

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2388

Title: Housing Infrastructure Fund – Forward Funding Business Case Submission (December 2018)

Executive Summary:

Up to £4.1Bn of Forward Funding (FF) over the period 2017-2023 has been provisionally allocated from the Government's Housing Infrastructure Fund (HIF) to help unlock a strategic pipeline of housing delivery in England. This funding will be awarded, following a competitive bidding process, to up to 45 higher tier authorities, including potentially the GLA. The GLA submitted two business cases in September 2018 as part of the competitive bidding process and a £291m funding allocation for the Docklands Light Railway Accelerated Growth Programme was announced in the Autumn Budget. Due diligence is ongoing for the Old Oak – Delivering London's Largest Opportunity Area bid. This MD approves the submission of up to three further business cases in December 2018. Work is ongoing for the final two business cases which are being developed for submission in March 2019. Further MDs will be presented for approval, prior to the receipt of any HIF allocation from Government and prior to the submission of the final business cases in March 2019.

Decision:

That the Mayor:

1. Approves the submission of up to three further business cases for the East London Line, Meridian Water and Royal Docks to support bids for capital funding of up to £385m HIF FF to help unlock the delivery of up to 33,000 new homes; and
2. Delegates authority to the Executive Director of Housing and Land, in consultation with the Executive Director of Resources and the Deputy Mayor for Housing & Residential Development, to submit the business cases as described in Part 2 of this decision, subject to the satisfactory completion of the detailed modelling and appraisal required, and to submit those business cases to Government in December 2018.

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:

27/11/18

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

Decision required – supporting report

1. Introduction and background

- 1.1 Central Government's £2.3bn Housing Infrastructure Fund (HIF) was announced in the 2016 Autumn Statement. The programme provides funding for infrastructure investment to unlock additional homes, with a focus on areas of greatest housing demand. The HIF Prospectus was published on 4 July 2017 inviting bids for funding to be invested over the period up to March 2021. In the Autumn Budget 2017 a HIF extension was announced, more than doubling the size of the fund and extending availability to March 2023. A further £0.5bn was announced in the Autumn Budget 2018. The total value of the fund in England is now around £5.5bn of which £4.966bn has been provisionally allocated as set out in 1.2 and 1.3 below.
- 1.2 HIF may be used to deliver physical infrastructure including: transport and travel, utilities and digital communications, schools and community facilities including healthcare, heritage asset protection and green and blue infrastructure including flood defences. Land assembly is an eligible cost provided this is associated with infrastructure delivery. The Fund has two parts:
- **Marginal Viability Funding (MVF)** – a soft ceiling of up to £10m per scheme to provide the final or missing piece of infrastructure to get additional sites allocated or existing sites unblocked quickly, with a requirement for London bids to be led by the boroughs.
 - **Forward Funding (FF)** – a soft ceiling of up to £250m per scheme available to higher tier authorities to support a small number of strategic and high-impact infrastructure schemes with a requirement for London bids to be led by the GLA.
- 1.3 Ministry of Housing, Communities and Local Government (MHCLG) officials have confirmed that MVF schemes will be required to deliver expenditure by March 2021, while FF projects will be monitored against an expenditure deadline of March 2023. Nationally, a total of £866m has been provisionally allocated to MVF schemes to March 2021, and £4.1bn has been provisionally allocated for FF schemes to March 2023.
- 1.4 Up to £110.7m has been provisionally allocated to borough led MVF schemes in London. Further to MD2341, the GLA will enter into an associated Memorandum of Understanding (MoU) with Government to fund the delivery of up to 12 infrastructure schemes capable of unlocking the delivery of up to 18,000 new homes.
- 1.5 The GLA submitted Expressions of Interest for Forward Funding in September 2017 and, in March 2018, MHCLG announced they would be working with the GLA to progress selected schemes through a co-development stage culminating in the submission of full business cases. The first of three submission deadlines set by MHCLG was 10 September 2018. Further to MD2355, business cases for Docklands Light Railway – Accelerated Growth Programme and Old Oak – Delivering London's Largest Opportunity Area were submitted in September 2018. A funding allocation of £290.7m for the Docklands Light Railway was announced in the Autumn Budget 2018. The Old Oak bid is subject to ongoing due diligence.
- 1.6 Three business cases are being finalised for submission to MHCLG on 3 December 2018. The schemes are:
- East London Line – Growth Capacity;
 - Meridian Water Infrastructure; and
 - Royal Docks Infrastructure.

- 1.7 Draft business cases were subject to review by the HIF FF Steering Group on 31 October. The Steering Group is comprised of representatives from TfL Spatial Planning and senior managers from across the GLA including Housing & Land, Investment and Operations, Transport, Planning, Group Finance and GLA Economics. Officers from the Environment Team have also been engaged and provided feedback on draft business cases. GLA Chief Finance Officer sign off is a pre-requisite for the submission of business cases to MHCLG. Financial risk to the GLA has been a key area for scrutiny by the Steering Group.
- 1.8 Following the review of draft business cases by the Steering Group, outstanding issues have been subject to detailed discussions with delivery partners. Further details of these issues and the process by which they will be addressed are set out in the part 2 report.
- 1.9 Under GLA Financial Regulation 26.2, bids for external funding in excess of £500,000 are to be approved by the Mayor. Approval is now being sought to submit up to three business cases to MHCLG in December 2018.
- 1.10 Subject to funding allocations being approved by Government, a further MD will be required to enter into an agreement with MHCLG for the receipt of external funding.

2. Objectives and expected outcomes

- 2.1 The FF schemes will deliver a range of physical infrastructure required to unlock a strategic pipeline of delivery in London's Opportunity Areas and strategic transport corridors. The funding is intended to address market failure where the need for infrastructure is blocking development. Infrastructure may include: transport and travel, utilities and digital communications, schools and community facilities including healthcare, heritage asset protection and green and blue infrastructure including flood defences. Land assembly is an eligible cost provided this is associated with infrastructure delivery.
- 2.2 The proposed interventions could support the delivery of around 33,000 new homes of which between 35% and 50% are expected to be affordable.

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 FF 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 Objectives 1, 2, 3 and 4 of the Mayor's Equalities Framework "Equal Life Chances for All" (June 2014) through the creation of new homes, housing products and well-designed housing schemes. If successful, the FF schemes will help fund the supporting infrastructure needed to unlock a strategic pipeline of delivery with up to 33,000 new homes, including between 35% and 50% affordable.

- 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 FF due regard has been – and will continue to be – paid 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'.

4. Other considerations

Key Risks and Issues

- 4.1 It is anticipated that the GLA will enter into either a Memorandum of Understanding or individual funding agreements with MHCLG in respect of successful schemes including accountability for the delivery of infrastructure milestones. Where milestones are not delivered by the programme longstop, MHCLG reserves the right to recover unspent grant. Where appropriate, the GLA will transfer the risk of cost overruns and failure to deliver by the programme longstop to delivery partners, which include TfL. Progress in delivery of HIF FF schemes will be monitored by the HIF Programme Delivery Board chaired by the Executive Director of Housing and Land.
- 4.2 The GLA is responsible for ensuring that projects are compliant with state aid and EU procurement rules.

Links to Mayoral Strategies and Priorities

- 4.3 The draft new London Plan 2017 and the London Housing Strategy 2018 set ambitious new targets to deliver the homes necessary to meet housing need and ensure London's competitiveness. 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 (Draft LHS Policy 3.2).
- 4.4 HIF FF will provide necessary investment to assist the GLA in unlocking London's emerging Opportunity Areas and releasing new capacity in transport corridors. This will make an important contribution toward meeting current housing targets as well as setting up a long-term delivery pipeline to 2035 and beyond. HIF FF complements existing Programmes, including the Mayor's Affordable Homes Programme 2016-2021.

5. Financial comments

- 5.1 The GLA will be the accountable body for these projects should HIF grant funding be awarded so it will be necessary to ensure that financial risk from cost overruns or slippage outside of the funding delivery deadline of March 2023 rests with the appropriate delivery body. In the case of the Royal Docks bid and an element of the East London Line bid this risk will sit with the GLA. Further comments on this issue and the DLR Accelerated Growth Programme are contained in part 2 of this decision.

6. Legal comments

- 6.1 The receipt of funding from MHCLG and the provision of financial assistance (whether by grant or loan) for the delivery of infrastructure projects which unlock new housing supply is permissible under sections 30(1) and 34 of the Greater London Authority Act 1999 (the GLA Act), if the Mayor considers that doing this will further one or more the GLA's principal purposes of: promoting economic and social development in Greater London, and improving the environment in Greater London. This is subject to comments set out at paragraph 6.7 below.
- 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 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).
- 6.3 In this respect the Mayor should have regard to section 3 above.
- 6.4 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.
- 6.5 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 GLA will also need to consult in accordance with section 32 of the GLA Act, as appropriate, prior to entering into any funding agreements.
- 6.6 Section 31 of the GLA Act prohibits the Mayor from using his power in section 30(1)(a) of the Act to incur expenditure in doing anything which may be done by Transport for London, which on the face of it would prevent the GLA from incurring expenditure in providing funding for transport provision. However, section 31(5B) of the GLA Act provides that nothing in section 31(1)(a) shall be taken to prevent the Authority incurring expenditure in doing anything for the purposes of, or relating to, housing or regeneration. Accordingly, the GLA has the power to fund proposed transport-related infrastructure within HIF FF schemes.
- 6.7 Where the GLA is proposing to provide capital funding to a functional body (including TfL, which may be relevant for the "East London Line – Growth Capacity" and part of the "Royal Docks Infrastructure" schemes), this funding should be provided under section 120 of the GLA Act. Section 120(3) provides that: "A grant under this section must not be made subject to any limitation in respect of the capital expenditure which it may be applied towards meeting." Legal advice should be obtained as to the arrangements which may be put in place between the GLA and the relevant delivery partner prior to any provision of funding. Legal advice should also be sought as to the terms of any funding agreement or Memorandum of Understanding between the GLA and MHCLG.

7. Planned delivery approach and next steps

| Activity | Timeline |
|---|---------------|
| Business Cases Submitted to MHCLG | December 2018 |
| Successful HIF FF schemes announced | February 2018 |
| MD to approve receipt of external funding for successful HIF FF schemes | March 2018 |
| Delivery Start Date | April 2019 |
| Delivery End Date | March 2023 |

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

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 – YES

ORIGINATING OFFICER DECLARATION:

Drafting officer to
confirm the
following (✓)

Drafting officer:

Judith Carlson 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 26 November 2018.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature



Date

26.11.18

TOM MIDDLETON ON BEHALF OF MARTIN CLARKE

CHIEF OF STAFF:

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

Signature



Date

26/11/2018.

