

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2341

Title: Housing Infrastructure Fund – Marginal Viability Fund Programme Management

Executive Summary:

Up to £110.7m of Marginal Viability Funding (MVF) over the period 2017-2021 has been provisionally allocated to London Boroughs from the Government's Housing Infrastructure Fund (HIF). This funding has been awarded following a competitive bidding process by Boroughs and individual schemes are currently subject to a detailed validation and clarification process. Government have agreed to devolve accountability and funding for successful schemes in London to the GLA. The GLA will receive the funding from Government to act as the funding provider to the Boroughs for MVF in London, in accordance with requirements set out in a Memorandum of Understanding (MoU) between the GLA and Government.

Decision:

That the Mayor:

1. Approves the GLA receiving up to £110.7m from Government, noting the GLA will enter into an associated Memorandum of Understanding with Government to fund the delivery of infrastructure schemes capable of unlocking the delivery of up to 18,000 new homes under the Marginal Viability Funding part of the Government's Housing Infrastructure Fund (the MVF HIF).
2. Delegates authority to the Executive Director of Housing and Land, to
 - Approve, via director decisions, the detailed expenditure profiles and terms of contractual commitments with successful boroughs, as announced by Government on 1 February 2018 and subsequently confirmed through the validation and clarification process;
 - Agree appropriate substitute schemes with Government, and subsequently the relevant borough, where an approved scheme is no longer able to deliver within the timescales of the programme and approve via director decision; and
 - Transfer underspends between approved schemes within the financial year.

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:

11/10/18

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 gap 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 delivery up to March 2021. In the November 2017 Budget it was announced that a further £0.925 Billion would be available to March 2021, together with £2.255 Billion for 2021-23. The total fund now stands at £5.48 Billion up till 2023.
- 1.2 The Fund has two parts:
 - **Marginal Viability Funding (MVF)** – 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)** – 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 still be required to deliver by March 2021, while FF projects will be monitored against a delivery 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. Funding for 2021-23 will be formally confirmed via the Comprehensive Spending Review process in 2019.
- 1.4 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.
- 1.5 Bidders were required to provide evidence of market failure by demonstrating that the infrastructure could not be funded by the development and confirming the viability gap.
- 1.6 Bids were assessed based on their strategic fit, value for money and deliverability based on the following criteria.
 - **Strategic fit:** strong local leadership and ambition, responding to local price signals, unlocks significant numbers of new and better homes, diversification of the housing market.
 - **Value for money:** optimal benefits from public spending, unlocks additional homes, positive benefit cost ratio based on land value uplift.
 - **Deliverability:** robust delivery plan in place, ability to meet programme longstop.
- 1.7 The MVF announcement on 1 February 2018 listed 12 successful Borough schemes in London. Further details are set out in the table below:

Scheme Name	Borough	HIF
Grand Union Ave Phase 3	Ealing	£1,000,000
Northwick Park	Brent	£9,900,000
Peel S Kilburn	Brent	£9,999,442
8 Albert Embankment	Lambeth	£10,000,000
Somerleyton	Lambeth	£10,000,000
Woodberry Down	Hackney	£9,960,000
S.Circular - Catford Town Centre	Lewisham	£10,000,000
Lewisham Gateway	Lewisham	£10,000,000
Abbey	Camden	£10,000,000
Whitgift	Croydon	£10,000,000
Grange Farm	Harrow	£10,000,000
Finchley Central	Barnet	£9,800,000
TOTAL		£110,659,442

1.8 Following the funding announcement, MHCLG initiated a funding validation and clarification process for successful schemes. MHCLG has appointed consultants from the Homes England consultant panel to undertake this process. GLA Housing and Land are fully engaged and will review consultant reports prior to final funding recommendations being submitted to MHCLG. The outcome of the funding validation and clarification process will be to set the funding amount and spend profile together with delivery and financial milestones for each project. On conclusion of this process, MHCLG proposes to provide the funding for the successful MVF schemes in London to the GLA in accordance with the conditions set out in a Memorandum of Understanding (MoU). Key conditions include:

- MVF is for capital expenditure only.
- Profiled annual expenditure delegated to GLA to manage, with expenditure restricted to the approved schemes.
- GLA to manage funding changes to individual schemes within the annual expenditure profile allowing for the transfer of underspends between projects within a financial year.
- GLA to be accountable for the delivery of infrastructure milestones and, where milestones are not delivered by the programme longstop, MHCLG reserves the right to recover unspent grant.
- Costs of contracting and programme management to be met by GLA from existing resources.

1.9 The MoU also requires the GLA to develop an Assurance Framework to build on checks and balances included within the Accounting Officer Accountability System Statement for Local Government. This sets out the core local government accountability framework and applies to how the HIF grant is managed by local authorities. The HIF MVF Assurance Framework will set out additional specific arrangements to assure MHCLG of value for money. The GLA will perform the Relationship Manager (RM) Function, including quarterly meetings and returns to MHCLG highlighting any emerging risks so that prompt action can be taken to address these.

1.10 The GLA will enter into funding agreements with individual Boroughs to deliver the MVF schemes. The form of agreement will incorporate conditions set out in the MoU between MHCLG and GLA and included within the Assurance Framework, ensuring that any financial risk to the GLA is mitigated and providing the MHCLG with assurance that the homes and any other expected outputs will be delivered in accordance with approved projections.

- 1.11 The additional checks and balances included in the HIF MVF Assurance Framework will be cascaded to Boroughs via the funding agreement. Boroughs will be required to provide the GLA with quarterly reports including details of progress in relation to agreed project milestones and confirmation of how grant has been spent. Boroughs must also notify the GLA of any changes to project milestones and cashflow.
- 1.12 Grant payments will be made six-monthly (unless the GLA agrees otherwise with MHCLG) based on the Borough's cashflow and delivery forecast. All requests for grant drawdown must be accompanied by appropriate financial assurance information and signed off by the Borough's s151 officer.
- 1.13 After all payments are completed, quarterly RM discussions will continue to be required to confirm whether the project is on track to deliver the homes and any other expected outcomes. Boroughs will also be required to complete evaluation surveys to support impact assessment in future years, after programme spend is complete.
- 1.14 MD2291 approved a budget of £400,000 for contracting on HIF schemes. This budget will cover the costs for external legal consultants on the MVF and FF schemes.
- 1.15 Approval is now being sought to formally accept the MVF funding to be administered in accordance with conditions set out in the MoU and delegate authority to the Executive Director of Housing and Land to transfer underspends between approved schemes within the financial year and approve the following via director decisions:
- Detailed expenditure profiles and terms of contractual commitments with successful boroughs; and
 - Appropriate substitute schemes, as agreed with Government, and subsequently the relevant borough, where an approved scheme is no longer able to deliver within the timescales of the programme.

2. Objectives and expected outcomes

- 2.1 The MVF schemes will deliver a range of physical infrastructure which is required to bring existing sites into delivery or provide new development capacity. The funding is intended to address market failure where the need for infrastructure has caused a viability gap. Infrastructure may include highways and transportation, community facilities, public realm, green and blue infrastructure, land assembly and utilities.
- 2.2 The interventions proposed by Boroughs could support the delivery of around 18,000 new homes and information provided at bidding stage indicates that just over 40% of the new homes will 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 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 Objectives 1, 2, 3 and 4 of the Mayor's Equalities Framework "Inclusive London" (May 2018) through the creation of new homes, housing products and well-designed housing schemes. The successful MVF schemes will help fund the supporting infrastructure needed to unlock Borough priority schemes and contribute to the delivery of up to 18,000 new homes including just over 40% 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 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 agreements between the GLA and Boroughs, Boroughs will be responsible for ensuring that projects are compliant with the Public Sector Equality Duty.

4. Other considerations

Key Risks and Issues

- 4.1 Borough MVF bids were submitted to MHCLG in September 2017. Delays in funding approval means the delivery window for these schemes is now highly constrained and there is a risk that Boroughs will be unable to draw down funding for the infrastructure schemes within the time frames of the programme (by 31 March 2021) and to complete the infrastructure by the relevant project backstop date. Under the MoU between the GLA and MHCLG, GLA will be accountable for the delivery of infrastructure milestones and, where milestones are not delivered by the relevant project backstop date, MHCLG reserves the right to recover unspent grant. Officers in Housing and Land will monitor delivery to support the early identification of schemes at risk for discussion with MHCLG. Under the terms of the funding agreements between the GLA and Boroughs, Boroughs will be responsible for any financial risk associated with slippage and cost overrun.
- 4.2 In accordance with requirements set out in the MoU, the GLA will develop an Assurance Framework which will form part of the funding agreements between the GLA and Boroughs. This will include appropriate measures to help ensure the infrastructure investment results in the delivery of new homes. This includes a requirement for all funding claims to be signed off by Borough s151 officers and for boroughs to engage in quarterly relationship management (RM) meetings.
- 4.3 Under the MoU, MHCLG will carry out an annual performance review at the end of each financial reporting year. The review will be used to assess management and delivery of the MVF in London and performance against agreed targets and milestones. Where appropriate, to reflect delays in project spend, the total amount of grant paid by MHCLG to the GLA for the following financial year(s) may be re-profiled. This is subject to the proviso that the review process will not reduce the total funding envelope and no changes will be made to the MoU and no grant payments will be re-profiled to the extent that this would leave the GLA with insufficient HIF funding to meet its funding commitments to boroughs for approved MVF projects in any financial year.
- 4.4 Under the terms of the funding agreements between the GLA and Boroughs, Boroughs will be responsible for ensuring that projects are compliant with state aid and EU procurement rules.

Links to Mayoral Strategies and Priorities

- 4.5 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 (LHS Policy 3.2). MVF will provide necessary investment to assist Boroughs in unblocking existing sites and releasing new capacity, making an important contribution toward meeting their ten-year housing targets. As such, it complements existing Programmes including the Mayor's Affordable Homes Programme 2016-2021.
- 4.6 The MVF schemes announced by central government in February 2018, and on which MHCLG will take final decisions, include some 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.

5. Financial comments

- 5.1 The decision is seeking approval for the GLA to accept up to £110.7m Marginal Viability Funding (MVF) from MHCLG. The fund is expected to be received during 2018-21 and will fund the cost of physical infrastructure to get additional sites allocated or unblocked for housing. The Fund will be used to finance capital expenditure only, restriction on the use of the fund is set out in paragraph 1.4 of this decision and the fund has been allocated to 9 London Boroughs, see paragraph 1.7.
- 5.2 Grant payments from the MVF will be paid to Boroughs bi-annually, based on their cashflows and delivery forecasts, and signed-off by the Borough's s151 officer. Programme expenditure is expected to be completed by 2021. However, where milestones are not delivered by the relevant project backstop date, MHCLG reserve the right to recover any unspent grant.
- 5.3 The profiling of grants receivable and expenditure are still to be finalised.
- 5.4 As part of managing the fund, GLA is expected to develop an Assurance Framework and perform Relationship Management. This cost for contracting and programme management will be met by GLA from existing resources per MD2291 which has approved £400k for consultancy costs for contracting up to 12 MVF and 7 FF schemes. The Relationship Management function will be delivered by Housing and Land using existing resources.

6. Legal comments

- 6.1. The provision of financial assistance (whether by grant or loan) for the delivery of infrastructure projects which unlock new housing supply is permissible under section 30(1) 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.
- 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. As noted in section 3 above, 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 will contribute, were also covered by the Integrated Impact Assessment (IIA) for the Draft London Plan, published in November 2017. It is also noted in section 3 that the delivery of new and additional homes within the MVF HIF programme will help to implement objectives in the Mayor's Equalities Framework "Inclusive London."
- 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.

7. Planned delivery approach and next steps

Activity	Timeline
MHCLG Announcement	February 2018
Enter into Memorandum of Understanding with MHCLG	October 2018
Delivery Start Date	October 2018
Delivery End Date	March 2021

Appendices and supporting papers:

None.

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:

Deferred publication until the wording of the MoU has been agreed with MHCLG.

Until what date: (a date is required if deferring) 15 November 2018.

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:

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 8 October 2018.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

M. D. L. L. L.

Date

9.10.18

CHIEF OF STAFF:

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

Signature

D. Bellamy

Date

11/10/2018.