builders and community groups (where appropriate). The guidance will make clear that unconditional disposals should not form part of the programme.
- 2.5 Standard contracts between landowners and successful bidders have been designed to enable landowners include restrictive use in the lease to ensure the site can only be used for affordable and/or community-led housing, to meet these wider objectives and stimulate those sectors of the market. The pilot included four restricted sites, two sites for 100 per cent affordable housing by a community land trust (CLT), one for 100 per cent affordable housing and one for 50 per cent

affordable housing. These restrictions did not inhibit bidders, however future restricted disposals for CLTs should ensure that requirements regarding CLT status should be even clearer setting out the evidence needed to demonstrate compliance. Consideration should be given to use of a broader definition of community-led housing. Where appropriate further clarity on tenure and affordability expectations should be given.

- 2.6 The GLA would expect bids to reflect local affordable housing requirements (noting that in many London boroughs developers bringing forward schemes providing less than 10 units are not required to provide affordable housing) and the Mayor's Affordable Housing and Viability Supplementary Planning Guidance.
- 2.7 Small builders are likely to provide employment opportunities for local people, and apprenticeship schemes will be signposted online. We will encourage the employment opportunities offered by builders to be taken into account in the qualitative assessment of shortlisted bids in any future scheme.

3. Equality comments

- 3.1 The programme will promote equality and work to deliver new diverse and inclusive opportunities. It is not anticipated that the programme will have a negative impact on any groups identified under the Equality Act 2010. The programme will be developed and delivered in compliance with relevant Codes of Practice and in line with the requirements of the public-sector equality duty to ensure that the following issues have been considered:
 - i) Physical proposals will meet planning and Building Regulations requirements in terms of accessibility to ensure we minimise disadvantage is suffered by people who share a protected characteristic.
 - ii) Documents and publications will comply with Mayor of London branding guidelines, it being based on guidance from the Royal National Institute of Blind People.
 - iii) Events will be open to all and, where possible, we will encourage people who share a protected characteristic to participate in activity in which their participation is disproportionately low.
- 3.2. Public sector landowners will already share the public-sector equality duty. This will be stipulated in any grant agreements. Organisations involved in the purchase of sites will not necessarily be under this duty, but will be encouraged to adopt equality policies in their practice.

4. Other considerations

- 4.1 The programme links to wider Mayoral strategies and priorities in Housing, Regeneration, and Planning, including: Homes for Londoners, London Plan policies supporting small infill development, the draft Housing Strategy, which seeks to diversify the housebuilding industry and establishes a presumption in favour of appropriate residential development on small sites, and work to promote and enabling community-led housing, and regeneration for all Londoners.
- 4.2 Risks at a programme level include demand and supply of sites coming through the platform, which will be mitigated by ongoing proactive engagement with landowners. Officers have already engaged with a range of public landowners, small developers, community-led housing groups and their representative bodies in formulating the programme, including London Councils and the Federation of Master Builders.

- 4.3 Risks associated with individual sites will be identified through detailed site surveys and due diligence as part of the programme. This helps to clarify the risks, although the ultimate development risk will be with the small builders who purchase the sites. The public landowner and GLA may have a reputational risk if sites are poorly developed or not built out at all. The programme involves a proportionate approach to these risks, and the intention is to dispose of sites to organisations who intend to build good schemes.

5. Financial comments

- 5.1 Growth Deal 3 is an allocation of capital grant funding and only the funding for 2017-18 has been formally confirmed and received from government.
- 5.2 Up to a further £14.703m can be drawn down until April 2021 depending on the outcome of the pilot and subsequent decisions about the programme. This includes £11.880m Growth Deal capital funding, £1.335m Growth Deal funding swapped to revenue via the Capital Programme Reserve, and, as per the above, £1.488m revenue funding sourced from Housing and Land budgets in the first instance with a transfer of £468k in 2018/2019 (and where there is budget pressure, a draw-down from the Estates Reserve).
- 5.3 The programme funding sources are as summarised below:

Programme Costs	2017/2018	2018/2019	2019/2020	2020/2021	TOTAL
Capital from Growth Deal	0	2,880,000	4,680,000	4,320,000	11,880,000
Revenue from Growth Deal	185,000	475,000	440,000	420,000	1,520,000
Sub Total from growth Deal	185,000	3,355,000	5,120,000	4,740,000	13,400,000
Additional Revenue requirement, funded from H&L Reserves		468,000	380,000	640,000	1,488,000
Total Small Sites Programme	185,000	3,823,000	5,500,000	5,380,000	14,888,000
Carried forward underspend in 2017/2018		49,201	0	0	49,201
Total spend in 2019/2019	185,000	3,872,201	5,500,000	5,380,000	14,937,201

- 5.3 Any under-spends that accrue in year from the Growth Deal capital will be reallocated to the Good Growth Fund, which is part the LEAP's Growth Deal 3 Programme.
- 5.4 There is a risk of the GLA incurring abortive costs, for example on sites that ultimately cannot be developed and these consequently may need to be charged to revenue. Robust in-year project monitoring will be necessary to minimise this risk, with remedial action taken to ensure sufficient revenue budget is available to cover any abortive costs that may transpire.

6. Legal comments

- 6.2 Section 30 of the Greater London Authority Act 1999 ('GLA Act') gives the Mayor a general power to do anything which he considers will further one or more of the principal purposes of the GLA. The principal purposes, as set out in section 30(2) of the GLA Act are:
- (1) Promoting economic development and wealth creation in Greater London;
 - (2) Promoting social development in Greater London; and

(3) Promoting the improvement of the environment in Greater London

- 6.2 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 his decision 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).
- 6.3 Given the above (including section 3 of this report), Section 34 of the GLA Act which allows the Mayor to do anything which is calculated to facilitate or is conducive or incidental to the exercise of any of his functions (including his functions under section 30) and the Mayor's powers (under Section 38 of the GLA Act) to delegate to any GLA member of staff functions of the GLA that are exercisable by him, the foregoing sections of this report indicate that the Mayor has the power to agree to the decisions set out above.
- 6.4 In order to mitigate any risks that proposed funding might be considered to be state aid, officers should work with TfL Legal to consider the structure of proposed funding arrangements and the detail of such arrangements.
- 6.5 As noted above, the complexity of the Public Contracts Regulations 2015 (which implement the EU Public Procurement Directive) can mean that smaller builders are put off bidding for schemes. This programme takes a proportionate approach, balancing the risk of people not bidding with the risks to delivery. In particular the programme has been designed to fall outside the scope of those Regulations.

7. Planned delivery approach and next steps

- 7.1 Ongoing targeted engagement with the boroughs will take place to build a programme of sites. As part of a wider strategy to acquire land for new and affordable homes the GLA, will actively investigate opportunities to acquire small sites and unlock them for housing delivery as part of a future programme.
- 7.2 The programme will be jointly managed by the GLA's Housing & Land and Regeneration teams. There is scope in the budget allocation to recruit fixed term staff to support the programme, including supporting public landowners in bringing their sites forward, managing due diligence, and providing basic agency support.

Activity	Timeline
Engagement with boroughs to submit bids for funding	July 2018
Funding for site identification and preparation allocated	July/August 2018
Recruitment of staff to support programme	August 2018
Marketing of viable sites	Sept/Oct 2018
Bidder assessment	Dec 2018
Second wave of funding bids and marketing of sites	Spring 2019
Review of 2018/19 programme and approval of 2019/20 programme	Spring 2019

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 –NO

ORIGINATING OFFICER DECLARATION:

Drafting officer
to confirm the
following (✓)

Drafting officer:

Justin Carr has drafted this report in accordance with GLA procedures and confirms that:

✓

Assistant Director/Head of Service:

Simon Powell 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:

The Corporate Investment Board reviewed this proposal on 23 July 2018.

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

23.7.18