

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2626

Title: East London Line Growth Capacity – Housing Infrastructure Fund

Executive Summary:

On 27 November 2018, MD2388 approved the submission of a Housing Infrastructure Funding (HIF) bid for the East London Line (ELL) Growth Capacity Programme by the GLA. In August 2019, it was confirmed that the GLA's bid for £80.84m of grant had been successful. This funding will help deliver a range of interventions to provide capacity enhancements on the ELL to facilitate the realisation of significant housing development opportunities in the London Boroughs of Southwark and Lewisham.

The GLA is required to enter into a tripartite Grant Determination Agreement (GDA) with the Ministry of Housing, Communities and Local Government and Transport for London to deliver the project. The GLA and TfL will also enter a Memorandum of Understanding at the point of entry into the GDA.

Decision:

That the Mayor approves:

1. Entry by the GLA into a Grant Determination Agreement (GDA) with the Ministry of Housing Communities and Local Government (MHCLG) and Transport for London (TfL) in respect of the East London Line Growth Capacity Programme to receive up to £80.84m of Housing Infrastructure Fund (HIF) grant from MHCLG and forthwith pay it over to TfL, to commit to fund any cost overruns for TfL's Surrey Canal Road Station project, and to agree other rights and obligations as described in this Decision form.
2. A GLA commitment to allocate an amount equivalent to any fare surplus generated by the HIF-funded East London Line infrastructure for housing or infrastructure that enables housing in London on an annual basis until 31 March 2078, capped (in aggregate) at the value of the HIF funding paid by MHCLG to the GLA under the GDA.
3. A delegation to the Executive Director of Housing and Land to approve and enter the final contractual documentation.
4. Entry by the GLA into a Memorandum of Understanding with TfL to agree that the GLA will cover TfL's liability to repay Housing Infrastructure Fund grant to MHCLG in respect of preliminary costs in certain circumstances (up to a cap of £8.53m plus interest in accordance with the GDA) and setting out how the GLA and TfL will work together with regard to their respective rights and obligations under the GDA.

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:

16/7/20

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

Decision required – supporting report

1. Introduction and background

- 1.1. On 27 November 2018, MD2388 approved the submission of a Housing Infrastructure Funding (HIF) bid for the East London Line (ELL) Growth Capacity Programme by the GLA.
- 1.2. Following detailed due diligence, the Ministry for Housing, Communities and Local Government (MHCLG) announced in August 2019 that £80.84m of grant would be made available, subject to contract, to deliver the project. Detailed funding terms have been set out in a tripartite Grant Determination Agreement (GDA) between MHCLG, the GLA and TfL.
- 1.3. Although the HIF funding will be used by TfL for transport purposes, MHCLG's power to pay grant works on the basis that the funding is paid to the GLA, rather than directly to a Functional Body as defined by the GLA Act 1999 (which includes TfL). Therefore, the GLA will be the Grant Recipient but the funding will be provided on condition that the GLA transfers it to TfL forthwith. TfL will deliver the HIF Infrastructure and will be directly responsible to MHCLG for delivering the agreed infrastructure outputs.
- 1.4. The ELL Growth Capacity HIF Programme will provide capacity enhancements on the ELL to facilitate the realisation of significant housing development opportunities in the London Boroughs (LB) of Southwark and Lewisham. Funding of £80.84m will deliver a range of interventions in one single project, including:
 - infrastructure to enable 20 trains per hour (tph) on the ELL – achieved through signalling works, additional stabling facilities and traction power systems upgrades to allow an increase in operation from 16tph to 20tph;
 - an upgrade to Surrey Quays station – including a second entrance on the north side of Lower Road;
 - a new station at Surrey Canal Road – including access to the New Bermondsey and adjacent developments; and
 - an upgrade to Canada Water bus station – providing capacity to enable a new bus route serving the Convoys Wharf development.
- 1.5. These infrastructure improvements are expected to unlock over 14,000 homes across 11 sites along the ELL corridor by 2040. This will directly support housing and economic growth in LB Lewisham and LB Southwark.
- 1.6. These works will also benefit the ELL's existing passengers' journey experience by relieving crowding on trains and improving capacity and accessibility of Surrey Quays Station and Canada Water bus station.
- 1.7. Under the terms of the GDA, any cost overrun on the Surrey Canal Road Station element of the project would be borne by the GLA. Should the project not proceed past preliminary cost stage (single option selection), the GLA would also cover TfL's liability under the GDA to repay Housing Infrastructure Fund grant for preliminary costs to MHCLG in certain circumstances, subject to a cap of £8.53m plus interest in accordance with the GDA). This will be set out in a Memorandum of Understanding (MoU) between the GLA and TfL.
- 1.8. MHCLG wish to ensure that any increase in land value or surplus fare revenue generated as a result of the HIF investment is captured and recycled into housing, or infrastructure that unlocks housing. To help achieve this aim, the GLA will work with the London Boroughs of Southwark and Lewisham to identify and implement opportunities through the planning process to capture additional land value generated by HIF. It is also proposed that the GLA commits to allocate an amount equivalent to any fare surplus generated by the HIF-funded East London Line infrastructure for housing or

infrastructure that enables housing in London on an annual basis until 31 March 2078, capped (in aggregate) at the value of the HIF funding paid by MHCLG to the GLA under the GDA.

- 1.9. With regard to the housing outputs expected to be unlocked by the ELL infrastructure improvements (paragraph 1.5 above), the GLA and TfL must use reasonable endeavours to procure that the homes are delivered by the target dates set out in the GDA. The GLA has agreed monitoring arrangements with MHCLG. The GLA are already working closely with boroughs and other land owners to bring forward development at a number of key strategic sites to deliver a significant number of the units.
- 1.10. Further details regarding the GLA's obligations under the GDA and MoU are set out in Part 2 of this Decision form.

2. Objectives and expected outcomes

- 2.1. The ELL project will deliver an integrated and complementary programme of investment comprising:
 - infrastructure to enable 20 trains per hour on the ELL;
 - an upgrade to Surrey Quays station;
 - a new station at Surrey Canal Road;
 - an upgrade to Canada Water bus station; and
 - unlocking approximately 14,000 homes across 11 sites, including a significant proportion of affordable 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 Forward Funding 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 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. Under section 149 of the Equality Act 2010, as public authorities, the Mayor and the GLA are subject to a public-sector equality duty and must have 'due regard' to the need to (i) eliminate unlawful discrimination, harassment and victimisation; (ii) advance equality of opportunity between people who share a relevant protected characteristic and those who do not; and (iii) foster good relations between people who share a relevant protected characteristic and those who do not. Protected characteristics under section 149 of the Equality Act are age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage or civil partnership status.
- 3.4. Throughout the decision-making process relating to the ELL HIF FF bid 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 affordable housing (by funding infrastructure to unlock additional housing supply) will help to achieve positive impacts for people in those impacted groups.
- 3.5. Public transport is also key to ensure the GLA can achieve positive impacts in line with the 'three needs'. By delivering additional capacity on the line and at existing stations (Surrey Quays and Canada Water) more people will be able to benefit from public transport. These improvements also unlock developments that will deliver significant levels of affordable housing, so will have a positive impact

on protected groups who are more likely to live in affordable housing and travel by public transport. This is especially important at Canada Water bus station as buses are the most utilised public transport mode by groups with lower socioeconomic status. A new station at Surrey Canal Road will improve the transport options for a historically more deprived area of London.

- 3.6. Further, as set out in TfL's authority approval paper to their Programmes and Investment Committee: "The ELL Scope will improve accessibility on the ELL via the delivery of a new step-free entrance at Surrey Quays station and a new step-free station at Surrey Canal Road. Equality Impact Assessments will be completed during the concept design stages for each project in accordance with TfL's obligations under the public sector equality duty in the Equality Act 2010."
- 3.7. The equalities implications of the proposed housing and transport enhancements will be taken into account by the GLA on an ongoing basis as the detail of the proposals are developed and implemented.

4. Other considerations

Key risks

- 4.1. Sites not coming forward – The bid for funding was on the premise that it would unlock approximately 14,000 homes across 11 sites in third party ownership. A condition of funding is for the GLA to monitor and progress the delivery of these sites. A budget of £30k is required to cover additional resources required to carry out monitoring of the 11 housing sites brought forward by the infrastructure investment. MD2291 approved budget for revenue funding for innovation and infrastructure and it is proposed that the funding required to monitor the 11 housing sites would be taken from this budget.
- 4.2. Some sites already have planning permission, or are in the process of securing planning permission, so there is a high likelihood these sites will be delivered. However, there are some sites where processes to secure necessary consents have yet to commence and these may not come forward for some time. While this poses a risk to the wider project it is not a financial risk to the GLA as the GDA does not include any default clauses for non-delivery of the homes if the GLA uses reasonable endeavours and takes reasonable steps to procure delivery of the housing outputs and meets its monitoring obligations.
- 4.3. Further risks are included in the Part 2 to this Decision form.

Links to Mayoral strategies and priorities

- 4.4. The need to deliver new homes and improved public transport is recognised in the Intend to Publish London Plan, the Mayor's Housing Strategy and the Mayor's Transport Strategy. The London Plan also supports higher densities at sites with existing and planned public transport (policy D6). The Mayor's Housing Strategy supports investment in public transport infrastructure improvements to maximise the opportunity for new homes. The core MTS policy is for 80 per cent of all trips to be made by foot, cycle or public transport by 2041 (policy 1) and to deliver a 'Healthy Streets' approach (policy 10) across London.
- 4.5. This project enables growth which supports the following Intend to Publish London Plan Good Growth policies:
 - building strong and inclusive communities (Policy GG1) by unlocking strategic developments that include good quality services and amenities that strengthen communities and address social isolation;
 - making the best use of land (Policy GG2) by prioritizing higher density development on brownfield land, in Opportunity Areas, and on public sector land sites with good public transport connections;
 - creating a healthy city (Policy GG3) by promoting the Healthy Streets Approach and improving accessibility of public transport infrastructure to promote active lifestyles;

- delivering the homes Londoners need (Policy GG4) by unlocking housing developments with an aim for all sites to deliver a minimum of 35% affordable housing in Southwark and Lewisham, using the Affordable Housing Viability Supplementary Planning Guidance where possible; and
- growing a good economy (Policy GG5) by providing public transport access to key employment hubs as well as ensuring that sufficient high-quality affordable housing is provided.

4.6. There is also supportive borough level planning policy:

- Old Kent Road Area Action Plan/Opportunity Area Planning Framework (LB Southwark);
- Canada Water Area Action Plan (LB Southwark); and
- Surrey Canal Triangle Supplementary Planning Document (LB Lewisham)

Consultations and impact assessments

- 4.7. During the development of the bid submission, GLA officers consulted with LB Lewisham and LB Southwark on the investment proposed in the bid and the sites which would be unlocked by the improvements in transport infrastructure. Both boroughs were fully supportive of this bid submission. The GLA also received letters of support from local community groups and developers to support the bid. GLA officers are therefore satisfied that the GLA has consulted with all such persons or bodies as appropriate in this particular case.
- 4.8. Where required, each element of this project will go through statutory consultation through the planning process. This will include written consultation with statutory bodies and local residents.

Declarations of interest

- 4.9. 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 Mayoral Decision.

5. Financial comments

- 5.1. By entering the GDA to access the £80.84 million of HIF grant the GLA is committing to the following:
- accepting a capped risk of £8.53 million (plus interest) for the repayment of grant drawn for Preliminary Costs;
 - accepting the risk of cost overruns on the Surrey Canal Road Station; and
 - allocating an amount equivalent to any fare surplus generated by the East London Line for housing (or infrastructure that enables housing) in London, on an annual basis until 31 March 2078, capped (in aggregate) at the value of the HIF funding paid by MHCLG to the GLA.
- 5.2. More commentary on these risks is included with part 2 of this decision.

6. Legal comments

- 6.1. It is proposed that MHCLG will pay the HIF grant funding to the GLA pursuant to sections 31 and 32(2) of the Local Government Act 2003 (the LGA 2003) on condition that the GLA transfers any such funding which it receives to TfL. Where a grant paid under section 31 to the GLA is paid subject to such a condition, the Mayor must transfer the grant to TfL forthwith (section 32(4) of the LGA 2003).
- 6.2. The GLA is required under section 103 of the Greater London Authority Act 1999 (the GLA Act) to pay any HIF funding which it receives over to TfL. Section 103 provides that: "Where the Authority receives any grant or other payment made only for the purposes, or particular purposes, of a

functional body, the Authority shall forthwith account for the grant or other payment to the functional body concerned and pay it over to that body.” In this case, the grant is being made available solely for use by TfL (or its subsidiaries) for transport infrastructure expenditure only.

- 6.3. With regard to the GLA’s potential liability to cover cost overruns in respect of the Surrey Canal Road Station element of the ELL project and the repayment of HIF funding for preliminary costs in certain circumstances, the GLA has power under sections 120 and 121 of the GLA Act to pay grants towards meeting capital or revenue expenditure incurred or to be incurred by TfL for the purposes of, or in connection with, the discharge of TfL’s functions. Any such grant under these sections must not be made subject to any limitation in respect of the capital or revenue expenditure which it may be applied towards meeting (section 120(3) and 121(3)). TfL is however able to earmark the expenditure without contravening section 120(3) or 121(3).
- 6.4. The GLA’s proposed obligations with regard to procuring housing delivery, working with the London Boroughs of Southwark and Lewisham to capture additional land value generated by the HIF funding and the allocation an amount equivalent to any fare surplus generated by the HIF-funded ELL infrastructure for housing - or infrastructure that enables housing - in London is permissible under sections 30(1) and 34 of the Greater London Authority Act 1999 (the GLA Act), if the GLA considers that doing this will further one or more of the GLA’s principal purposes of: promoting economic and social development in Greater London and improving the environment in Greater London. The foregoing sections of this report indicate that it is open to the Mayor to take the view that these actions will promote economic and social development in Greater London.
- 6.5. In determining whether or how to exercise the power conferred by section 30(1) of the GLA Act, the GLA must:
 - (i) have regard to the effect that these decisions will have on: furthering the other statutory purposes of the GLA so far as reasonably practicable to do so; 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;
 - (ii) exercise the power in the way which it considers best calculated to promote: improvements in the health of persons in Greater London; the reduction of health inequalities between persons living in Greater London, and to contribute towards the achievement of sustainable development in the United Kingdom, and the mitigation of, or adaptation to, climate change in the United Kingdom (sections 30(3-5) of the GLA Act);
 - (iii) consult with such persons or bodies as considered appropriate in this particular case (section 32 of the GLA Act); and
 - (iv) pay due regard to the principle that there should be equality of opportunity for all people (section 33 of the GLA Act).

7. Planned delivery approach and next steps

Activity	Timeline
Enter into the Grant Determination Agreement	17 July 2020
Start of Preliminary cost works	July 2020
End of Preliminary cost phase	December 2020
Infrastructure works complete	January 2025
Total homes unlocked	By 2038

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? Yes**

If YES, for what reason: Until contractual terms are crystallised through completion of the grant determination agreement between GLA, MHCLG and TFL.

Until what date: 31 July 2020

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:

Charlotte Harrison has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Rickardo Hyatt has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Tom Copley 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 13 July 2020.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

Date

D. Gene

14 July 2020

CHIEF OF STAFF:

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

Signature

Date

D. Bellamy

13 July 2020

