

Decision Maker: CARE SERVICES POLICY DEVELOPMENT AND SCRUTINY COMMITTEE

Date: 4th September 2012

Decision Type: Urgent Executive Key

Title: ALLOCATION OF AFFORDABLE HOUSING PAYMENT IN LIEU FUNDS

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Ward: (All Wards);

1. Reason for report

£896k of Affordable Housing Payment in Lieu (PiL) funding needs to be committed to new affordable housing scheme(s) as a matter of priority.

2. **RECOMMENDATION(S)**

2.1 The Care Services PDS committee are asked to:

a) Consider and comment on the matters contained within this report

2.2 The Portfolio Holder is recommended to:

a) Consider any comments from the PDS committee

b) Agree to delegate authority to the Director (Renewal and Recreation) to approve allocation of PiL funding following discussion with the Portfolio Holder for Care Services taking account of the recommendations of the evaluation panel as referred to at paragraph 3.10 below.

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council:
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Financial

1. Cost of proposal: £896k
 2. Ongoing costs: Not Applicable
 3. Budget head/performance centre: S106 deposits (payment in lieu)
 4. Total current budget for this head: £4.26m of which £896k relates to the proposal in this report
 5. Source of funding: S106 deposits
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Staff

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory Requirement: Town and Country Planning Act 1990
 2. Call-in: Not Applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Borough-wide
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

Background

- 3.1 In line with the Council's adopted Unitary Development Plan (Policy H2 and H3), a proportion of affordable housing is sought on eligible new developments. The affordable housing should normally be provided on-site. However in some limited circumstances the Council may consider it appropriate to accept a Payment in Lieu (PiL) – which is a payment from a developer in lieu of on-site affordable housing provision
- 3.2 Payments in Lieu of affordable housing are calculated using a methodology within the Council's adopted Affordable Housing SPD. A legal agreement is used to establish the amount and timing of such payments with provisions to cover late payments and unspent funds.
- 3.3 In line with the Town and Country Planning Act 1990, the Council has a legal obligation to spend PiL funds on delivering affordable housing. PiL funds should be spent within the time-period stated within the legal agreement, which is usually within five years of receipt. If the Council has not applied (spent/ contractually committed) the sums received within the given timeframe then the applicant may request such sums (or the relevant part not applied) to be paid back.
- 3.4 At present the amount of £896k of an unspent remainder of a specific payment needs to be allocated to a scheme(s) as soon as possible to mitigate the likelihood of any PiL being recovered. Hence, the reason this report must be considered as a matter of urgency.

Proposed approach to use of the sum of c.£896k

- 3.5 At present the Council has seven housing association development partners that deliver and manage all new affordable housing schemes across the Borough. These housing associations are known as 'Registered Providers' (RPs) of affordable housing, as defined under the Housing and Regeneration Act 2008. The RPs are regulated by the Homes and Communities Agency.
- 3.6 In line with internal Council Procurement and Legal guidance (detailed in 6. Legal Implications), in June 2012, a 'soft market testing' exercise was undertaken whereby the Housing Development and Strategy Team informally contacted the Council's seven RP partners and invited them to provide expressions of interest for the utilisation of the c.£896k PiL to enable the delivery of new affordable housing. Two of the RPs indicated that they did not wish to bid for the PiL funds.
- 3.7 In August 2012, an Invitation "To Tender" for this funding was sent to the remaining five RPs with a response deadline of the end of August 2012.
- 3.8 The Invitation "To Tender" sets out the Council's criteria assessing bids for PiL funding, as follows:
 - i to deliver larger family sized (three bedrooms or greater) affordable rent units – or units that will meet the needs of specifically identified under occupying households
 - ii to assist in reducing the number of families in temporary accommodation, helping to meeting the Council's statutory obligations in this regard
 - iii to deliver housing schemes that meet the requirement of those with the need for supported and/or wheelchair accessible housing
 - iv to support schemes that promote other Council aims around social economic and environmental sustainability factors.
- 3.9 The bidders were also required to provide detailed information in relation to scheme location, design and quality standards, unit size, unit tenure, rent levels, development timeframe and the amount of grant sought.

- 3.10 Housing officers from Renewal and Recreation Department and Education and Care Services Department, along with Finance officers will also evaluate bids against the criteria detailed in 3.8 and 3.9 above and will consider the value for money offered. A priority list will be produced summarising how the proposed schemes meet the criteria above and recommending which schemes to fund.
- 3.11 In view of the need to commit the funds as close to the end of August 2012 as possible, for the reasons detailed in paragraphs 3.3 and 3.4, it is recommended that upon completion of the tendering exercise and evaluation of submissions set out directly above, the Director (Renewal an Recreation) is given delegated authority to consider and approve the panel's recommendations for funding allocations following discussions with the Portfolio Holder for Care Services.

Future allocations of Payment in Lieu funding

- 3.12 In addition to the c.£896k unspent PiL, and proposed expenditure strategy and process detailed within this report, there are further received and negotiated PiLs. These are set out within Table 1 below.

PiL payments already received and currently unallocated	£3.364 million
Negotiated PiLs secured in s106 agreements but not received	£3.750 million
PiLs currently under negotiation within the planning process	£2.500 million
Total	£9.614 million

Table 1: Further PiL sums received or negotiated

- 3.13 The forthcoming LB Bromley Housing Strategy, anticipated to be ready for internal consultation by Quarter 4 2012-13, will include details of a proposed strategic approach to the usage of remaining PIL funds in order to support corporate strategic housing objectives.
- 3.14 Additionally, and in line with Procurement advice regarding the tendering process for the allocation of the remaining un-committed PiL and future PiL funding anticipated and detailed in Table 1 (above), during 2012/13 Housing officers will seek approval from Executive Committee to create a framework of partners to enable the allocation of future funds on a programme basis over the next 4-5 years.
- 3.15 Scope will be made for partners, other than the aforementioned 7 Registered Providers (in paragraph 3.5), to be included should they meet the required local criteria.

4 POLICY IMPLICATIONS

- 4.1 The proposed expenditure strategy and process for the c.£896k PiL (as detailed in section 3 above) will assist in the enabling the Council to deliver new affordable housing that will help to meet local statutory and high priority housing need whilst easing associated budgetary pressures. This reflects the objectives set out within the relevant Departmental business plans:
- ACS Portfolio Plan Outcome 2 - 'Delaying and reducing the need for care and support in reducing the pressures on temporary accommodation'.

- R&R Business Plan Outcome 6 and Aim 6A ‘Deliver a range of affordable housing options that meet local statutory housing needs and reduce budgetary pressures’.

5 FINANCIAL IMPLICATIONS

- 5.1 Since the recession, there has been a marked increase in the number of households applying for assistance to LB Bromley under the homelessness legislation - notably a near doubling in 2011, compared to 2010. Consequently, in order to meet the Council’s statutory duties, nightly paid accommodation placements have been rising very significantly each month (total placements 291 households as at 31st March 2012, 160 more than in March 2011). Whilst Boroughs work together to try and negotiate agreed payment rates, landlords are pushing up their prices aware of the immense demand for accommodation and legislative re-housing duties incumbent on local authorities meaning that, in nearly all cases, accommodation cannot be secured within LHA subsidy rates, resulting in increased costs to the Borough.
- 5.2 A report to the June meeting of this committee highlighted the pressures and how these had culminated in a rise in households in nightly paid accommodation. Since this time, the number of statutory homeless households requiring nightly paid accommodation has continued to rise and if this trend continues will result in a full year effect cost pressure of £1m.
- 5.3 Additional affordable housing will directly offset these budget pressures by providing alternative units which do not have associated costs to the Council. For example, on 1st April 2012 there were 73 households in two-bedroom nightly paid units, with an average net cost to the Council of £13.65 per night per household (over a year - £4,982.25). Any additional two bedroom affordable rented unit delivered using PiL funding could be used to re-house such a household and eliminate the associated cost.
- 5.4 The current uncommitted balance of Payment in Lieu funds held by the Council is £4.260m. This committee report seeks to allocate a sum of £896k from the S106 deposits which would leave an uncommitted balance of £3.364m as highlighted in 3.12.
- 5.5 A further £3.75m of Agreements have been negotiated, however these funds remain provisional until such time as the actual development on those sites begin.

6 LEGAL IMPLICATIONS

- 6.1 The Council’s Head of Procurement has confirmed that the tendering and evaluation processes set out above are in line with the Council’s Procurement requirements, and this has been confirmed in advice received from officers in the Council’s Legal services.

Non-Applicable Sections:	Personnel
Background Documents: (Access via Contact Officer)	Payment in Lieu Process and Strategy for the Allocation of Funds (ACS Portfolio Holder 26 July 2006)