

Grants Determination Sub Committee 5 th December 2017	
Report of: Ann Sutcliffe, Acting Corporate Director for Place	Classification: Unrestricted
Affordable Housing Grant Programme 2016-19 Second Round	

Lead Member	Councillor Rachel Blake, Cabinet Member for Strategic Development and Waste.
Originating Officer(s)	Mark Baigent
Wards affected	All wards
Key Decision?	Yes
Community Plan Theme	Great Place to live

1. Executive Summary

1.1 In December 2015, The Commissioners agreed £7.06 million of retained RTB receipts could be used to set up a Local Housing Affordable Grant Programme for the period 2016/19 for the provision of affordable housing in Tower Hamlets.

1.2 At the same time the Commissioners endorsed the process and timetable within which the programme would operate, part of which included a framework for continuous market engagement to facilitate future expenditure of the retained receipts.

1.3 This report is intended to update the Sub Committee of any changes to the grant arrangements and timetable approved by Commissioners on 12th April 2016 as well as provide details of the bids received as part of the continuous market engagement process.

1.4 The backstop date of December 2019 has so far proved to be a disincentive for Registered Providers (RPs) to apply for this funding. This report therefore seeks the Sub Committee's approval to revise the backstop date to December 2020 thereby making this funding more attractive to RPs.

2. Recommendations

The Grants Determination Sub Committee is recommended to:

2.1 Consider and endorse Officers' recommendations to award, subject to the necessary budget approval by the Mayor in Cabinet in January 2018, Right To Buy grant funding for the amounts listed to the Registered Providers outlined in point 4.3 of the report. In addition, allow 10% uplift to the agreed amounts to take account of potential increases in build or acquisition costs.

2.2 Note the variations to the bid submitted by the Registered Provider Arhag that were subsequently approved by the Mayor on the 11th August 2017.

2.3 Note the change in the scheme completion date for 34-40 Bow Road E3 being delivered by Arhag.

2.4 In respect to an existing grant approval to East End Homes, approve the change in purchase completion date and the grant purpose to be extended to include the purchase of residential properties on the open market.

2.5 Authorise the Corporate Director of Place to agree extensions of time on schemes approved for grant funding, which shall not in any event exceed December 2020.

2.6 Authorise the Corporate Director, Place, to agree the terms of, and enter into, any contractual or ancillary documentation to give effect to the above recommendations, with recommendation 2.1 to be effected only upon budgetary approval by the Mayor in Cabinet in January 2018.

3. REASONS FOR THE DECISIONS

3.1 On 12th October 2015, the Mayor in Cabinet approved a capital programme to address the issues around the accumulated Right to Buy Receipts and the conditions for their expenditure. This included a range of measures, one of which was the provision of £7.06 million to Registered Providers towards the delivery of affordable housing units for rent for letting to housing applicants on the Council's Housing Waiting List. The Commissioners approved this on 2nd December 2015.

3.2 An advertisement and bidding pack inviting Registered Providers to submit applications as part of the continuous market engagement process were placed on the Council's website on the 15th February 2017. RPs were also formally advised individually.

3.3 To qualify to submit a bid, RPs were required to demonstrate their ability to satisfy the following criteria :-

- a) Have knowledge of the Borough's housing needs.
- b) Be a signed up member of the Common Housing Register or be able to sign up to it.
- c) Have a management arm based in the Borough.
- d) Be easily accessible to their new tenants.
- e) Have extensive experience of affordable housing development.
- f) Be included on the Homes and Communities Agency (HCA) published list of RPs.
- g) Have the financial liquidity needed to successfully deliver a development programme over period of the grant scheme
- h) Consider the prerequisite that priority will be given to schemes with planning permission or in the planning process to enable them to meet the required deadline of December 2019 for completed schemes.

3.4 Interested bidders were advised full submissions must be received by 12 noon on 31st March 2017. Two detailed bids were received by the deadline from East End Homes and Swan Housing Association.

3.5 The Bids were examined and a précis compiled by Officers against the criteria noted in the grant pack. Details of the summarised bids are attached as Appendix A.

4 Approval Process

4.1 Points of clarification and any areas of concern with the bids have been discussed with the respective RPs.

4.2 Approval for grant funding was assessed on the basis that priority is given for schemes that meet the LBTH specific strategic criteria of :-

- Deliverability – This is of paramount importance. The scheme must be deliverable by December 2020. Milestones will be set and the grant may be repayable if they are not achieved.
- Affordability – preference is given to homes that are most affordable to local residents.
- Tenancies – preference is given to homes with longer tenancies as the RTB receipts fund permanent social/affordable rented accommodation.
- The grant element will represent a maximum of 30% of the scheme cost and can only be utilised for the replacement of Affordable Rented Units

although this can be part of a larger mixed tenure development.

- Delivery of other strategic objectives of the Council and wider community benefits.
- Accessibility – Homes for residents with disabilities will be fully accessible and preference will be for wheelchair housing located on the ground floor. Preference will also be given to schemes that assist the rehousing of households with disabled members. No less than 10% of the rented stock in the scheme will be wheelchair units.
- Schemes that fit in with the Planning or supported Borough Housing Investment Strategy e.g. Whitechapel Master Plan area
- Schemes that exceed the minimum planning requirements for the provision of Affordable Housing.

4.3 The process outlined above culminated in Officers recommending that Swan and East End Homes be awarded grant funding for the amounts detailed in the table below, subject to the necessary budgetary approval.

	Registered Provider	Scheme	Num Rent	Num Int.	Num Mar.	TH Living Rent	London Afford. Rent	Grant £
1	East End Homes	Various sites on East End Homes existing land	5	0	0	2	3	£375,000
2	Swan HA	Land bound by Watts Grove & Gale St E3	20	45	0	16	4	£2,439,760

(Grant requested will contribute 30% of scheme costs associated with the rented element).

4.4 Terms of the grant to RPs will be covered by a grant agreement that will be a contract between the parties for each scheme to ensure compliance.

5. ALTERNATIVE OPTIONS

5.1 Doing nothing has been considered, However, this could result in the Council having to pay RTB receipts to central government with interest (*compounded 4% above base rate*), in line with the conditions of usage set down by the DCLG. Therefore, this programme could be considered to be an efficient use of the current available resources.

5.2 In considering whether to repay the RTB receipts to central government, the Council has the duty to consider not only the financial impact on the HRA but also the provision of affordable housing, the acute housing need in the borough, and service enhancements made possible through the use of the RTB Receipts.

5.3 Giving up the one-for-one RTB receipts would imply that the Council would not take the opportunity of exercising greater control over the provision of affordable housing. Instead, funding affordable housing delivery by the housing association sector allows the Council to target its own priorities, without the restraints of the conditions of GLA grant and the requirements of the HCA Capital Guide.

6. DETAILS OF REPORT

6.1 ARHAG Re -Submission

6.2 On 12th April 2016, the Commissioners approved £547,631 of grant funding from the Local Affordable Housing Grant programme to Registered Provider ARHAG, to deliver a small scheme on their land in Bow Road E3 with a completion date of December 2017.

6.3 The original scheme was to deliver 10, mainly 1 and 2 bedroom properties, 8 of which were to be charged at slightly higher than current social rents levels and 2 for market sale.

6.4 ARHAG have since changed the original design in response to Planning comments and are now proposing a ground floor 3 bedroom wheelchair accessible home for rent, which is a better outcome than the original application.

6.5 The design changes have had a negative effect on the viability and timetable for completion of the scheme, resulting in ARHAG incorporating an additional 1 bed flat for private sale. They will now be selling 2 x 1 bed flats and 1 x studio unit.

6.6 The rents for the 1 and 2 bedroom flats will be £144.26 and £152.73 respectively; whilst the rent for the 3 bed wheelchair property will be £161.22, (all are at social target rent levels).

6.7 The proposed 10 unit scheme, approved by an Individual Mayor Decision on 11th August 2017, would therefore comprise 3 units for private sale and 7 for social rent, at the rents outlined above. The completion date will now be 31st December 2020.

6.8 The original grant allocation approved by the Commissioners was £547,631; ARHAG are now claiming up to £428,605, which represents 30% of the new scheme costs for the revised 7 rented units.

6.9 East End Homes

6.10 On the 12th April 2016, the Commissioners approved grant funding of £870,000 for East End Homes to enable the purchase of 8 ex right to buy properties on a number of their estates.

6.11 Various internal delays meant East End Homes were not in a position to sign the Grant Agreement until August 2017, which in turn, impacted on the timescale within which the properties could be purchased. They have therefore requested an extension until 31st December 2020 to complete the purchases.

6.12 East End Homes advise that the high value of properties on their estates has been prohibitive to purchasing ex- right to buy homes on their estates. EEH have therefore asked for the original grant permission to be amended to allow them to purchase residential properties on the open market rather than just ex- RTB on their own estates. This will give them the flexibility to purchase homes in cheaper parts of the Borough. Once purchased, they will be let through the Common Housing Register at Tower Hamlets Living Rents.

6.13 Continuous Market Engagement

6.14 The Council's significant retained receipts from the disposal of properties under Right to Buy legislation must be used for the provision of new social housing in accordance with the terms of the agreements that the Council has entered into with the DCLG. One-for-one RTB receipts can only be used to fund up to 30% of the cost of Social Rented or Affordable Rented units.

6.15 The Council launched the continuous market engagement process in February 2017 and received 2 applications. Summary details are provided below.

6.16 East End Homes

Grant requested: £375,000 to provide 5 new infill properties on various estates in their ownership.

Grant per unit = £75,000

Unit Mix = 2x1B2P @£144.26pw = LAR

1x2B4P @ £152.73pw = LAR

2x1B2P @ £202.85pw = THLR

6.17 Swan Housing Association

Grant requested: £2,439,760 to provide 20 units at Watts Grove E3, on vacant land in their ownership

Grant per unit = £121,988

Unit Mix = 7x1B2P @ £202.85 = THLR

9 x2B3P @ £223.14 = THLR

4x 3B5P @ £161.22 = LAR

6.18 Swan are keen to introduce some rented units into the scheme. Their initial submission provided a 100% intermediate scheme. The right to buy grant will facilitate the provision of 20 affordable units and reduce the overall unit costs.

7. COMMENTS OF THE CHIEF FINANCE OFFICER

7.1 The Mayor in Cabinet on 6th October 2015 approved a programme to utilise the significant levels of Right to Buy receipts that the Council has retained for the provision of replacement social housing. It was agreed that £7.065 million of the receipts would be allocated towards a Local Affordable Housing Grant scheme for Registered Providers of Social Housing (RPs).

7.2 The Authority's contribution is limited to 30% of the cost of the eligible expenditure incurred on replacement social housing, with the registered provider (RP) being responsible for funding the remaining 70% of the cost of the replacement social housing being built. Evidence of eligible expenditure must be submitted by the RP to the Council to ensure that all Government regulations for the use of retained capital receipts are met.

7.3 Following the completion of the application process for the programme and subsequent Commissioner or Grants Determination Sub-Committee approvals for the funding of various projects, together with subsequent amendments to the schemes, the table below shows the current approvals in place. These include a contingency of up to 10% of the grant sum to allow for a possible increase in build or acquisition costs. This contingency will only be available to the RP if officers are satisfied that the costs are unavoidable.

Revised Schemes - December 2017	Amount	Contingency	TOTAL
1 <u>Commissioners meeting: April 12th 2016</u>			
ARHAG (new build scheme)	£428,605	£42,861	£471,466
East End Homes (buybacks)	£870,000	£87,000	£957,000
2 <u>Commissioners meeting: July 5th 2016</u>			
Peabody (new-build scheme)	£1,940,732	£0	£1,940,732
Family Mosaic (new-build scheme)	£1,118,944	£40,000	£1,158,944
<u>New approvals sought in this report</u>			
3 East End Homes (new-build scheme)	*£375,000	*£37,500	£412,500
Swan (new-build scheme)	£2,439,760	*£243,976	£2,683,736
	£7,173,041	£451,337	£7,624,378

7.4 Approving all the new schemes would exceed the approved capital budget. It is therefore proposed that the Swan Housing Association scheme is approved at £2,439,760 with an 'in-principle' decision that the budget will be increased to £2,683,736 if additional funding is approved for the scheme as part of the 2018-19 budget process. Similarly, an 'in-principle' decision is sought on the total East End Homes scheme pending subsequent budget approval. All the 'in-principle' approval items are marked with an asterisk in the table above, and when excluded reduce the approved grant commitments to £6.968 million i.e. within the approved capital budget of £7.065 million.

7.5 As the Council retains responsibility for spending a sufficient amount on replacement social housing within the required timescales, in the event that RPs fail to spend enough there is a risk that the resources will be payable to the Government, with the authority being liable for a significant interest penalty. It is therefore crucial that the Authority continues to closely monitor the progress on all replacement social housing projects funded by retained receipts, whether the expenditure is incurred by third parties or forms part of the substantial Council managed initiatives.

8. LEGAL COMMENTS

8.1 The report sets out the recommendations to:

- Award Right to Buy grant funding to two Registered Providers in the amounts set out at paragraph 7.3, subject to budgetary approval;
- Approve an amendment to an existing grant approval with East End Homes to extend the previously agreed completion date and to allow the funds to be used to purchase properties on the open market; and
- Approve extensions to the deadline by which schemes relevant schemes are to be completed, to be determined by the Corporate Director of Place, but with a longstop date of 31 December 2020.

Budgetary approval

8.2 The Council's Chief Finance Officer, for the purposes of section 151 of the Local Government Act 1972, has put in place financial regulations and procedures for the proper administration of the Council's financial affairs. Pursuant to financial procedures FP 3.3(5) and 3.3(6), Chief Officers may only proceed with projects when there is a capital estimate adopted and adequate capital resources have been identified.

8.3 Recommendation 2.1 seeks the approval to provide grant funding to two Registered Providers for the provision of affordable housing units. The funding is currently outside the approved capital budget and so the decision taken must be subject to budgetary approval, which is tabled for Cabinet in January 2018.

Grant funding

- 8.4 Whilst there is no strict legal definition of grant, a grant is in the nature of a gift and is based in trust law. There will be many grants which are made by the Council for the purpose of discharging one or more of its statutory duties. In this case, the Council is not under a legal duty to provide these payments and, whilst the Council controls the purpose for which the payments are being spent, they are considered a grant discretionary in nature.
- 8.5 Affordable Housing Grants are supported by the Council's general power of competence. Section 1 of the Localism Act 2011 gives the Council the power to do anything that individuals generally may do, subject to specified restrictions and limitations imposed by other legislation. There are no such restrictions and limitations and therefore the general power of competence can be applied.
- 8.6 The Council must operate a fair and open application procedure to process a request to obtain funding. Requests for grant funding should ordinarily be measured against a predetermined set of criteria and the criteria itself must be fair and transparent. The report sets out the application procedure and the criteria that apply to the grant funding.
- 8.7 The grant is supported by a contractual arrangement between the Council and the grant recipient. The grant agreement includes a clear monitoring process against defined parameters in order for the Council to demonstrate that delivery is in line with the application.
- 8.8 The Council must ensure that no part of the funds issued represent a profit element to any of the recipients. The inclusion of profit or the opportunity of making a profit from the grant or third parties indicates that the grant is really procurement activity and would otherwise be subject to the Council's Procurement Procedures and other appropriate domestic and European law.
- 8.9 The Treaty on the Functioning of the European Union provides that certain government activities may be prohibited if they give an advantage in a selective way to certain entities, which may affect competition within the internal market. Those activities may amount to permitted or prohibited state aid, depending on the circumstances. In this case, the purpose of the grants is to provide affordable housing which would be "aid having a social character" and they are therefore permitted.

Amendments and extensions to grant funding

- 8.10 The report seeks authority to amend the terms of certain grant funding, including extending the timeframe within which expenditure must be incurred by the recipient. Any agreed amendments should be formalised in writing between the Council and the recipient, which may involve a contract variation.

Best value and equalities

- 8.11 The Council has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. These considerations have been addressed in paragraph 10 of the report.
- 8.12 When making decisions, the Council must have due regard to the need to eliminate unlawful, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector equality duty). These considerations are addressed in paragraph 9 of the report.

9. ONE TOWER HAMLETS CONSIDERATIONS

9.1 The delivery of more affordable homes will help give households, particularly those from black, Asian, or other minority ethnic backgrounds on low incomes (many of whom are benefit dependent) a secure home. This has the potential to create an environment for household members – particularly children – to improve their educational attainment which will in turn help them access sustainable employment in the future. The delivery of more housing that is wheelchair accessible and meets lifetime homes standards is a proven method to help reduce inequalities.

9.2 The provision of additional rented schemes can potentially impact on community cohesion. The amount of private housing developed for sale and private rent has been particularly high in Tower Hamlets. However, the large majority of this housing is inaccessible to residents due to high house prices. Therefore, maximising the amount of affordable housing for rent wherever possible can contribute to community cohesion. This can be achieved by reducing the number of households on the Common Housing Register waiting for a home, whilst also giving an opportunity for local applicants to access low cost home ownership opportunities.

9.3 The Local Affordable Housing Grant scheme directly makes a significant contribution to the core Local Plan target of new affordable homes delivery. The programme also makes a wider contribution to Community Plan objectives, such as on increasing household recycling; reducing crime (through Secure By Design standards); and increasing skills and training opportunities. The proposal is a good 'strategic fit' with the Community Plan and will help Tower Hamlets deliver both the housing and sustainable communities priorities identified.

10. BEST VALUE (BV) IMPLICATIONS

10.1 This is a capital programme which proposes to make use of the Council resources in order to fund partners in the delivery of affordable homes rather than be required to pay interest to the government on unspent receipts. It places the responsibility for 70% of the costs of building replacement one for one homes on RPs, thereby protecting the borrowing margin of the Council and making possible the delivery of larger programme.

11. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

11.1 The schemes will comply with the Council's requirements on the reduction of carbon emissions, energy consumption along with green and sustainable construction delivery.

12 RISK MANAGEMENT IMPLICATIONS

12.1 A Grant Agreement has been will be drawn up by Solicitors and issued with the bidding documents. Bidders have provided proof of their ability to finance the scheme in the form of a funder's letter.

12.2 All bidders are Members of the Common Housing Register and to sign up to the Standard Nominations Agreement so the Council will benefit fully from the programme.

12.3 An audit of the programme is planned and provided for in the Legal Agreement.

12.4 The scheme adopted an open book approach so the Council has been able to scrutinise the project finance.

12.5 The qualifying criteria has provided safeguards against organisations that would not have the capacity, expertise or financial stability to deliver the programme.

13.0 CRIME AND DISORDER REDUCTION IMPLICATIONS

13.1 The schemes proposed will be designed to Secure By Design Standards. The conditions of the housing grant programme will include the need to meet the London Housing Design Guide and other standards of building including Secure by Design.

13.2 The impact on the local community and the local environment will be factors in assessing the quality of a scheme proposal. RPs will be encouraged to identify sites which if developed, would improve the safety and security of the local communities.

13.3 The role of design in "designing out crime "will be part of the solution for addressing community safety hot spots in the borough. In addition, the natural surveillance offered by the new developments is likely to improve safety in the respective areas.

14.0 SAFEGUARDING IMPLICATIONS

14.1 N/A

Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- Appendix A: Summary of Affordable Housing Grant Bids

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- NONE

Officer contact details for documents:

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