

CABINET

16 June 2020

Title: Housing Innovation Programme – Small Sites	
Report of the Cabinet Member for Regeneration and Social Housing	
Open Report	For decision
Wards affected: All	Key decision: Yes
Report Authors: Michael Westbrook, Head of Housing and Asset Strategy; Selasi Setufe, Innovative Sites Programme Manager (Be First)	Contact Details: michael.westbrook@lbbd.gov.uk
Accountable Strategic Leadership Director: Graeme Cooke, Director of Inclusive Growth	
Summary This report proposes that the Council launches a ‘Housing Innovation Programme’ centred around small sites owned by the Council. The aim of this programme is to deliver innovative new build housing schemes in the following categories: <ul style="list-style-type: none">• Innovative/specialist housing meeting particular housing needs (such as the housing needs of vulnerable groups)• Innovative housing design/delivery methods – such as modern methods of construction and innovations in building sustainability• Community participation and engagement – including community led housing The report also describes the different ways in which it is anticipated the schemes will be delivered. This will be a mixture of direct delivery by the Council (through Be First) and disposal of sites to external organisations (which could include community groups) to enable innovative housing schemes.	
Recommendation(s) Cabinet is recommended to: <ul style="list-style-type: none">(i) Approve the aims of the Housing Innovation Programme to bring forward small sites owned by the Council for innovative projects, as detailed in section 2 of the report;(ii) Agree that the sites listed in paragraph 4.1 and Appendix 1 to the report form the initial programme;(iii) Approve the assessment criteria for schemes put forward by external organisations/groups, as outlined in section 3 of the report;(iv) Delegate authority to the Director of Inclusive Growth, in consultation with the Cabinet Member for Regeneration and Social Housing, to approve the inclusion of	

other Council-owned small sites to the programme when it would meet the objectives of the programme as set out in the report;

- (v) Delegate authority to the Chief Operating Officer, in consultation with the Director of Law and Governance and the Chief Financial Officer, to approve specific proposals for Be First-led schemes proposed for any small site in the programme on the advice of the Director of Inclusive Growth in consultation with the Cabinet Member for Regeneration and Social Housing;
- (vi) Delegate authority to the Chief Operating Officer to agree to the disposal of any small site in the programme, in consultation with the Investment Panel, where it is identified as the best way to meet the objectives of the programme as set out in the report
- (vii) Delegate authority to the Chief Operating Officer to agree to the appropriation of sites in the programme under Section 122 of the Local Government Act 1972 from the Housing Revenue Account to the General Fund; and
- (viii) Authorise the Director of Law of Governance, or an authorised delegate on her behalf, to execute all the legal agreements, contracts and other documents on behalf of the Council to enable schemes in line with the aims outlined in the report.

Reason(s)

The recommendations are intended to allow the Council to bring forward proposals for new homes on small sites. The aims of the programme as set out in the report are aligned to the Council's priorities relating to inclusive growth, participation and engagement, and prevention, independence and resilience as set out in the Corporate Plan.

In particular, the recommendations will allow proposals to be brought forward to provide new homes in the borough on the sites identified. The report proposes that some small sites are used to explore different types of community engagement and participation relating to the provision for housing. The report also proposes that some small sites are used to provide new homes that are suitable for the housing needs of more vulnerable groups.

As such the proposals respond directly to key aims identified in all three overarching strategic priorities set out in the Corporate Plan.

1. Introduction and Background

- 1.1 The Council has a number of smaller sites which are suitable for development but which are not currently part of the Be First development programme. This report proposes that these sites are added to a new programme: the housing innovation programme.
- 1.2 The aim of this programme is to deliver innovative new build housing schemes. The rationale for this is that these sites will only ever be able to deliver a small number of homes, so will make a small contribution to our overall housing delivery numbers compared to the main Be First programme, and third-party strategic sites such as

Barking Riverside. Therefore, it makes sense to focus on the types of homes and how they are delivered than the overall numbers – looking at innovation and wider community benefit.

1.3 It is proposed that three main categories of innovations are pursued under this programme:

- Innovative/specialist housing meeting particular housing needs (such as the housing needs of vulnerable groups)
- Community participation and engagement – including community led housing
- Innovate housing design/delivery methods – such as modern methods of construction and innovations in building sustainability

1.4 In some cases, these types of innovations might be able to be combined, for example a zero-carbon scheme co-produced with interested members of the community.

1.5 More detail on the types of these innovation categories is set out in the next section. The report also describes the different ways in which it is anticipated the schemes will be delivered. This will be a mixture of direct delivery by the Council (through Be First) and disposal of sites to external organisations (which could include community groups) to enable innovative housing schemes.

2. Proposal and Issues

Types of innovation projects

2.1 The priority categories of innovation are described below.

Specialist housing

2.2 A priority for the programme is to use a number of the small sites to build homes for vulnerable groups. This is linked to the Housing for Vulnerable People Commitments approved by Cabinet in January 2020. This will include developing proposals for housing for older people, purpose-built shared housing for younger people (including care leavers) and purpose-built adapted housing for people with disabilities whose needs cannot easily be met from the existing housing stock in the borough.

2.3 The specialist housing strand of the housing innovation programme only forms one part of our approach to the supply of new specialist housing. The Council is also looking to deliver specialist housing as part of larger sites and as part of sites that will be delivered in the next phase of the Council's house building plans.

Innovations in construction methods

2.4 The programme is an opportunity to deliver some 'exemplar' projects relating to innovations in construction. This includes the various types of 'Modern Methods of Construction' (MMC) which may – once further tested – change how the industry delivers new homes and have benefits in terms of speed, cost, and quality.

- 2.5 Linked to this, the programme will be exploring exemplar projects around sustainability, aligned to the Council's commitments around tackling the climate emergency.

Community-led housing

- 2.6 It is also proposed that this programme explores community-led housing. This is an umbrella term for a fairly wide range of approaches to housing development. There are several models of community-led housing, including:
- Self-build, where residents/a community group manage the building of new homes themselves, normally to be lived in by those involved
 - Cooperatives, where the homes are managed by residents in line with cooperative principles
 - Community Land Trusts (CLTs) –where land is held as a community asset, with covenants that ensure the homes are kept affordable in perpetuity. Homes usually have a local connection requirement and the homes are managed by the residents. CLTs often have a mixture of tenures from social rent to ownership –though homes for ownership are normally sold close to the build cost, and future sales linked to a measure of inflation rather than house prices.
 - Co-production, where residents with lived experience are heavily involved with the commissioning of new homes –for example where the homes are intended to meet the needs of a specialist group
- 2.7 The Council and Be First will begin formal engagement with the community following Cabinet approval of the programme. The aim is to allow as many residents as possible to engage with the programme and develop proposals for community-led housing. The proposed policy criteria for selecting potential community-led schemes are set out in Section 3.

How schemes will be delivered under the programme

- 2.8 There are two main ways in which homes will be delivered under the programme – either direct delivery by the Council via Be First, or the site disposed to an external organisation to enable a scheme in line with the aims of the programme. This could include small builders, community groups or small/specialist Housing Associations.
- 2.9 Where it is proposed that a scheme is delivered by the Council itself, the Council will retain ownership of the land and fund the development either through the General Fund or the Housing Revenue Account. It is envisaged that schemes for specialist housing delivered by the Council will be funded through the Housing Revenue Account. Schemes proposed through this route will follow the existing Council/Be First process for assessing development proposals and will require approval by the Investment Panel.
- 2.10 Where it is proposed that a site is disposed of to an external organisation, the Council can make use of a GLA process for disposal and contracting. This includes an online bidding system which the Council can use to advertise small sites, with the ability to set our own criteria from the types of organisations the Council would consider bids from. The GLA have also developed standard legal agreements which have been designed to:

- offer a reasonable level of control
- avoid lengthy procurement processes
- allow the site to be retained by the landowner until development can start
- give the landowner continuing influence over the development
- discourage those who do not intend to get on and build
- allow covenants to secure affordable and/or community-led housing to be included

2.11 Disposal of a site to an external organisation will be recommended if and when it is judged that this route is the best mechanism for a small site to be developed to meet the aims of the programme. Such a disposal would usually be by way of a long lease. This report seeks a delegation to the Chief Operating Officer to approve such disposals, and asks Cabinet to agree a delegated authority to define the circumstances in which a small site may be transferred from the Housing Revenue Account to the General Fund to fulfill the programme objectives.

2.12 The expectation is that external organisations would fund developments themselves. There are organisations that provide both revenue and capital funding to community groups to enable community-led housing. The GLA have a revenue and capital grant programme for community-led housing and sponsors an organisation called Community Led Housing which can also provide advice on developing proposals.

2.13 Any decision to proceed with an individual site will only take place after more detailed proposals are worked up and further consultation has taken place. Non-housing options (such as public realm-related works) will also be considered for some sites depending on considerations such as location and site constraints.

3. Criteria for assessing bids from external organisations

3.1 As the proposal is also to work with external organisations/groups, the Council needs a framework to assess proposals if more than one group is interested in the same site.

3.2 As described in this report, not all sites will be made available for external organisations. Those that are will be categorised based on those deemed most suitable for transfer to different types of organisations, such as a small builder or for a community-led scheme.

3.3 The proposed criteria for assessing bids from external organisations are set out below

Criteria	Weighting	Description
Alignment with the Council's strategic framework relating to new homes	25%	<ul style="list-style-type: none"> • Number and type of new homes • Tenure mix, including affordability • Allocations of new homes, including new homes for households on the housing register

Alignment with the Council's wider strategic framework	25%	<ul style="list-style-type: none"> • Participation and Engagement – who is involved and how, quality of engagement, wider community involvement and benefit • Prevention, Independence and Resilience – housing that meets the needs of vulnerable groups or people who otherwise need specialist housing, initiatives that support Council's care and support responsibilities • Mentoring, training, apprenticeships, and wider employment benefits • Environmental sustainability and carbon reduction • Any non-residential buildings proposed as part of the wider development • Use of local contractors and suppliers
Value for money/viability	20%	<ul style="list-style-type: none"> • Finance and Funding – robust viability appraisal, detail of how costs will be met with sources of funding identified • Business plan for ongoing costs after completion (management, repairs, stock investment etc)
Deliverability	20%	<ul style="list-style-type: none"> • Project Management arrangements to deliver the proposal • Programme – project milestones and timescale for delivery • Planning –stage in the planning process, and planning advice
Quality	10%	<ul style="list-style-type: none"> • Design – does the project meet London Design Guide requirements as a minimum, and does it exceed these requirements • How does the project at least meet or exceed minimum standards relating to Building Regulations, the Local Plan and other relevant policies and guidance

4. Sites

Initial sites

4.1 The initial set of sites that are recommended to be added to the programme are listed below. The red lines of these sites are shown in Appendix 1.

- Farmway
- Goresbrook Road
- Chelmer Crescent
- Rear of 134 Becontree Avenue
- Keir Hardie Way

4.2 Due diligence works are being carried out on these sites, funded through GLA grant funding for small sites.

Further sites

- 4.3 The aim is that this is a rolling programme, with additional sites added once they have been assessed as being suitable.
- 4.4 A review of wider potential sites is currently underway. Most of these are current garage sites, which are being assessed for alternative uses, including their potential for housing development.
- 4.5 This report seeks delegated authority to add other small sites to the programme once they have been assessed as being suitable.

5. Consultation

- 5.1 Consultation has been carried out with the Corporate Strategy Group, the Leader, the Cabinet Member for Regeneration and Social Housing and other Cabinet Members.
- 5.2 No formal external consultation has been carried out on any specific proposals relating to the sites proposed for this programme. This will commence following Cabinet approval.
- 5.3 Any decision to proceed with an individual site will only take place after more detailed proposals are worked up and further consultation has taken place. Non-housing options (such as public realm-related works) will also be considered for some sites depending on considerations such as location and site constraints.

6. Financial Implications

Implications completed by: David Dickinson, Investment Fund Manager

- 6.1 The report includes the proposal that the Council funds new homes on some small sites under this programme. It is proposed that this is primarily through the Housing Revenue Account. The 2020/21 budgets for the Housing Revenue Account includes a £2.5m capital budget for new build. Any HRA new build budgets for subsequent years will be proposed as part of the HRA Business Plan reports presented to Cabinet in February each year.
- 6.2 Specific Council-led projects proposed to be delivered under this scheme will follow the Be First Gateway and Council Investment Panel process, as well as Cabinet where required.
- 6.3 As set out in the report, it is not anticipated that the Council will finance any developments it does not directly deliver itself.

7. Legal Implications

Implications completed by: Dr Paul Feild, Senior Governance Lawyer

Council Powers

- 7.1 The Council has power to deliver the proposals by virtue of the general power of competence under section 1 of the Localism Act 2011, which provides the Council with the power to do anything that individuals generally may do. Section 1(5) of the Localism Act provides that the general power of competence under section 1 is not limited by the existence of any other power of the authority which (to any extent) overlaps with the general power of competence. The use of the power in section 1 of the Localism Act 2011 is, akin to the use of any other powers, subject to Wednesbury reasonableness constraints and must be used for a proper purpose.
- 7.2 Whilst the general power of competence in section 1 of the Localism Act 2011 provides sufficient power for the Council to participate in such transactions as set out in this report and further support is available under Section 111 of the Local Government Act 1972 which enables the Council to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any of its functions, whether or not involving expenditure, borrowing or lending money, or the acquisition or disposal of any rights or property.
- 7.3 In exercising the power of general competence and in making any investment decisions, the Council must also have regard to the following:

Compliance with the Statutory Guidance on Local Government Investments:

- Fulfilling its fiduciary duty to taxpayers;
- Obtaining best consideration for any disposal;
- Compliance with Section 24 of the Local Government Act 1988 in relation to giving financial assistance to any person (which either benefits from a general consent or requires express consent by the Secretary of State);
- Compliance with any other relevant considerations such as State Aid and procurement rules;

Funding and Borrowing Considerations

- 7.4 Section 15 of the Local Government Act 2003 requires that the Council have regard to statutory guidance in relation to exercising its borrowing and investment powers. The relevant Statutory Guidance on Local Government Investments (3rd Edition) was issued on 1 April 2018. The Guidance is relevant to the extent that a loan may be necessary in order to facilitate delivery of any of the potential housing developments. In accordance with the Guidance (paragraphs 33 and 34), A local authority may choose to make loans to local enterprises, local charities, wholly owned companies and joint ventures as part of a wider strategy for local economic growth even though those loans may not all be seen as prudent if adopting a narrow definition of prioritising security and liquidity provided that the overall Investment Strategy demonstrates that:

- i. The total financial exposure to such loans is proportionate;
- ii. An expected 'credit loss model' has been adopted to measure the credit risk of the overall loan portfolio;
- iii. Appropriate credit controls are in place to recover overdue re-payments; and
- iv. The Council has formally agreed the total level of loans by type and the total loan book is within self-assessed limits.

Loan and Grant Agreements

- 7.5 In the event of deciding to make available loans for the developments, the funds can be acquired from the Public Works and Loan Board. However, there are other sources of funding and it is recommended this is kept under review for best flexibility. Such arrangements will need to be examined to ensure that the terms are compliant with the aims of this programme and the terms will need to reflect commercial market terms to ensure that there are no State Aid implications, more on below.

State Aid

- 7.6 As local government is an emanation of the state the Council must comply with European law regarding State Aid. Therefore, local authorities cannot subsidise commercial transactions such as for example low cost finance or financial assistance to its own companies if such transactions are capable of distorting competition in the EU. It must be made on 'market terms' in order to satisfy the "Market Economy Investor Principle" which means a proper valuation of the land involved must be made and any financial assistance must also be compliant.

Appropriation and Disposal of HRA Land

- 7.7 If as envisaged in the report that a proportion of ownership of the completed development / units will be outside the Housing Act 1985. There will need to be an appropriation of the land under Section 122 of the Local Government Act 1972 from the Housing Revenue Account to the General Fund.
- 7.8 Any disposal of the land (or to for example an existing entity within the Barking & Dagenham Reside structure) must comply with the requirement for best consideration and/or within the parameters of any general consents available from the Secretary of State. The details of such consents will need to be carefully considered to ensure any transactions and mechanism needed to facilitate delivery of the scheme are within those parameters.

Other Matters

- 7.9 Given that the sites are within well-established developed locations it will be inevitable that there will be displacement of utilities and services such as electricity substation(s), gas and water mains, telecommunications cables etc plus changes to highways and facilities, which may necessitate leases and licenses. These will be familiar matters in a development context to the Council and Be First, and should

not, if managed soundly, raise intractable issues. Early surveying will minimise costs and risks of delays.

- 7.10 Potential risk arising include, but are not limited to, any third-party rights or restrictions or incumbrances which may frustrate or prevent the Council's regeneration objectives and development of the land. In terms of environmental risks, caution must be exercised in that the sites may raise risks of land contamination and if so, any remedial action and the costs of such remediation would need to be factored into the feasibility and viability considerations. Specifically, there should be early due diligence before contractually committing earmarking sites for the construction of dwellings. So, there will need to be investigation into whether there is a risk of the presence of historical contamination, and that it is capable of being remedied. Such costs need to be factored into the project valuation(s) to ensure it does not compromise the viability or design of any residential development.

8. Other Implications

- 8.1 **Corporate Policy and Equality Impact** – The overall aim of the programme is to provide new homes that meet the needs of residents of the borough. The programme also has wider aims relating to participation and engagement and prevention, independence and resilience. As such it is considered that the programme will have a positive equality impact. The equality impact of specific proposals will be considered on a scheme by scheme basis before decisions are made.
- 8.2 **Property / Asset Issues** – issues relating to council property/assets – including the proposed development of council-owned land or the proposed disposal of council-owned land – are set out in the legal issues section.

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

- Appendix 1 – red line diagrams of initial sites