

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD2133

### Title: Small Sites, Small Builders

#### Executive Summary:

In recent years there has been a significant fall in new home building on small development sites in London. This new initiative, the 'Small Sites, Small Builders' programme, aims to help address this by bringing forward small publicly-owned sites for residential development, thereby encouraging home building by small builders, small housing associations, community-led housing groups and other new entrants.

The programme, which has secured Growth Deal funding, will begin with a pilot of around ten Transport for London (TfL) sites. Following the pilot, an evaluation will take as to whether the programme should continue, and if so, to determine whether any changes need to be made to its form.

A future programme could provide public landowners with an alternative mechanism to bring small sites forward, making use of standardised legal documentation and a GLA marketing portal. It could also provide funding to public sector landowners for site identification, due diligence, and unlocking of unviable sites.

#### Decision:

The Mayor:

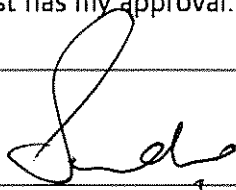
- i. Approves expenditure of up to £473,000 in 2017/18 to establish and test the 'Small Sites, Small Builders' programme through a pilot of TfL sites.
- ii. Delegates to the Executive Director for Housing and Land authority to approve expenditure of up to £14.703m from April 2018 until April 2021 (including £13.215m which has been approved in principle by the London Enterprise Action Partnership Investment Committee) to expand the programme, subject to a review of the pilot and confirmation of funding from Government.
- iii. Notes that the remaining Growth Deal funding will otherwise support other projects through the LEAP's Good Growth 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:

6/11/12

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

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1. The draft 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. The Mayor will therefore use £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. Learning from this pilot, there is up to a further £14.703m funding allocated to support the future expansion of this programme, as required.
- 1.3. The approach developed and refined through the pilot will aim 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 so as to provide more certainty to bidders and to help to unlock unviable sites.

#### **2. Objectives and expected outcomes**

- 2.1. The 'Small Sites, Small Builders' programme will initially focus on bringing forward around ten TfL small sites for development by SMEs, RP's and community-led housing groups. Following the pilot, an evaluation will take place to determine whether any changes need to be made and whether the programme should continue.
- 2.2. Part of the 2017/18 funding includes development of a marketing portal on the GLA website, through which sites can be promoted. The bidding and selection process has been designed to be proportionate to the likely scale of developments and size and capabilities of organisations looking to bid. Proposals would be expected to include details of their professional team, a clear indication of what is proposed and a financial offer in light of the information and the contract terms provided. For the pilot stage, the selection of the successful bid will involve shortlisting the best financial offers (the highest ten offers or those within 80 per cent of the highest offer), followed by a qualitative assessment of deliverability and scheme quality.
- 2.3. The pilot will make use of a standardised set of legal contracts. This will typically be a long lease which can be drawn down once the developing organisation has secured planning permission and development finance. The landowner will have the right to terminate contracts if development does not commence within an agreed period. Leases will also include planning overage provisions to ensure that an appropriate share of increased value is captured, where a further permission is obtained. These arrangements fall outside the scope of OJEU procurement regulations.
- 2.4. Following the pilot, these arrangements will be reviewed to determine whether the programme should continue, and if so, an evaluation shall take place as to whether it should be refined. If it does so, funding will also be available for site identification, due diligence, and unlocking unviable

sites. Funding would be awarded on a rolling basis, prioritising sites which meet a value for money benchmark, and landowners who seek affordable and/or community-led housing through the programme.

#### Affordable and community-led housing

- 2.5 The proposed TfL sites are expected to have capacity for approximately 110 homes. It is anticipated that four of the sites will be brought forward as either 100 per cent or 50 per cent affordable housing (subject to approval of a separate Mayoral Decision and Direction being issued), resulting in 50 per cent of the total homes brought forward under the pilot being affordable. One of the four sites will also be reserved for community led housing.
- 2.6 In the subsequent programme, boroughs may (subject to the limitations within DCLG circular 06/03) dispose at less than best consideration where the disposal is likely to contribute to the promotion or improvement of economic, social, or environmental well-being. Landowners would be able to include restrictive use covenants 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 programme could potentially allow for this by prioritising the allocation of funding to sites where the appropriate use of these covenants is proposed.
- 2.7 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.

#### Expected Outputs and Expenditure

- 2.8 The programme outputs depend on whether the programme continues following an evaluation of the pilot. In a future programme, the outputs will depend on the number and nature of sites coming forward, and the level of funding needed to prepare and 'unlock' them for development.
- 2.9 The programme will encourage landowners to use restrictive covenants to bring forward as much affordable housing and/or community-led housing as possible, and will also prioritise funding to landowners who aim to bring forward affordable housing. The number of affordable units on sites going through the programme will be monitored as part of ongoing programme evaluation.
- 2.10 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.
- 2.11 The indicative expenditure for the pilot programme in 2017/18 is as follows:

Standard contracts and commercial	£70,000
Website and marketing	£60,000
Site identification	£40,000
Evaluation	£15,000
Due diligence	£288,000
<b>Total</b>	<b>£473,000</b>

### **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. For the initial pilot, £473,000 of revenue funding is required in 2017-18, therefore revenue expenditure, will be subject to a capital-revenue swap resourced via the Capital Programme Reserve (£185,000) and the balance of £288,000 sourced from under-spends within Housing & Land and a draw-down from the Estates Reserve (where required).
- 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 (and where there is budget pressure, a draw-down from the Estates Reserve).

- 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**

- 6.1 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 Transport for London aim to offer at least ten sites to the market through the platform as a pilot in late 2017 to test the principles of the programme and the practicality of the bidding and selection process, the portal and the legal documentation. Bids on the pilot sites will be sought with the intention that conditional contracts be entered into in spring 2018. An evaluation of the pilot will take place to determine whether any changes need to be made and whether the programme should continue.
- 7.2 A call for sites and expressions of interest from landowners will be issued, alongside the launch of the pilot sites. This, together with ongoing targeted engagement with the boroughs, aims to build a programme of sites. While there is scope to carry out due diligence on a small number of borough owned sites in 2017-18, the majority of these sites are expected to come through in future years. 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.
- 7.3 The pilot programme will be jointly managed by the GLA's Housing & Land and Regeneration teams, in conjunction with TfL. There is scope in the budget allocation in future years to recruit two fixed term staff posts to support the programme, including supporting public landowners in bringing their sites forward, managing due diligence, and providing basic agency support.

**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? YES**

If YES, for what reason:

So as not to release information before sites are launched publicly

Until what date: (a date is required if deferring): To be reviewed 31 December 2017.

**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:**

Levent Kerimol/Justin Carr have 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 30 October 2017.

**EXECUTIVE DIRECTOR, RESOURCES:**

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

**Signature**

**Date**

30.10.17

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**

1/11/2017.

