




Haringey Council

Report for:	Cabinet – 16 September 2014	Item Number:	
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Title:	Building the Pipeline Contract
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Report Authorised by:	Lyn Garner Director of Regeneration, Planning and Development 
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Lead Officer:	Michael Kelleher Head of Housing Investment and Sites Tel: 020 8489 4754 michael.kelleher@haringey.gov.uk
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Ward(s) affected: All	For: Key Decision
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1. The issues under consideration

1.2 This report seeks Cabinet approval for the Council to enter into contract with the GLA to access grant funding to support the delivery of Phase 1 of the Council's new build programme.

2. Introduction by the Cabinet Member

2.1 Maximising the provision of affordable housing in the borough is a key priority for the Council. Until recently, only housing associations were allowed to build affordable homes, but recent changes brought about by HRA self Financing and the Localism Act 2011 have enabled local authorities to build their own homes for rent and shared ownership.

2.2 This is an exciting time in Haringey as we move towards our first new build council homes in 30 years. Phase 1 of the new build programme will shortly be going to Planning Committee with a view to building 94 homes by March 2017. To help with the cost, the Council has been awarded grant funding of £2.34m and this report sets out the requirement for the Council to enter into contract with the GLA to enable us to draw down this grant, which I fully support.



3. Recommendations

3.1 It is recommended that: -

- (i) Approval be granted to enter into contract with the GLA by signing the GLA Delivery Agreement (attached at Appendix 1) to enable the Council to draw down the grant for the 2014/17 new build housing programme.

4. Alternative options considered

- 4.1 Capital subsidy is an important element in the delivery of affordable housing. The Council could use its Right to Buy receipts under the one for one replacement policy, and indeed will do so on some schemes as the new build and estate renewal programme moves forward. GLA subsidy and RTB receipts cannot be used for the same schemes as this counts as double subsidy, which is not permitted in law.
- 4.2 The GLA has a stake in the delivery of affordable housing in London and sets the annual target for delivery for the boroughs. Haringey's target for 2014/15 is to deliver/enable 410 new affordable homes. This target will increase to 751 per year for the 10 year period starting in April 2015. It is, therefore, essential that the Council builds and sustains a successful partnership with the GLA in all areas that support the delivery of affordable housing.

5. Background information

- 5.1 In March 2013, the GLA announced the Mayor's Housing Covenant 3 (MHC3) '*Building the Pipeline*' aimed at supporting the delivery of affordable homes to rent and buy across London. The Council submitted a bid for grant funding in May 2013 for 94 new homes across 11 sites in order to support the funding and delivery of its then emerging plans for a council new build programme.
- 5.2 In November 2013, the GLA notified the Council that it had been successful in its bid and would provide £2,340,000 grant funding to support the delivery of Phase 1 of the Council's house building programme. In order to access this funding, the Council must formally enter into contract with the GLA by signing a 'Delivery Agreement'.
- 5.3 Phase 1 of the Council's new build programme will begin in early 2015 and will be phased over two years with completion expected late 2016/early 2017. A detailed project plan setting out the delivery programme for all housing units in Phase 1 has been issued to the GLA and shows that all units will be built before March 2017, which is the deadline set by the GLA to draw down the grant.
- 5.4 In accordance with the Council's Contract Procedure Rules (January 2013), where the Council secures funding from an external funding body, and the funding is conditional upon the grant monies being used to facilitate service delivery, Contract



Standing Orders shall apply. As the value of the grant funding from the GLA is valued over £500,000, the decision whether to accept it, and the terms for its use, is a Key Decision for Cabinet to approve.

Obligations

5.5 There will be a number of obligations placed upon the Council as a result of entering into this Agreement. They are set out in section 2 (pages 19 to 20) and section 7 (pages 25 to 28) of the Agreement attached at Appendix 1. The principle obligations are set out in sections 2.2 (page 20) and 7.5 (page 27). Under these obligations: -

a) The Council acknowledges and agrees that (section 2): -

- the Allocated Grant is being made available by the GLA on the express understanding that it is applied solely for the purposes of funding the Development Costs in respect of Mayor's Housing Covenant (MHC) Dwellings which are to be (2.2.1):
 - i. (in the case of the Flexible Dwellings) disposed of to Eligible Purchasers on Flexible Product Terms; and/or
 - ii. (in the case of the Affordable Rent Dwellings) let to Tenants in accordance with the Tenancy Standard;
- any failure by the Grant Recipient to market, use and continue to use either (2.2.5):
 - i. a Flexible Dwelling as a Rent to Save Dwelling or Affordable Home Ownership Dwelling; and/or
 - ii. an Affordable Rent Dwelling on Affordable Rent terms;

constitutes a Default Event in which case the grant amount received can be recovered from the Council.

b) The Council must (section 7): -

- not use the Affordable Dwellings for any purpose other than the Agreed Purposes without the GLA's prior written consent (7.5.1);
- comply with the Regulator's Tenancy Standard in respect of the Affordable Rent Dwellings (7.5.5); and



- participate in the CORE system from time to time and complete the "Initial Sales" data screens on IMS promptly following the sale of any Affordable Home Ownership Dwelling (7.5.6).

5.6 Other obligations exist around monitoring and specific products that the Council is not looking to provide (such as Rent to Buy).

5.7 The Council is under no obligation to agree to, or set, Fixed Term Tenancies (FTTs) in relation to any of the affordable rent units it builds as part of this programme. The obligation to impose FTTs was introduced as part of the 2015 – 18 Programme under the requirements of the Borough Framework Agreement. This condition of funding has not been retrospectively applied to the Building the Pipeline programme. The Council is, therefore, free to let all affordable rent units built with the aid of Building the Pipeline funding on secure lifetime tenancies.

5.8 It is recommended that approval be granted to enter into contract by signing the Delivery Agreement with the GLA (attached at Appendix 1) to enable the Council to draw down the grant from the 2014/17 programme.

6. Comments of the Chief Finance Officer and financial implications

6.1 This agreement will bring significant levels of funding to support the Council's new build programme to deliver increased units of affordable housing and it is likely that the programme agreed by Cabinet on 28 November 2013 would not be viable without this support.

6.2 The Council is required to use its Right to Buy receipts to support the development of affordable housing within defined timescales, otherwise it will need to return them to central government. Grant funding from the GLA and Right to Buy receipts cannot be combined to support the same scheme. However, at this point it is expected that the current level of Right to Buy receipts can be used to contribute to existing projects without breaching double subsidy rules, however this will require continued monitoring to ensure the Council makes best use of all resources available to it.

7. Comments of Assistant Director of Corporate Governance and legal implications

7.1 The Council will need to comply with the Public Contracts Regulations 2006 (as amended) where applicable when procuring works, services or goods using the monies received from the GLA grant funding.

7.2 The Council will also need to comply with the Council's Contract Standing Orders where the grant monies are being used to procure works, services or goods i.e follow a competitive process when selecting a service provider(see CSO 4.02) .



- 7.3 The receipt of the GLA funding is over £500,000 and is therefore a Key Decision and as such needs to be included in the Forward Plan and comply with other constitutional requirements in this regard.
- 7.4 Officers will need to ensure that they adhere to the conditions of funding as set out in the Delivery Agreement as otherwise the grant funding will terminate and any grant received will have to be paid back. Further advice from Corporate Legal Service should be sought where necessary.

8. Equalities and Community Cohesion Comments

- 8.1 Section 149 of the Equality Act 2010 creates a duty on the Council to have due regard to the need to:
- tackle discrimination and victimisation;
 - advance equality of opportunity;
 - foster good relations groups in the community.
- 8.2 The Delivery Agreement sets out criteria that the grant recipient must have, and be in full compliance with, a policy covering equal opportunities designed to ensure that discrimination prohibited by the Equality Act 2010 is avoided at all times. Haringey Council is compliant in this respect.
- 8.3 Forming this agreement with the GLA will allow the council to draw down grant for phase one of its new build programme. That programme should help deliver better housing and other social outcomes for residents of the borough, especially in the east, which as well as having a high level of deprivation, also has a high concentration of black and minority ethnic communities and other groups who possess other of the characteristics identified and protected by sections 4 to 12 of the Equality Act 2010.
- 8.4 A full equality impact assessment will need to be undertaken to identify if, to what extent and which groups with a protected characteristic are likely to be adversely and disproportionately affected by any of the elements of the new build programme and where such is the case, to consider what mitigation measures to propose.

9. Head of Procurement Comments

- 9.1 There are no immediate procurement issues relating to any decisions regarding the Delivery Agreement and Housing New Build proposals.
- 9.2 If approval is given to enter in to the Delivery Agreement, there will be a requirement on the Council to use best endeavours to ensure any employees engaged on the building works are paid at least the London Living Wage. This requirement is entirely aligns with the Council's own policy and objectives.



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9.3 It is important that the Procurement Strategy, routes to market and forms of contract to be used are agreed as early as possible between the Head of Procurement and the Service, to ensure timely delivery, overall efficiency and best value for money.

10. Policy Implications

10.1 The Council is committed to creating mixed and balanced communities and providing housing that is affordable to local residents across all income levels. The infill programme supports this by building new council homes that focuses the provision of affordable homes for rent in the west of the borough where this type of housing is in particularly short supply, and low cost home ownership in the east where the majority of the borough's social housing stock is located. The homes are an important contribution towards meeting the council's aims of maximising the number of affordable homes in the borough and achieving the Mayor's housing target of 751 affordable units per annum over the period 2015 to 2025.

11. Reasons for Decision

11.1 To enable and facilitate the delivery of Phase 1 of the Council's new build programme and contribute towards the provision of much needed affordable housing in the borough.

12. Use of Appendices

Appendix 1 – GLA Delivery Agreement

13. Local Government (Access to Information) Act 1985

14. Background Papers:



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- 10 Not used
- 11 Payment of Grant
- 12 Withholding of Approved Scheme Grant
- 13 Repayment of Grant
- 14 VAT
- 15 Approved Scheme Substitution
- 16 Open Book Obligations
- 17 State Aid
- 18 Representations and Warranties
- 19 Information and confidentiality
- 20 Intellectual Property
- 21 Grant Recipient's records and accounting
- 22 Health and Safety and Equality and Diversity
- 23 Co-operation
- 24 Dispute Resolution
- 25 Notices
- 26 No fetter on statutory functions
- 27 No agency
- 28 Exclusion of third party rights
- 29 Assignment and sub-contracting
- 30 Construction Industry Scheme
- 31 Data Protection
- 32 Further Assurance
- 33 Entire agreement
- 34 Severability
- 35 Cumulative rights and enforcement
- 36 Waiver
- 37 Survival of this Agreement
- 38 Execution
- 39 Governing law
- 40 London Living Wage
- 41 Interim Grant Schemes
- Schedule 1 - Approved Bid
- Schedule 2 Grant Reconciliation Exercise – Illustration of Operation
- Schedule 3 Representation and Warranties made by the Grant Recipient
- Schedule 4 Development Costs
 - Part 1 - Development Costs
 - Part 2 - Costs which are not Development Costs
- Schedule 5 - Interim Grant SchemesError! Bookmark not defined.Error! Bookmark not defined.
- Schedule 6 – Recovery PrinciplesError! Bookmark not defined.Error! Bookmark not defined.
- Schedule 7 - Form of Legal OpinionError! Bookmark not defined.Error! Bookmark not defined.



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