

## NOTICE OF MEETING

# CABINET

**Monday, 3rd July, 2017, 6.30 pm - Civic Centre, High Road, Wood Green, N22 8LE**

**Members:** Councillors Claire Kober (Chair), Peray Ahmet, Jason Arthur, Eugene Ayisi, Ali Demirci, Joe Goldberg, Alan Strickland, Bernice Vanier, Elin Weston and Joseph Ejiofor

Quorum: 4

### 1. **FILMING AT MEETINGS**

Please note that this meeting may be filmed or recorded by the Council for live or subsequent broadcast via the Council's internet site or by anyone attending the meeting using any communication method. Although we ask members of the public recording, filming or reporting on the meeting not to include the public seating areas, members of the public attending the meeting should be aware that we cannot guarantee that they will not be filmed or recorded by others attending the meeting. Members of the public participating in the meeting (e.g. making deputations, asking questions, making oral protests) should be aware that they are likely to be filmed, recorded or reported on.

By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings.

The chair of the meeting has the discretion to terminate or suspend filming or recording, if in his or her opinion continuation of the filming, recording or reporting would disrupt or prejudice the proceedings, infringe the rights of any individual or may lead to the breach of a legal obligation by the Council.

### 2. **APOLOGIES**

To receive any apologies for absence.

### 3. **URGENT BUSINESS**

The Chair will consider the admission of any late items of Urgent Business. (Late items of Urgent Business will be considered under the agenda item where they appear. New items of Urgent Business will be dealt with under Item 14 below. New items of exempt business will be dealt with at Item 17 below).

#### 4. **DECLARATIONS OF INTEREST**

A Member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:

- (i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and
- (ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

A Member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 5-7 and Appendix A of the Members' Code of Conduct.

#### 5. **NOTICE OF INTENTION TO CONDUCT BUSINESS IN PRIVATE, ANY REPRESENTATIONS RECEIVED AND THE RESPONSE TO ANY SUCH REPRESENTATIONS**

On occasions part of the Cabinet meeting will be held in private and will not be open to the public if an item is being considered that is likely to lead to the disclosure of exempt or confidential information. In accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (the "Regulations"), members of the public can make representations about why that part of the meeting should be open to the public.

This agenda contains exempt items as set out at **Item [15]: Exclusion of the Press and Public**. No representations with regard to these have been received.

This is the formal 5 clear day notice under the Regulations to confirm that this Cabinet meeting will be partly held in private for the reasons set out in this Agenda.

#### 6. **MINUTES (PAGES 1 - 24)**

To confirm and sign the minutes of the meeting held on the 20<sup>th</sup> of June 2017 as a correct record.

#### 7. **DEPUTATIONS/PETITIONS/QUESTIONS**

To consider any requests received in accordance with Standing Orders.

**8. MATTERS REFERRED TO CABINET BY THE OVERVIEW AND SCRUTINY COMMITTEE**

Note from the Democratic and Scrutiny Services Manager

Cabinet to consider the Scrutiny Review of the HDV – Part 2, completed by the Housing and Regeneration Scrutiny Panel.

The Cabinet Member for Housing, Regeneration and Planning will provide the Cabinet response to the review recommendations.

**9. SCRUTINY REVIEW OF THE HDV[HARINGEY DEVELOPMENT VEHICLE] PART 2 (PAGES 25 - 102)**

The report sets out the proposed Cabinet response to the recommendations of the Overview and Scrutiny Committee on the Haringey Development Vehicle as proposed by Housing and Regeneration Scrutiny Panel.

**10. HARINGEY DEVELOPMENT VEHICLE - FINANCIAL CLOSE AND ESTABLISHMENT (PAGES 103 - 168)**

[Report of the Director for Housing and Growth. To be introduced by the Cabinet Member for Housing, Regeneration and Planning.]

Approval of the legal documentation to establish the joint venture Haringey Development Vehicle, the Vehicle Board and its first set of business plans.

**11. COMMUNITY BUILDING REVIEW: COMMUNITY ASSET TRANSFER POLICY (PAGES 169 - 206)**

[Report of the Assistant Director for Economic Growth . To be introduced by the Cabinet Member for Corporate Resources.]

Report seeking approval for a Community Asset Transfer Policy as was previously part of the recommendations of the Community Building Review cabinet decision in December 2012 and July 2015.

**12. ADJUSTMENT TO THE PLANNED ADMISSION NUMBER (PAN) OF THE BOROUGH'S COMMUNITY SECONDARY SCHOOLS (PAGES 207 - 218)**

[Report of the Director of Children's Services. To be introduced by the Cabinet Member for Children and Families.]

In November and December 2016 we carried out consultation on the adjustment of the PAN of the borough's community schools to allow for a) adjustment to class sizes of 30, and b) to increase capacity to meet an expected rising demand for year 7 places. This report sets out the results of the consultation and makes final recommendations on any adjustment to PANs.

**13. MINUTES OF OTHER BODIES (PAGES 219 - 230)**

To note the minutes of the following:

Cabinet Member Signing 20<sup>th</sup> June 2017

Leader's Signing 20<sup>th</sup> June 2017

**14. NEW ITEMS OF URGENT BUSINESS**

To consider any items admitted at Item 3 above.

**15. EXCLUSION OF THE PRESS AND PUBLIC**

Note from the Democratic Services &Scrutiny Manager

Item 16 and 17 allow for the consideration of exempt information in relation to items 10 & 3 respectively.

**TO RESOLVE**

That the press and public be excluded from the remainder of the meeting as the items below contain exempt information, as defined under paragraph, 3 and 5 , Part 1, schedule 12A of the Local Government Act 1972.

**16. HARINGEY DEVELOPMENT VEHICLE - FINANCIAL CLOSE AND ESTABLISHMENT (PAGES 231 - 236)**

To consider exempt information pertaining to item 10.

**17. NEW ITEMS OF EXEMPT URGENT BUSINESS**

To consider any items admitted at Item 3 above.

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## **MINUTES OF MEETING CABINET HELD ON Tuesday, 20th June, 2017, 6.30pm**

### **PRESENT:**

**Councillors: Claire Kober (Chair), Peray Ahmet, Eugene Ayisi, Ali Demirci, Joe Ejiofor, Joe Goldberg, Alan Strickland and Elin Weston**

**ALSO ATTENDING: Councillors: Carter, Newton, M Blake, Connor,**

### **1. FILMING AT MEETINGS**

The Leader referred to agenda item 1, as shown on the agenda in respect of filming at this meeting and Members noted this information.

### **2. APOLOGIES**

Apologies for absence were received from Councillor Arthur and Councillor Vanier.

### **3. URGENT BUSINESS**

The Chair agreed to accept a late item of business, which was an addendum report to be considered with exempt item 24, disposal of the PDC. A late request had been received from the Education Skills and Funding agency to amend the Heads of Terms, included in the exempt part of the agenda. The Cabinet Member for Corporate Resources would further outline, in the open part of the meeting, at item 17, the implications of this change to the recommendations.

### **4. DECLARATIONS OF INTEREST**

There were no declarations of interest put forward.

### **5. NOTICE OF INTENTION TO CONDUCT BUSINESS IN PRIVATE, ANY REPRESENTATIONS RECEIVED AND THE RESPONSE TO ANY SUCH REPRESENTATIONS**

There were no representations received.

### **6. MINUTES**

The minutes of the Cabinet Meeting held on the 7<sup>th</sup> of March 2017 and 11<sup>th</sup> of April 2017 were agreed as an accurate record of the meeting.

**7. MATTERS REFERRED TO CABINET BY THE OVERVIEW AND SCRUTINY COMMITTEE**

Cabinet considered the Scrutiny Reviews on Physical Activity for Older People and Child Friendly Haringey.

**8. CHILD FRIENDLY HARINGEY - SCRUTINY REVIEW AND CABINET RESPONSE**

Councillor Blake introduced this Scrutiny review on behalf of the Children and Young People's Scrutiny Panel Chair.

Councillor Blake began his introduction to the review, by underlining the importance of local government and partner systems listening to children. He emphasised the importance around implementing a child centred focus which was not through a 'top down' approach.

Councillor Blake referred to the Panel's recommendation of taking forward the long-term aim of UNICEF accreditation. The Panel were impressed with work of other boroughs that have become child friendly and they felt adopting a similar approach in Haringey with partners was important. They recognised that this was a long term process, but becoming a UNICEF partner would also provide external challenge.

The Panel listened to views of local children and the importance of tackling: safety concerns, mental health issues, homelessness, housing, education issues, and reducing households in poverty. It was important to consider these views in forthcoming children polices. Also in these changing times, to ensure that the child's voice was heard through the Council and partner systems, and in schools.

The Cabinet Member for Children and Families thanked the Chair of the Children and Young People's Panel and Panel members for their work on this review. There was a shared ambition to work towards improving the lives of children and young people in the borough and providing children the best start in life. Although, the Cabinet were not able to agree all of the recommendations in detail, they were in agreement with the spirit and the principles being put forward.

**RESOLVED**

To approve the Children's Services responses to the recommendations of the Overview and Scrutiny Committee as outlined in Appendix 2 of the report.

**Reasons for decision**

The evidence supporting the Panel's recommendations is outlined in the main body of the report (**Appendix 1**).

**Alternative options considered**

The evidence supporting the Panel's recommendations is outlined in the main body of the report (**Appendix 1**). The Cabinet could choose not to accept the recommended

response by officers to them, as outlined in Appendix 2. The potential implications of alternative courses of action are referred to within this, as appropriate.

Some of the recommendations presented in the Review would have financial and resourcing implications that have not fully been costed by the Panel and Cabinet is asked to consider this as part of their decision.

### **9. PHYSICAL ACTIVITY FOR OLDER PEOPLE SCRUTINY PROJECT**

Councillor Connor, Chair of the Adults and Health Scrutiny Panel, introduced the Scrutiny review which had considered tackling the issue of physical inactivity for older people with the added aim of reducing social isolation. The project had focused on making a difference and considering the practicalities, on the ground, for social care services when offering solutions.

Councillor Connor highlighted four key recommendations: physical activity as a priority in care homes, utilising Healthwatch powers to ensure physical activity was prioritised in the care system, considering the homes to hospital pathway to include physical activity as a part of the care being provided, taking forward home-grown ideas such as the 'year of walking' and promoting this to ensure it flourishes, and challenging leisure providers to think about their physical activity offer to vulnerable groups.

Councillor Connor was pleased that an activity service directory was being developed by the Bridge Renewal Trust which would be made available by July to help older people find activity services close to them.

Councillor Connor further thanked contributors who shared information about how older people can to access information on how to become active.

The Leader responded to the review, on behalf of the Cabinet, and welcomed the extensive piece of work undertaken by the Panel. The Leader was impressed with the work put into the review to compile a number of recommendations, a majority of which, were agreed to. Those recommendations that were not agreed were where funding needed to be secured and, on the basis that future funding was secured, would be taken forward.

### **RESOLVED**

1. To note the Overview and Scrutiny Report for the Physical Activity for Older People Project (attached as Appendix 1)
2. To agree the responses to the Overview and Scrutiny Report recommendations (attached as Appendix 2)

### **Reasons for decision**

The reasons for decision are detailed in section 4 of the Overview and Scrutiny Report for the Physical Activity for Older People (attached as Appendix 1).

The recommendations and responses (Appendix 2) address the concerns around the low rates of physical activity amongst older people detailed in the Panel's report.

It should be noted that not all the recommendations could be fully agreed. This is firstly due to the separate decision making processes that are required to achieve full agreement. These separate decision making processes could not be completed within the timeframe required for adoption. Likewise, funding is not in place for all recommendations. Fuller explanations around the recommendations and responses are detailed in Appendix 2.

The financial implications of these recommendations are currently neutral. Some realignment of people resources is required and accepted. Where actual funding is required, as detailed in the recommendations, this is subject to successfully drawing down external funding from bodies such as Sport England. Activities requiring support / delivery by Fusion and other partners have been agreed with them.

It can also be expected that longer term savings will be made if older people are healthier and more independent as a result from becoming more active.

### **Alternative options considered**

The Overview and Scrutiny Committee explored a number of views, good practice and evidence from many sources to enable the collation of the report and the subsequent recommendations.

The recommendations have been carefully considered in light of our strategic priorities and the resources available. Detailed responses have been drawn up to each recommendation and in most cases there is agreement to take these forward to help the Council and its partners improve physical activity rates amongst older people in the Borough. Where we do not fully agree that a recommendation represents the right course of action, we have detailed this in the response.

## **10. DEPUTATIONS/PETITIONS/QUESTIONS**

The Leader advised the meeting that two deputations had been received in relation to item 12 on the agenda, proposed relocation of Highgate Library service.

### **Deputation 1 -Save Highgate Library**

The first deputation was from the Save Highgate Library Group, and the Leader invited the group's deputation spokesperson, Natasha Sivanandan to put forward the group's representations.

The group was in opposition to the relocation of Highgate Library service and to the potential future disposal of the site. They referred to the gathering local concern about



the future of Highgate Library, reflected in a petition that had collected over 2000 signatures in a three-week period.

Ms Sivanandan spoke about the benefits of the Highgate Library for the community and attributed reduced attendance to the closure of the Library on Saturdays. It was further contended that adding a Library service to a multiple use arts centre would not work well and there was no obligation on Jacksons Lane to provide a Library on site.

The group questioned the public engagement being led by the architect as they felt this constituted a conflict of interest. They questioned why a Council led public consultation had not been held before an in principle decision was being put forward to Cabinet.

It was felt that taking an in principle decision to relocate the Library and dispose of the Highgate Library building was premature and would be difficult to deescalate once taken, and would also not allow consideration in future to opposing views.

The group called on the Cabinet to consider the unique aspects of Highgate Library, the important role of libraries in the community and asked Cabinet not to ignore the views of local people. They asked that no in principle decisions are taken before a public consultation exercise.

The Leader thanked the deputation party and responded to the representations. The Leader began by highlighting the cuts imposed on Councils over the last 7 years which had resulted in a 40% reduction in Council budgets and meant the Council had had to re-assess how it delivered services. The Council had always been committed to a universal public service offer and Libraries were at the core of this offer as a place to learn and socialise. The Cabinet report highlighted the care given to Library provision and the fact that no Libraries had closed in the past 7 years was evident of this commitment.

However, it was important for the Council to give regard to the falling numbers of Library visitors, across the country and the new and emerging priorities for local people, also ensuring that Libraries were fit for purpose in the 21<sup>st</sup> century.

The Leader further emphasised that the arrangement being sought with Jacksons Lane Arts Centre was co-location of the Library and not a merger. A feasibility study was being conducted to ensure that there was dedicated space for the Library that is accessible and allows quite study and social activities. The feasibility study was being conducted with an open mind, expected to complete by the end of July/ early August. An in principal decision was being sought to provide the Arts Council some certainty that co-location was being explored, to aid JLAC's capital funding bid.

The Leader was clear that if the feasibility study did not find the co location suitable, it would not be taken forward and the £1m capital funding found elsewhere by the Council to support Jackson's Lane Art Centre bid.

Deputation 2- Highgate Library Action Group

The Leader invited Sue Chinn to put forward the representations of the Highgate Library Action Group.

- The Group felt that the decisions being taken by Cabinet were premature before a feasibility study was completed and asked that the report be withdrawn.
- The Group commended the petition that was being collated by the Save the Highgate Library Group which had encouraged more users to the Library.
- The Group were unhappy with the report mentioning the disposal of the Library before a feasibility study had been completed. They felt that this undermined the process and was pre determination . This also resulted in a lack of future security for the Highgate Library service with these decisions on record .
- The Deputation contended that a co-location exercise would still need involve engagement with HLAG and Jacksons Lane Art Centre Group before an agreement was reached therefore an in principle decision should not be taken. HLAG further questioned what would happen to the Library if the Jacksons Lane site was sold.
- The Deputation also felt that the public did not trust the process, as although the Council were not disposing of the building, at the present time, the recommendations gave them the option of doing this at a later date.
- The Group further questioned the future of Highgate Library with the decisions being put forward and the precedence of these decisions for other small libraries that may have disability access issues.

The Leader thanked the deputation and recognised the Highgate Library Action Group had dedicated a lot of time energy along to supporting the Library over the years.

The Leader reiterated that, if the scheme to relocate the existing Highgate Library service to Jacksons Lane Arts Centre proves not to be feasible, the Council will not dispose of the existing Library site and will find the £1m capital match funding for Jackson's Lane elsewhere. If the feasibility study was positive, on the co-location, then the Library service would need to fully relocate before the existing site is disposed of.

**11. FINANCIAL OUTTURN 2016/17**

The Leader introduced the report which set out the Council's provisional budget outturn for the year ended 31 March 2017. The report further included the provisional

revenue and capital outturn for the General Fund showing the variances against budget together with the movements on reserves and the provisional capital and Housing Revenue Account (HRA) revenue outturn. It also provided explanations of significant under/overspendings.

The Chief Operating Officer agreed to provide Councillor Newton with written answers to the following questions:

- Page 170, appendix 2 scheme 316, explanation of the difficulties with the contractor that have led to the underspend in asset management and when they will be resolved?
- Page 172, appendix 4, virements, explanation on why the staffing budget has increased by £282,000?

### **RESOLVED**

1. To note the provisional revenue and capital outturn for 2016/17 as detailed in the report;
2. To approve revenue carry forward requests of £9.4m at Appendix 1;
3. To approve capital carry forwards requests totalling £81.6m at Appendix 2;
4. To approve the use of reserves as set out in Appendix 3;
5. To approve the quarter 4 capital budget virements at Appendix 4;
6. To approve the quarter 4 revenue budget virements at Appendix 4; and
7. To approve the revised MTFs capital programme profile set out in section 17 of this report.

### **Reasons for decision**

A strong financial management framework, including oversight by Members and senior management, is an essential part of delivering the Council's priorities.

### **Alternative Options considered**

The report of the Council's outturn and management of the financial resources is a key part of the role of the Chief Operating Officer (Section 151 Officer) and no other options have therefore been considered.

## **12. PROPOSED RELOCATION OF HIGHGATE LIBRARY SERVICE**

The Leader introduced the report which was seeking an in principle agreement from Members to the relocation of Highgate Library, to Jacksons Lane Arts Centre and was further seeking an in principle agreement to the disposal of the freehold of the existing Highgate Library site following a successful relocation of the library which would be through the Highgate Library Service Relocation Project ("the Scheme").

In response to Councillor Carter's questions the following information was noted:

- That an in principle decision was being sought on disposal before the feasibility study was completed, to provide comfort to the Arts Council, of the Council match funding the capital funding bid from Jackson's Lane Arts Centre.
- Assurance that the community in Highgate will continue to have a Library service fit for purpose in the 21 century.
- That there would be a future consultation on the relocation of the Library and Highgate library offer, subject to a positive feasibility study.
- Jacksons Lane Arts Centre can acquire their building lease as any other community organisation in the borough can do. A Community Asset Transfer Policy for community buildings which sets out terms for transfer to a private or community organisation would be due for decision at July Cabinet.

### **RESOLVED**

1. To agree in principle to the Scheme to relocate from the existing Highgate Library service (shown edged red on the plan at Appendix B) to Jacksons Lane Arts Centre (shown edged red on the plan at Appendix A) subject to a feasibility study to be approved at a later meeting of Cabinet, but in considering this recommendation, Members are referred to the legal comments of the Assistant Director of Corporate Governance at paragraph 8.2 in the attached report.
2. To agree that the Highgate Library site ( as shown edged red on the plan at Appendix B) be reviewed on the basis that it is surplus to requirements and that the freehold interest can be disposed of, subject to the existing Highgate Library service being able to relocate to the JLAC and to submit a further report to Cabinet with the proposed terms for the disposal of the site for approval;
3. To agree that costs associated with necessary condition works to JLAC and all costs associated with relocating the library service to JLAC (including fit out and fees) will be funded by the capital programme but to the maximum total amount of the capital receipt obtained from the disposal of the existing Highgate Library site (valuation letter for the disposal can be found at Appendix C, which is the Part B Exempt Report) and the new Library service will continue to be managed by the Council. The Council's contribution will include £1m of match funding, which will be alongside Arts Council funding and JLAC other funding sources. The total funding contribution from the Council will be part of a later report presented to Cabinet;
4. To agree to the inclusion of a new scheme (Jackson Lane Arts Centre Enhancement & Highgate Library Service Relocation project) within the approved capital programme.

### **Reasons for Decision**

The opportunity to relocate the existing library service in Highgate to JLAC has been presented to the Council and has the potential to significantly improve the current offer to the community by improving the library environment and technology available and also presenting a more coherent approach to the wider community offer in the area.

There is currently very limited funding for improvements to the existing Highgate Library service. The relocation of the library service will make capital available to support an enhanced library space on the JLAC site and complement the Arts Council funding which is being sought to support refurbishment and condition works at JLAC.

The JLAC is a Grade 2 listed former church building for which the Council has freehold ownership. The lease to the JLAC expired on the 11<sup>th</sup> August 2013 and they are holding over on the lease and have a right of renewal under the Landlord and Tenant Act 1954. The building is in a poor state of repair with a number of condition issues and a backlog of repairs and maintenance. The Arts Council funding therefore provides the opportunity for capital to be available to prioritise these condition works to be completed at the earliest opportunity.

A timely decision on this opportunity is required in order for the library service relocation to be included in a variation to the existing Arts Council funding bid.

#### **Alternative options considered**

Do nothing: If the Council chooses to not progress this opportunity it will only make minor improvements to the library services in Highgate. There will not be the same partnership opportunities with JLAC to provide a more collaborative approach to the arts and cultural offer within the local area. In addition to this without the match funding to the Arts Council bid, the JLAC building does not have an opportunity to become more accessible, efficient and sustainable, nor does it have the capacity for growing audiences and intensifying use. The lack of condition works could make some areas of the building increasingly unusable and therefore the Council as Landlord would need to address these concerns, but without adequate budget for medium or long term improvements.

### **13. AGREEMENT OF DISCRETIONARY BUSINESS RATES RELIEF - REVALUATION SUPPORT SCHEME**

The Cabinet Member for Economic Development, Social Inclusion and Sustainability introduced the report which set out the Council's allocation of Government's funding for discretionary business rate relief and sought agreement on the criteria for allocating this additional business rate relief to local businesses.

#### **RESOLVED**

To approve the Discretionary Business Rates Relief – Revaluation Support Policy, as appended to this report at Appendix B and described in more detail at section 6 of the attached report, which:

- Allocates discretionary business rates relief to rate payers where - The business rate increase is £500 or more (after all other applicable reliefs have been applied)
- Automatically applies a 42% discount on the monetary increase in business rates to affected businesses in 2017/18

With the following exclusions:

- a) Premises occupied by multinational and national chain companies
- b) Excepted hereditaments within the meaning of s 47 Local Government Finance Act 1988 and wider public sector premises
- c) Businesses not located in the borough for the duration of 2016/17 and/or have left since April 2017
- d) Premises with rateable values in excess of £200,000

### **Reasons for decision**

This policy proposal sits in the context of the Council's wider economic growth priorities for the borough. We believe the recommended policy best supports economic growth as it targets small, medium-sized and independent businesses over multinational, and national chain businesses. The policy proposal aligns with the Council's existing policies to encourage business resilience and growth in Haringey and support local job creation. For this reason, the policy proposal supports private businesses over public sector premises (a number of which are hereditaments already excluded in accordance with s 47 Local Government Finance Act 1988).

Haringey Council will be expected to use discretionary business rates relief to distribute the Government's extra funding for 'revaluation support' to those businesses that have seen increases in their bills. The rationale behind the proposal and options consulted on are detailed in section 6 of this report; and principles below:

- Target relief at businesses that are facing an increase in their business rate bills following the revaluation, encompassing different sizes, sectors and locations across the borough
- Distribute the extra relief in a way that is proportionate to how much a businesses' bill has increased, and in a fair and equal manner
- Apply to ratepayers occupying lower value properties
- Ensure that the extra relief is distributed to local businesses quickly and smoothly
- Be relatively simple for the Council to administer

We are also seeking to ensure that relief for businesses is distributed as quickly as possible and minimises administrative costs where possible. We believe this is fundamental, both to the Government's intentions of the scheme and to our priorities to support businesses that have seen large increases in their business rates since the 2017 revaluation.

## Alternative options considered

To apply the relief in a similar way to that recommended (in section 6) but to also include (rather than exclude) multinational and national chain businesses in the scheme. In expanding the number of eligible businesses the percentage discount relief allocated to the monetary business rate increase would fall. This equates to allocating a 25% discount on the monetary increase, costing £1.27 million in 2017/18. Note the recommended option enables a 42% reduction.

The consultation supported the proposal that excluding multinational and national chain businesses is a fairer way of distributing the relief to businesses that are less able to cope with the business rate increase. A majority of the respondents to the Council's consultation stated that preference should be given to small, medium-sized and independent businesses; and Haringey's presenting Authority, the Greater London Authority, stated that firms operating nationally or internationally may be benefitting from reductions in business rates in other parts of the country.<sup>1</sup>

To apply the relief as per the recommendation in section 6 but to include the wider public sector. We are minded not to extend the fund to wider public sector organisations. We believe this is in line with the aims of the fund, which are to support business and promote growth. Therefore, we believe it is best to support those small, medium-sized and independent businesses in Haringey facing difficulties.

To apply the relief as per the recommendation in section 6 but to include businesses not in the borough for duration of 2017/18 or have since left. It is considered that their inclusion with limited funds would not be prioritised; and would involve a disproportionate administrative burden to calculate a pro rata relief. Businesses that have occupied premises in Haringey for the full financial year are to be prioritised. Also, there are other reliefs that may be available to new businesses in the borough.

To apply the relief as per the recommendation in section 6 but to include premises with rateable values in excess of £200,000. We are minded not to provide the relief in this way. This in line with the DCLG consultation (March 2017) point where it states, "further assume, by and large, more support will be provided to":

- Ratepayers or localities that face the most significant increase in bills
- Ratepayers occupying lower value properties (i.e. properties with a rateable value below £200,000)

To apply the relief as per the recommendation in section 6 but to include businesses with increases below £500. We are minded not to apply the relief in this way. We consider the £500 threshold follows the spirit of the discretionary relief scheme by supporting those businesses hardest hit by rates increases. This rationale is also

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<sup>1</sup> **Extract from GLA feedback to the Haringey consultation:** The GLA supports this proposal in principle as it is our view that the relief scheme should be targeted at small and medium sized local businesses and independent traders in genuine hardship or experiencing the largest relative rises in bills. It is quite likely that firms operating nationally or internationally may be benefitting from reductions in business rates liabilities on their properties elsewhere in England and are better able to manage the impact of the 2017 revaluation on their finances.

informed by the large administrative cost if there was not a threshold; set against the comparatively low level of relief to businesses.

The following options were considered and discounted at the Cabinet member signing meeting on 4<sup>th</sup> April 2017 and therefore not consulted on:

Haringey Council could use its own funds to 'top-up' the Government's allocated funding for implementing this extra discretionary relief. This option has been discounted because it would result in a financial cost for the Council at a time when the organisation needs to find financial savings as part of its medium term financial strategy.

To target all of the Government's funding for discretionary relief at one particular high street, regeneration zone or economic sector. This option has been discounted because the 2017 revaluation will have significant impacts on all high streets and localities across the borough, and impact upon retail, workspace and industrial sectors. To concentrate all the Government's funding on just one locality or sector within the borough would be unfair.

To target all of the Government's funding for discretionary relief through a large scale 'hardship fund' which businesses would apply for. This option has been discounted because of the significant administrative challenges for assessing thousands of applications on a case by case basis. It would not be practical, could lead to lengthy delays in awarding relief and treat businesses inconsistently.

#### **14. LEASEHOLDER POLICY ON ESTATE RENEWAL SCHEMES (REVISED RE-HOUSING & PAYMENTS POLICY) FOR CONSULTATION**

The Cabinet Member for Housing, Regeneration and Planning introduced the report which was seeking approval to consult on a revised re – housing and payments policy which was previously agreed in July 2016 but required revision in light of progress with the HDV [Haringey Development Vehicle] and taking into account new DCLG and GLA guidance on estate renewal.

This revised policy aimed to provide:

- Borough wide commitments to residents, whose properties will be demolished as part of estate renewal and regeneration schemes, on how they will be re-housed and the terms they can expect. This is aimed at improving lives of residents, extending promises tenants and leaseholders beyond statutory requirements and improving life chances.
- Set a benchmark for the housing options that must be offered on a borough wide basis.
- Clarify the Council's commitments to tenants.
- Extend the options for leaseholders beyond the statutory minimums set out in the existing ERRPP.
- Extend the commitment to all Haringey Development Vehicle schemes and Housing Association schemes where the Council determines it has a strategic interest.



- Respond to the recent publication of guidance on estate regeneration by the Department of Communities and Local Government and the Mayor of London and the issues around the Secretary of State's decisions on the Aylesbury Estate.

In response to questions from Councillor Newton the following information was noted.

- There would be some estate renewal by the HDV and some by Housing Associations. Whilst the pledge is for equivalent terms, if a new resident moves to the estate and has a new landlord it may be on a different type of tenancy. However, Cllr Strickland stressed that Council Tenants moving into a HDV property will have lifetime security as they do in their current tenure.
- The leaseholder shared equity and shared ownership options put forward go beyond the Council's statutory obligations. There will be a value difference when moving to an improved regenerated area but it is clear that people will not be penalised and will get their share of the uplift when selling on their property.
- The Council cannot guarantee exactly same rent when moving from one place to another – which is also the same situation now. Currently the rent setting formula depends on your landlord and the size of the property. For example, if a resident was moving to a larger home in the regeneration to meet family space needs, then the rent may increase. The Head of Housing stressed that the rent being applied, on a replacement social rented home, will be a social rent based on the national rent setting formula, not an "Affordable rent" that can be up to 80% of the market rent.

## **RESOLVED**

1. To approve the draft Estate Renewal Rehousing and Payments Policy (Appendix 1) for consultation and in particular:
  - a) The application of this policy to all estate renewal schemes of 50 or more properties led by the Council
  - b) The extension of this policy to schemes led by the Haringey Development Vehicle, and Housing Association schemes where the Council determines that it has a strategic interest
  - c) The commitment to all residents that:
    - No tenant, leaseholder or freeholder will be financially worse off as a result of estate renewal
    - All tenants will have a guaranteed right of return to an appropriate sized home on an equivalent social tenancy at an equivalent rent
    - All tenants who wish to move away will be supported to do so
    - All resident leaseholders and freeholders will have a guaranteed right of return, and will have an offer of a home that is affordable to them, either on an open market, shared equity or shared ownership basis.

2. To note that the Policy allows for individual regeneration schemes to offer additional options above and beyond those in this Policy where these are viable and appropriate for the scheme.
3. To approve the setting aside of the Council's revision to its Allocations Policy in April 2017 which restricted of eligibility for social housing on the basis of incomes and savings, where the offer is part of an estate renewal scheme covered by this policy.
4. To approve the consultation plan set out at paragraphs 6.51-6.54.
5. To notes that, following 3.3 above, a further report will be submitted to the Cabinet which will include a summary of the consultation outcomes, a full Equalities Impact Assessment and a final updated Estate Renewal Rehousing and Payments Policy for approval, in line with the outline timetable set out at 6.54].

### **Reasons for Decision**

- The reason for recommendation 3.1 is to bring the existing Policy into line new national and regional guidance and to set out within it a clearer offer to all residents on renewal schemes in Haringey.
- The reason for recommendation 3.2 is to ensure that while the Policy sets an effective benchmark for all renewal schemes, it does not constrain individual schemes from making additional offers.
- The reason for recommendation 3.2 is to ensure that tenants and leaseholders are not restricted from moving or becoming tenants by recent changes to the Allocations scheme; in order to enable a full range of options to be offered.
- The reason for recommendation 3.4 is that while there was consultation on the existing ERRPP in 2015/16, the draft revised ERRPP sets out a much clearer and more extensive offer to residents.
- The reason for recommendation 3.5 is to ensure Cabinet have sufficient time to consider the outcomes of the consultation and the findings of the EqIA before formally adopting the policy.

### **Alternative Options considered**

To retain the existing ERRPP with no change. This was rejected because the current ERRPP is, in effect, no more than a statement of the statutory minimums to which tenants and leaseholders are entitled. It sets out a general aim to achieve the outcomes set out in the draft revised ERRPP, but makes no commitment to these. It leaves any commitments and any additional offers over and above the statutory minimum to be determined on a scheme by scheme basis. This is a legally defensible position but is not one that promotes confidence among residents and as such does little to garner resident support for proposed these estate renewal schemes.

To include all commitments being discussed in some current schemes as the Borough baseline. This was rejected because there are some schemes where the financial viability and the detail of the scheme itself may allow it to make offers over and above

those set out in the draft revised ERRPP, such as gifted equity shares or enhanced compensation payments. However, setting these as the borough baseline may well render some proposed regeneration schemes unviable, or at a minimum reduce the finding available for the scheme as a whole. As such, this would not be in the wider interests of all residents in the regeneration area.

To apply this new Policy solely to Council renewal schemes. This was rejected because it would exclude the HDV and schemes where the landlord is a Housing Association (e.g. Wood Green) from the Policy. As the HDV will play a major role in future estate renewal in Haringey it is essential residents have confidence that the commitments in the Policy will be delivered by the HDV. Similarly, while the Council is not the landlord in Wood Green it has a strategic interest in ensuring this renewal scheme is a success and thus ensuring residents have confidence that they will benefit from the scheme.

**15. ADOPTION OF CONSERVATION AREA APPRAISAL AND MANAGEMENT PLANS FOR NORTH TOTTENHAM, SCOTLAND GREEN, BRUCE GROVE, TOTTENHAM GREEN, SEVEN SISTERS/PAGE GREEN AND SOUTH TOTTENHAM**

The Cabinet Member for Housing, Regeneration and Planning introduced the report which sought Cabinet's approval for the adoption of six Conservation Area appraisal and management plan documents (attached at Appendices 4-9) that make up the Tottenham High Road Historic Corridor - North Tottenham, Scotland Green, Bruce Grove, Tottenham Green, Seven Sisters/Page Green and South Tottenham, following completion of public consultation.

In response to questions from Councillor Ejiofor, the following information was noted:

- Conservation Area Appraisals and Management Plans will be used by the Council to inform decisions about how best to manage these areas, including enforcement action and as a basis for determining the acceptability of development proposals. It was hoped that the appraisals and management plans will be of assistance to property owners in the maintenance and management of their own buildings.
- In relation to 7 Bruce Grove –The Planning Service were working with the owner and responses to the planning orders were improving. The Assistant Director for Planning explained that having a more up to date Conservation Area Appraisals and Management Plans will better enable the Council to protect buildings where needed, but it should be noted that some buildings are owned by community organisations who may not have a lot of funding to take improvements forward. However, by having a better framework in place will help escalate improvements.

## **RESOLVED**

1. To note the comments received to the consultation, and how these have been taken in to account in finalising the draft documents, highlighted in paragraph - 6.7-6.11 and set out in detail in appendices 1 and 2.
2. To approve the adoption and publication of the finalised Conservation Area Appraisal and Management Plans as attached at Appendices 4-9.
3. To authorise the various changes to Conservation Area boundaries detailed in Appendix 3, including the removal of the Conservation Area designation from South Tottenham.

### **Reasons for decision**

The Council has a statutory duty to ensure that conservation areas are preserved or enhanced and publish policies for the implementation of the same.

The current appraisals for the Tottenham High Road conservation areas have not been updated since 2009. Up-to-date appraisals and management plans will provide a sound basis for development management decisions which are defensible on appeal. The documents will also serve as a useful guide for the Council as well as the property owners and those putting forward heritage projects and development proposals as to how best to preserve or enhance the area's character.

The Conservation Areas fall within the area covered by the emerging Tottenham Area Action Plan, which promotes development and change along certain parts of the High Road. It is therefore important that the Council adopt these documents in order to support the Council's local plan policies and ensure that, where development and change is proposed, this takes into account the significance of the area and opportunities to preserve or enhance its historic character.

The appraisals include recommendations for revisions to the Conservation Area boundaries as per the statutory duty under Section 69 of Listed Buildings and Conservation Areas Act 1990). The Council must ensure that designated conservation areas are of sufficient special architectural or historic interest to warrant designation, in line with the National Planning Policy Framework (paragraph 127) and Historic England guidelines.

### **Alternative options considered**

The existing conservation area appraisal for the Tottenham High Road Historic Corridor was updated in 2009. However, continuing to use this document is not considered advisable. The area has undergone significant change since the document was written and it is therefore out of date. The emerging Tottenham Area Action Plan

(Policy AAP5: Conservation and Heritage) indicates the need for review of such documents.

The appraisals include recommendations for alterations to the boundaries of the conservation areas. The option of leaving the boundaries as they currently are being considered but this course is not recommended. Some areas have been altered to such an extent that they no longer warrant statutory designation. The National Planning Policy Framework (Paragraph 127) states that “When considering the designation of conservation areas, local planning authorities should ensure that the area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest”. In cases where there is no discernible special character, the designation is unwarranted.

**16. ADOPTION OF ALTERATIONS TO THE STRATEGIC POLICIES (2013), SITE ALLOCATIONS DPD, DEVELOPMENT MANAGEMENT DPD, AND TOTTENHAM AREA ACTION PLAN DPD**

The Cabinet Member for Housing, Regeneration and Planning introduced the report which set out the outcome of the independent Examination in Public of the above four Local Plans and advised that these be recommended to full Council in July for adoption as part of the local development plan for Haringey.

In response to a question from Councillor Newton on the protection of Tottenham High Road historic heritage, it was noted that the previous six Conservation Area Appraisals and Management Plans, that had just been agreed, reflected the priority given to strengthening planning policy for Tottenham High Road. Cllr Strickland also referred to the Tottenham Townscape Heritage Initiative which was a jointly funded by the Council and Heritage Lottery fund to improve shop fronts on the Tottenham High Road. Therefore, the Cabinet Member was confident that both the policy and investment actions being taken, supported improvements, whilst preserving the historic heritage of the High Road.

**RESOLVED**

1. To note the outcome of the independent Examination in Public of the Alterations to the Strategic Policies 2013, the Site Allocations DPD, the Development Management DPD, and the Tottenham AAP, as set out in Section 8 of the attached report and in the Inspector’s Report (attached at Appendix A);

2. To recommend that Full Council adopt the Alterations to the Strategic Policies 2013, the Site Allocations DPD, the Development Management DPD, and the Tottenham Area Action Plan with the changes recommended by the Planning Inspector as set out in schedules of modifications to the Inspector's report (attached at Appendices B - E).

### **Reasons for Decision**

To progress the local development plans to adoption in accordance with the current Local Development Scheme, to ensure that an up-to-date Local Plan for the Borough is in place and to comply with regulatory requirements.

### **Alternative Options considered**

It is recommended that the Council now proceed to adopt the four Local Plans incorporating the modifications as agreed and as appended to the Inspector's Report. The modifications have been made in light of the discussions of the main issues between the Council's officers and other participants at the Examination in Public (EiP) hearing sessions and the Inspector's comments throughout the process. They have been the subject of public consultation and, in making the modifications, the Planning Inspector has taken into account the responses received.

The only other option available for consideration at this stage is withdrawal of one or more of the Local Plans. This option would be at odds with the Council's adopted Local Development Scheme and it would leave Haringey without a substantial part of an up-to-date Development Plan. Given the National Planning Policy Framework (NPPF) presumption in favour of sustainable development that applies where boroughs do not have an up to date development plan, a decision not to adopt would leave the Council with little local policy control over the determination of applications, relying on the extant Strategic Policies and those UDP policies which are in conformity with the NPPF. It would also be a significant barrier to implementing the Council's strategic priorities for regeneration and growth, and would obstruct securing the infrastructure necessary to meet the demands of growth in the Borough. However, there are no grounds currently that would warrant the Council's consideration of this option.

## **17. DISPOSAL OF THE PROFESSIONAL DEVELOPMENT CENTRE**

The Cabinet Member for Corporate Resources introduced the report which set out the terms of the disposal of the PDC on a 125 long lease for the purpose of refurbishing the building and site to provide 'The Grove' a special school for children with autism spectrum disorders.

The Cabinet Member for Corporate Resources put forward an amendment to point 4 of the heads of terms, to note that the lease be granted to the Department for Communities and Local Government (DCLG) instead of the Heartlands Community Trust. This was due to the levels of funding that will be required to refurbish the building from the ESFA with DCLG requiring greater control and responsibility through leasing the site from the Council. The refurbished building would then be sublet to the Heartlands Community Trust who will occupy and run the school.

In response to a question, the change of name on the lease had no impact on the Heads of Terms agreed with the ESFA and the arrangements with the Heartlands Community Trust to set up the school. The change supports the arrangements in place to take forward the refurbishment of the building and set up the school.

## **RESOLVED**

1. To agree that the PDC is declared surplus to requirement and vacated and;
2. That the PDC to be disposed of to the DCLG for the purpose of setting up special school for children with autism spectrum disorder. That the disposal be by way of a long leasehold interest for a term of 125 years at a premium set out in Part B of this report and based on the Heads of Terms set out in Part B of this report.

### **Reasons for decision**

Currently the Professional Development Centre building is part vacant and not fully utilised and does not offer appropriate accommodation in line with the Council's future accommodation strategy.

The disposal will provide a new school, 'The Grove' Heartlands Community Trust which will provide up to 104 spaces for children with autism spectrum disorders in the Borough. The current occupiers will be relocated within existing Council buildings or alternative accommodation.

### **Alternative options considered**

The alternative is to not dispose of the site. However, this will mean that the Borough will continue to send children with autism spectrum disorders out of Borough or to a more expensive provider, with a resulting continued unsustainable pressure on the Council's high needs block budget, which funds education services for children with special educational needs and disabilities.

Another alternative is to lease part of the site to the EFA. This has been explored by the EFA on the basis of refurbishment or a wholesale redevelopment. The refurbishment of part would not provide sufficient space for the school and although the building is not listed demolishing the building would mean the loss of a building with significant architectural merit.

## **18. ESTABLISHMENT OF THE CORPORATE PARENTING COMMITTEE AND APPOINTMENT OF CABINET MEMBERS TO COMMITTEES AND PARTNERSHIPS 2017/18& CONFIRMATION OF THEIR TERMS OF REFERENCE.**

The Leader introduced this annual report, recommending the establishment of the Corporate Parenting Advisory Committee. It was also recommending appointment of

Cabinet Members to the LHC Joint Committee, Shared ICT and Digital Joint Committee and the Community Safety Partnership.

**RESOLVED**

1. To establish the Corporate Parenting Advisory Committee, and that the terms of reference for this sub committee, attached at appendix A be noted;
2. To note the terms of reference for the LHC, Shared ICT and Digital Service Joint Committee and Community Safety Partnership attached at appendix B, C, and D.
3. To appoint the Members, indicated below, to serve on the Corporate Parenting Advisory Committee, and the LHC Joint Committee, Shared ICT and Digital Service Joint Committee and Community Safety Partnership

Corporate Parenting Advisory Committee

Chaired by the Cabinet Member for Children and Families –  
Councillor Elin Weston  
Cllr Anne Stennett,  
Cllr Pat Berryman,  
Cllr Shelia Peacock  
Cllr Felicia Opoku  
Cllr Bob Hare  
Cllr Liz Morris

LHC

Cabinet Member for Housing Regeneration, and Planning  
X1 Labour position - Cllr Bevan

Shared ICT and Digital Service Joint Committee.

Cabinet Member for Corporate Resources  
Cabinet Member for Finance and Health  
Cabinet Member for Adult Social Care and Culture [Substitute Member]

Community Safety Partnership

Cabinet Member for Communities  
Cabinet Member for Children and Families  
Opposition Councillor Cllr Newton

**Reasons for decision**

To keep an overview of the Councillors statutory role as a corporate parent to children in care and young people leaving care.



The Council currently uses LHC frameworks as an efficient way of procuring technically complex products and services for its building refurbishment and maintenance programmes. By becoming a Constituent Member of LHC the Council will benefit from:

- Influencing the future direction of LHC including the identification of new products and services which could be beneficial to the Council.
- Increased learning of procurement practices and technical know-how for use by the Council's officers in carrying out its own procurement programmes.
- Share of the LHC annual surplus.

Participation and membership of the Shared ICT and Digital Service Joint Committee will provide the Council with democratic oversight of the strategic delivery of the shared service.

Appointments from Cabinet are required to the Community Safety Partnership to reflect statutory duties and enable high level, accountable, strategic, oversight of issues relating community safety.

### **Alternative options considered**

The Constitution advises that all Advisory or Consultative Committees will continue in operation only until the first meeting of the Cabinet, in the next municipal year following their establishment, when they must be expressly renewed or they cease to exist. Therefore, the alternative option would be for the Corporate Parenting Advisory Committee to cease and this would mean that there is not a scheduled opportunity for members and officers to meet and discuss the wellbeing of children in care and to ensure that the Council is meeting its corporate parenting obligations. This Committee is different to the Children and Young People's Scrutiny Panel as it concentrates on Looked after Children and care leavers and reports directly to the Cabinet.

Haringey has been a member of the LHC, formerly the London Housing Consortium, for forty years. In February 2012 the Haringey Cabinet approved a recommendation to remain in the LHC Joint Committee and leaving this consortium would affect accessing some shared procurement expertise and support on compliance.

Not appointing Cabinet Members to the Shared ICT and Digital Service Joint was the only other option but this would not allow the Council to provide democratic oversight of key decisions affecting the joint service.

The Community Safety Partnership is a statutory partnership body and therefore not appointing Cabinet Members to this body is not an option.

## **19. SIGNIFICANT AND DELEGATED ACTIONS**

### **RESOLVED**

To note the delegated and significant actions undertaken by directors in April and May.

**20. MINUTES OF OTHER BODIES**

**RESOLVED**

To note the minutes of the following:

- Cabinet Member signing on the 3<sup>rd</sup> of April 2017
- Cabinet Member Signing on the 4<sup>th</sup> April 2017
- Leader's Signing on the 4<sup>th</sup> of April 2017
- Cabinet Member signing on the 4<sup>th</sup> of April 2017
- Cabinet Member Signing on 12<sup>th</sup> April 2017
- Cabinet Member Signing 9<sup>th</sup> May 2017
- Leader's Signing 16<sup>th</sup> May 2017
- Corporate Parenting Advisory Committee 18 April 2017

**21. NEW ITEMS OF URGENT BUSINESS**

None

**22. EXCLUSION OF THE PRESS AND PUBLIC**

**RESOLVED:**

That the press and public be excluded from the remainder of the meeting as the items below contain exempt information, as defined under paragraph, 3 &5, Part 1, schedule 12A of the Local Government Act 1972.

**23. PROPOSED RELOCATION OF HIGHGATE LIBRARY SERVICE**

As per item 263

**24. PDC**

As per item 267.

**25. NEW ITEMS OF EXEMPT URGENT BUSINESS**

None

CHAIR: Councillor Claire Kober

Signed by Chair .....

Date .....



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**Report for:** Cabinet 3 July 2017

**Item number:** 9

**Title:** **Haringey Development Vehicle  
Report by the Housing and Regeneration Scrutiny Panel and  
response to recommendations**

**Report  
authorised by :** Lyn Garner, Strategic Director of Regeneration, Planning &  
Development

**Lead Officer:** Dan Hawthorn, Director of Housing & Growth

**Ward(s) affected:** All

**Report for Key/ Key  
Non Key Decision:**

**1. Describe the issue under consideration**

1.1 The report sets out the proposed Cabinet response to the recommendations of the Overview and Scrutiny Committee on the Haringey Development Vehicle as proposed by Housing and Regeneration Scrutiny Panel, attached as Appendix 1 to this report.

**2. Cabinet Member Introduction (Cllr Strickland, Cabinet Member for  
Housing, Regeneration and Planning)**

2.1 The proposal to establish the Haringey Development Vehicle is central to our plans to deliver new homes and jobs for the people of Haringey, and to the future stability of the Council. I welcome the Panel's consideration of a broad range of issues arising from the decision to establish the HDV and the work it will do. I'm pleased to agree – or partially agree – a great many of these recommendations.

2.2 However, I am absolutely clear that there is no justification for delaying the Council's decision-making in respect of the vehicle. I am fully satisfied that the detailed work done so far gives us a sound and compelling basis on which to proceed, and cannot accept any further delay in this work to improve the prosperity and wellbeing of Haringey residents.

**3. Recommendations**

Members are asked:

3.1 To consider the Overview and Scrutiny Report on the Haringey Development Vehicle ('HDV') (attached as Appendix 1).

- 3.2 To agree the responses to the Overview and Scrutiny report recommendations (attached as Appendix 2).

**4. Reasons for decision**

- 4.1 On 13 June 2017, Overview and Scrutiny Committee approved the report of the Housing and Regeneration Scrutiny Panel (HRSP) on the proposed HDV.
- 4.2 In developing its report, the HRSP held a number of evidence gathering sessions and took evidence from Council officers as well as a range of experts and local stakeholders. The HRSP then made a number of recommendations, which were adopted by Overview and Scrutiny Committee on 13 June 2017.

**5. Alternative options considered**

- 5.1 None.

**6. Background information**

- 6.1 On 10 November 2015, Cabinet approved the business case for establishing the 'Haringey Development Vehicle' (HDV), a proposed joint venture between the Council and a private partner to drive the development of housing and employment space, and wider regeneration, on Council-owned land. In January 2016, the Council commenced a Competitive Dialogue procurement process to select its private partner. The Council then confirmed the selection of Lendlease as its preferred bidder on 7 March 2017 (following a call in considered by the Overview & Scrutiny Committee). Since then the suite of key legal agreements necessary for the establishment of the HDV, together with the business plans that will form the basis of its initial work programme, have been finalised. These documents will be presented to Cabinet for approval on 3 July 2017.
- 6.2 The legal agreements and business plans will determine, among other things, the commercial and governance arrangements for the HDV and its approach on a range of policy and delivery issues, both generally and in relation to specific sites and properties. These have been the subject of negotiation with bidders during the Competitive Dialogue process, and finalised with Lendlease following its selection as preferred bidder. At the same time, the Council will need to make its own internal arrangements for fulfilling its responsibilities as a member of HDV and managing its relationship with the HDV.
- 6.3 Under its agreed terms of reference, the HRSP can assist the Council in developing or updating local policies to improve local service provision. In this context, the HRSP produced this report on the the proposed Haringey Development Vehicle to align with the timing of the process described above.

**7. Contribution to strategic outcomes**

- 7.1 The recommendations and responses made will contribute to the establishment and operation of the HDV, which will contribute to achieving the strategic outcomes set out across the full scope of the Corporate Plan 'Building a Stronger Haringey together', and in particular Priorities 4 (Growth) and 5

(Housing), as well as to the more detailed expression of these ambitions in the Economic Development and Growth Strategy and Housing Strategy.

**8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)**

**Finance**

8.1 Where there are financial implications of implementing the recommendations within this report, it is important that the recommendations are fully costed and a funding source identified before they can be agreed. If the recommendation requires funding beyond existing budgets or available external funding, then Cabinet will need to agree the additional funding before any proposed action can proceed.

8.2 Specific comments in relation to individual recommendations, from the Deputy Chief Finance Officer, are as follows:

- Recommendation 3 – the external auditor has been working with the Council to address identified issues. Should additional work be required this will require identification of an appropriate funding source.
- Recommendation 7a and 7b – these would be prepared by the HDV Finance function and not the Council's Finance Officers.
- Recommendation 9 – appointment of a professional advisor will require the identification of an appropriate funding source.
- Recommendation 10 – will require the identification of an appropriate funding source.
- Recommendation 15 – appointment of an external advisor will require the identification of an appropriate funding source. The impact on the HRA will be considered in the financial comments within the July Cabinet report.
- Recommendation 19 – the establishment of a wholly council-owned housing company could incur significant legal and professional fees in set up costs although consideration could be given to using the Council's ALMO for this purpose.
- Recommendation 23 – the financial impact on Homes for Haringey will be considered in the financial comments within the July Cabinet report.
- Recommendation 24 – the reimbursement of revenue and capital costs incurred by the Council and HFH in preparing any site for transfer will need to be considered as part of the Members agreement and Strategic Finance Business Plan. This will be addressed as part of the July Cabinet report.
- Recommendation 26 – the use of right-to-buy receipts to provide grant subsidy within the Strategic Business Plan would need to be further considered and legal advice obtained.

- Recommendation 29 – the appointment of an independent advisor, to assist Overview and Scrutiny with its work, will require the identification of an appropriate funding source (unless this is done on a voluntary basis).

### **Procurement**

- 8.3 Strategic Procurement has been closely involved throughout the procurement process in selecting a private sector partner with which to form the proposed Haringey Development Vehicle (HDV).
- 8.4 Strategic Procurement notes the comments contained in this report; however the procurement process has already defined the core terms of the HDV Agreement. The procurement process only makes provision for clarification of terms and minor amendments, the regulations do not allow for any material change to the terms of the Agreement or the commercial structure at this stage of the process.
- 8.5 Strategic Procurement supports the recommendations of this report and confirms there are no procurement related matters that would prevent the Council completing the procurement process in awarding the contract to the preferred bidder.

### **Legal**

- 8.6 The HDV will be a Limited Liability Partnership created pursuant to the Partnership Act 2000. The governance arrangements relating to the HDV will be set out in the Members Agreement that will be presented to Cabinet on 3 July. The Members Agreement is the governing instrument and deals with the relationship between the members, it sets out the decision making process including (inter alia) the composition of the HDV Board, decisions that can be taken by the HDV Board and those that can be taken by the Members, and how conflicts would be resolved. That document (together with the other suite of key documents) has been the subject of dialogue with each bidder during the Competitive Dialogue process. Dialogue is now closed and final tender submissions were submitted by each of the bidders. The Council has selected Lendlease as the preferred bidder and since then work has been on going to finalised the various legal agreements (including the Members Agreement) that would form the suite of documents needed to set up the proposed HDV.
- 8.7 Under Regulation 30 of the Public Contracts Regulations 2015 any further negotiations between the Council and the preferred bidder must not have the effect of materially modifying the essential aspects of the procurement (including the needs and requirements set out in the contract notice or the descriptive document) and does not risk distorting competition or causing discrimination. So any proposal or recommendation that would have such an effect on the Members Agreement or any other legal agreements relating to the HDV would be in breach of these Regulations and must therefore be avoided.
- 8.8 The responses set out in Appendix 2 do not on the face of it contain any proposal that would constitute a breach of Regulation 30.

### **Equality**



- 8.9 All business plans – the mechanisms for committing sites to the HDV – are (and will continue to be) accompanied by equality impact assessments (EqIAs) which inform the content of the plans, and which Cabinet will consider alongside the business plans themselves as part of the decision on whether to approve them. This is to ensure that Cabinet members discharge their Public Sector Equality Duty (PSED). The business plans' EqIAs contain actions to commit to undertaking further EqIAs for specific elements of the business plans.
- 8.10 However, it is not accepted that this should be undertaken by an external advisor. It is good practice for the individual or team to develop the EqIA alongside the development of a proposal as this allows equality issues to be embedded in proposals. It also allows the Council to document how it has shown due regard to the PSED throughout the development of the proposal as the duty does not just apply to decision makers but also people developing and implementing decisions. An external advisor would be detached from the process.
- 8.11 Bespoke training and additional support has been provided to officers to help them develop EqIAs .

## **9. Use of Appendices**

Appendix 1: Haringey Development Vehicle – Scrutiny Report (including appendices)

Appendix 2: Draft response to recommendations

## **10. Local Government (Access to Information) Act 1985**

- 10.1 Draft minutes of the Overview & Scrutiny Committee meeting held on 13 June 2017 are not available at the time of this report's publication, but will be published at [www.haringey.gov.uk](http://www.haringey.gov.uk) in due course.
- 10.2 A large amount of information about the Haringey Development Vehicle proposals – including answers to a number of frequently asked questions, and links to previous Cabinet decisions – is available on a dedicated page of the Council website at [www.haringey.gov.uk/hdv](http://www.haringey.gov.uk/hdv).

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**Report for:** Overview and Scrutiny Committee, 13<sup>th</sup> June 2017  
**Title:** Haringey Development Vehicle – Scrutiny Report  
**Report authorised by:** Cllr Emine Ibrahim  
Chair, Housing and Regeneration Scrutiny Panel  
**Lead Officer:** Christian Scade, Principal Scrutiny Officer, Tel: 020 8489 2933  
**Ward(s) affected:** N/A

**Report for Key/  
Non Key Decision:** N/A

## 1. Describe the issue under consideration

- 1.1 On 17<sup>th</sup> January 2017, the Overview and Scrutiny Committee (OSC) approved the interim report of the Housing and Regeneration Scrutiny Panel on the governance arrangements for the proposed Haringey Development Vehicle (HDV), a joint venture between the Council and a private partner to support local housing and regeneration ambitions.
- 1.2 In developing its interim report, the Panel held a number of evidence gathering sessions and received evidence from local stakeholders including council officers, community group representatives, other local authorities, Investment Partners in other joint ventures and expert independent opinion via the Chartered Institute of Housing. The Panel made a number of recommendations, including that further scrutiny of the proposals for the establishment of the proposed HDV be undertaken before summer 2017.
- 1.3 The interim recommendations were considered by Cabinet on 14<sup>th</sup> February 2017<sup>1</sup>. At the same meeting, Cabinet agreed to proceed to the Preferred Bidder Stage with Lendlease as its preferred bidder, a decision that was “Called-In” and studied by OSC on 2<sup>nd</sup> March 2017. OSC referred this decision back to Cabinet, with recommendations. On 7<sup>th</sup> March 2017 Cabinet re-considered and confirmed its original decision, subject to further commitments in response to the Call-In.
- 1.4 Since then work has been undertaken to further refine and negotiate the HDV. The final agreement will be put to Cabinet for approval in summer 2017. With this in mind, the Panel has been undertaking further scrutiny of the proposed HDV. This report outlines the findings, conclusions and recommendations the Panel has made.

## 2. Recommendations

- (a) That the Overview and Scrutiny Committee considers the findings of the Housing and Regeneration Scrutiny Panel and agrees the recommendations attached at **Table 1**.
- (b) That, subject to any comments or amendments the Committee wish to make, this report be submitted to Cabinet, on 3<sup>rd</sup> July 2017 for response.

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<sup>1</sup>[The Cabinet response to the interim recommendations \(Cabinet, 14<sup>th</sup> February 2017\) can be viewed here.](#)

<b>Panel Membership</b>	Cllr Emine Ibrahim (Chair)
	Cllr John Bevan
	Cllr Zena Brabazon
	Cllr Gail Engert
	Cllr Tim Gallagher
	Cllr Stuart McNamara
	Cllr Martin Newton

### 3. Table 1 – Recommendations of the Panel

No.	Recommendation
1a	<p><b>No decision on the HDV should be taken</b> until a fully updated business case is prepared and evaluated. For the avoidance of doubt, before Cabinet is asked to approve the legal documentation to establish the HDV, and its first set of business plans, there must be a meaningful update to the Business Case, originally published in 2015, to ensure it is still fit for purpose. The updated business case should:</p> <ul style="list-style-type: none"> <li>- Review the economic modelling used in the initial Business Case to reflect recent circumstances, which have increased economic uncertainty, including: Brexit, Crossrail 2, numerous changes in housing and planning law which were enacted in the <a href="#">Housing and Planning Act 2016</a>, the recently released <a href="#">Housing White Paper</a> (“Fixing our broken housing market), a new good practice guide to estate regeneration published by the Mayor of London, and the results of the “snap” General Election.</li> <li>- Be made public and transparent with sufficient time for meaningful scrutiny before a decision is taken.</li> </ul>
1b	If time allows, this should be undertaken by an independent external advisor commissioned for this purpose.
2	That the full risk register, and comprehensive risk assessments, for the HDV be made available to the Housing and Regeneration Scrutiny Panel and made public <b>prior to any decision being taken</b> . This should work backwards from all the things that can go wrong, setting out where risk arises and the remedy for managing risk i.e. accept it, control it, transfer it, or avoid it.
3	<p><b>No decision should be taken</b> to establish the joint venture until:</p> <ul style="list-style-type: none"> <li>- The Council’s External Auditor has reviewed concerns, including those referred to them, relating to the HDV. Findings should be published (with actions to mitigate any risks set out and followed up) and considered by Corporate Committee.</li> <li>- Corporate Committee has considered the outcomes of the initial work that has been undertaken by internal audit concerning the HDV.</li> </ul>
4	Any final approval to establish the HDV by Cabinet must be accompanied by a robust set of measures to audit the work of the joint venture on a continuous basis. This must include a detailed plan of how the 30 days per year of the internal auditor

No.	Recommendation
	looking at the HDV will be spent, to be addressed by Corporate Committee.
5	To address concerns raised by expert witnesses, and by Panel members themselves, about whether the 50:50 arrangements constitutes an “equal partnership”, and therefore whether the council’s objectives (policy framework/corporate plan) are achievable, the Head of Paid Service must ensure there is sufficient officer capacity to support the Council with its engagement with the HDV. This must be guaranteed, and outlined, before Cabinet is asked to establish the HDV.
6	To ensure clarity, details of the due diligence process for establishing the HDV, and its first set of business plans, should be included in the HDV Cabinet report. This should include clear, comprehensive information on the work that has been carried out, by whom, and steps that have been taken as a result.
7a	Information on what the Balance Sheet will look like on Day One, including the short- and long-term assets and liabilities, should be included in the HDV Cabinet report. To ensure clarity, it is recommended that a model balance sheet is included to illustrate what the basic HDV financial structure will look like.
7b	<p>In addition:</p> <ul style="list-style-type: none"> <li>i. The updated HDV Balance Sheet, including any major changes to assets or liabilities, should be reported quarterly to the Housing and Regeneration Scrutiny Panel.</li> <li>ii. Management Accounts for the HDV should be reported quarterly to the Housing and Regeneration Scrutiny Panel.</li> </ul>
8	The legal framework for the HDV must include binding guarantees in relation to dispute resolution mechanisms and, in order to reduce financial risk, the legal framework for the HDV must allow the Council (giving six months notice) to withdraw from the HDV every five years and without any compensation to be paid to Lendlease or to its subsidiaries or staff, and with the whole property portfolio being transferred back to Haringey.
9	A professional independent advisor should be appointed to support the Council on the HDV Board to ensure Haringey board members have a clear understanding of the matters put before them and the implications of any decision made by the board, to allow them to act in the best interest of the Council and local residents. This advisor would not be voting but would have full access to information and be able to input and participate at board meetings.
10	Cabinet should invite and establish a Gateway Review (using OGC methodology) to deliver a “peer review” in which independent practitioners from outside the project use their experience and expertise to examine the progress and likelihood of successful delivery of the project. Ideally this should happen before a decision is taken to establish the HDV.
11	To ensure probity, and to protect the council’s commercial interests, the legal agreement to establish the HDV should contain a commitment from Lendlease not to recruit any Haringey Council employee/Councillor/consultant who has worked for Haringey on the HDV over the past 3 years (2015-2017). Furthermore, neither should Lendlease provide such individuals with any payment or service or benefits for a period of five years from the date of establishing the joint venture. This should include

No.	Recommendation
	any company that is a subsidiary company of Lendlease.
12	The overarching agreement with Lendlease, to establish the HDV, should not contain an exclusivity percentage. Any exclusivity percentage should only be applied on a site by site basis following consideration of value for money and an appraisal of likely costs for each project.
13	In view of the interrelationship between Regeneration, Planning and the HDV, the Leader of the Council should ensure responsibility for Regeneration and the HDV are set out in the same portfolio. In addition, and following Recommendation 12 of the interim scrutiny report on governance, in order to remove any ambiguity concerning responsibilities for Regeneration and the HDV with that of the Local Planning Authority, it is recommended Cabinet responsibility for Regeneration and Planning is disaggregated and allocated to separate members.
14	No decision to commit any site should go ahead without a full and detailed equality impact assessment on each site. This work should be commissioned and completed independently, in order to demonstrate sufficient separation to the overarching Overview and Scrutiny Committee who should oversee this.
15	Given that the commercial portfolio would transfer immediately after establishing the HDV, a full and detailed equality impact assessment should be undertaken before the portfolio is transferred. If time allows, this should be undertaken by an independent external advisor. The final list of commercial properties proposed for transfer should be made public. The impact on the HRA should be quantified and made transparent as part of that listing.
16	<p>To ensure <b>residents' rights</b> are protected, a set of formal policy documents should be drafted specifically related to the rights of tenants and leaseholders living in properties to be transferred to the HDV. These policies must establish and set out firm and transparent criteria and principles regarding residents' rights, including:</p> <ul style="list-style-type: none"> <li>a. That a clear, legally enforceable, commitment be made to council tenants to be re-housed on rent matching that of an equivalent council property and on the same terms, either on the estate or elsewhere in the borough, according to their choice.</li> <li>b. To protect homes for future generations of Haringey residents, the right-to-buy scheme should not be offered on replacement homes built by the development vehicle.</li> <li>c. In developing HDV tenancy and evictions policies, strong safeguards should be put in place to protect vulnerable tenants from eviction.</li> <li>d. That overcrowded tenants be offered a replacement property of a size that meets their needs.</li> </ul>

No.	Recommendation
	<p>e. That robust and meaningful resident consultation be guaranteed, with a commitment that sites can only be transferred to the HDV once full resident consultation, has taken place. As part of the consultation process, the difference between refurbishment and demolition should be made clear with a clear choice of regeneration or renewal being stated i.e. not everything needs to be demolished.</p> <p>f. There should be a Ballot of tenants and leaseholders as part of the consultation process and that the Council should provide the evidence to residents that it is beneficial for sites to be transferred to the HDV. <i>(This recommendation was not agreed by all Panel members)</i></p> <p>g. Resident leaseholders should be provided with a package of support, including independent legal advice regarding their position, so they don't lose out when their property is subject to CPO.</p> <p>h. A clear policy should be set out to protect residents from onerous leasehold terms and escalating ground rents. In developing this policy, it is recommended consideration be given to Nationwide Building Society's new valuation policy for new build leasehold properties<sup>2</sup> (<a href="#">available here</a>).</p>
17	That a Residents' Charter, setting out the expectations of Northumberland Park residents (or any other affected estate), written by the residents themselves, be adopted by Cabinet to give a clear public commitment to meeting the ambitions of tenants and resident leaseholders.
18	<p>The legal framework for the HDV must establish firm principles and policies which would be binding on any development carried out by the HDV. Cabinet must ensure that decisions on the HDV incorporate <b>important protections for the provision of affordable, and target rent social housing</b>, including:</p> <p>a. That the development vehicle be bound by Haringey's planning policy requiring at least 40% affordable housing and the Council should seek to use profits from the vehicle to boost affordable housing and target social rented numbers.</p> <p>b. Contractually making sure that target rent social homes are not transmuted into affordable rent homes.</p> <p>c. There should be no loss of target rented social housing – that is housing which was, prior to any demolition, council</p>

<sup>2</sup> <http://www.nationwide.co.uk/about/media-centre-and-specialist-areas/media-centre/press-releases/archive/2017/5/05-protect-homeowners>



No.	Recommendation
	<p>housing. Any new developments must reprovide – at minimum – an equivalent number of target rented homes on the same rents (without service charges) and security of tenure. The basis for calculating the number of such social target rent homes to be reprovided should be the number of council homes and leasehold properties on any estates before any people accept alternative accommodation i.e. the position at the start of any community engagement and consultation.</p> <p>d. All HDV viability assessments should be made public in full with no redactions.</p>
19	<p>Consideration should be given to establishing a wholly council-owned housing company to purchase and manage HDV affordable homes and target rent social homes. This will ensure that there will be no reduction in homes wholly owned and managed by the council.</p>
20	<p>Given that the HDV will operate in line with Haringey’s Housing Strategy the mixed communities model pursued by the HDV, with mix-tenure housing built in the same locality, must be underpinned by genuine social integration. Safeguarding for achieving this should include:</p> <ul style="list-style-type: none"> <li>a. Social housing must be of the same standard as private housing</li> <li>b. All new build of all tenures should be pepper potted, with no “poor door” arrangements</li> <li>c. A retail offer which reflects the needs and wishes of all residents rather than aimed at just higher-income residents</li> <li>d. Leisure amenities must be equally accessible to private and social tenants</li> <li>e. Blocks of private flats should not be gated</li> </ul>
21	<p>The legal framework for the HDV must establish firm principles and policies which would be binding on any development carried out by the HDV. Cabinet must ensure that decisions on the HDV reflect <b>estate regeneration / development best practice</b>, including:</p> <ul style="list-style-type: none"> <li>a. There should be no building on Metropolitan Open Land.</li> <li>b. Good practice guidance, published by the Mayor of London on estate regeneration, should be complied with.</li> </ul>

No.	Recommendation
	<p>c. There should be a suitable proportion of homes built to comfortably accommodate people with disabilities and all properties should be built to Lifetime homes standards.</p> <p>d. All building work by the HDV should be done to Passive House or Code 6 energy efficiency standards.</p> <p>e. Priority in all development design and building contracts should be given to sustainable housing contractors</p> <p>f. Ensuring all contracts engaged in by the HDV with third parties are awarded by transparent competitive tender.</p> <p>g. Arrangements being put in place with the construction subsidiary of Lendlease to provide local employment and training opportunities; particularly in respect of equalities groups, including job support and training for disabled people.</p> <p>h. To ensure the HDV provides decent jobs, preference in all subcontracts on HDV developments should be given to firms:</p> <ul style="list-style-type: none"> <li>○ Where apprentices are training for a Level 3 qualification and constitute 10% of the firms workforce.</li> <li>○ That are approved by the South-East Region TUC (SERTUC) as a good reputation concerning blacklisting, health and safety and have a trade union recognition agreement and comply with existing construction industry collective agreements.</li> <li>○ Where workers are all directly employed with CSCS cards and have recognised skill qualifications.</li> </ul> <p>i. No HDV or sub-contractor employee should be paid less than the London Living Wage.</p>
22	The HDV must use all measures available, including any changes to national/regional policy, to enable homes built by the HDV to be only sold to UK residents, with priority given to Haringey residents and those with a local connection to Haringey (not overseas buyers).
23	Given the number of housing estates already listed for transfer to the HDV, and the significant number of commercial properties paying rent to Homes for Haringey which are scheduled for transfer, we recommend that clear consultation with the board of Homes for Haringey is initiated forthwith. This would be to establish in detail the likely impact of the HDV on Homes for Haringey, the Housing Revenue Account and the Homes for Haringey repairs service and any other significant factors, e.g. impact on staffing, equalities, the impact on other estates and overall viability of Homes for Haringey and its in house services.

No.	Recommendation
24	Both the revenue and the capital costs incurred by the Council and HFH in preparing any site for transfer to the HDV should be reimbursed to the Council and HFH at the date of the transfer. These costs incurred to commence from the date any site was identified as moving to the HDV until the actual legal date of its transfer to the HDV. For example, the revenue and capital costs would include all staff costs, all repair and capital costs involved in providing accommodation for residents decanted, all leaseholder costs, all legal costs and all disturbance costs to both residents and leaseholders. These costs listed are examples only, all other costs incurred should also be reimbursed.
25	The 1% rent reduction due as part of the government's 4 year rent reduction agenda should be appealed to the DCLG to be ceased for the Council and HFH properties within the HRA. The appeal to request exemption from any further rent reductions to enable the resultant extra rental income to assist with the regeneration of housing / estates.
26	That the Cabinet commit to exploring all options for using Haringey's right-to-buy receipts in conjunction with the HDV.
27	<p>The legal framework for the HDV must establish firm principles which would be binding on any development carried out by the HDV. Cabinet must ensure the following important protections <b>to guarantee ongoing democratic control</b> of major decisions:</p> <ul style="list-style-type: none"> <li>a. No scheme land transfer to take place without Cabinet approving the business plan which should set out expectations on: the number and type of housing, employment spaces, job numbers and employment, inclusion of open space and community facilities, the timetable for development and an assessment of the key risks.</li> <li>b. Regular reports to Cabinet on the performance of the Haringey Development Vehicle, based on clear and robust key performance indicators. As set out in the interim scrutiny report (Recommendation 6), these should include: (i) Challenging targets for both revenue and capital growth from the management of the Council's commercial property portfolio; and (ii) Ambitious regeneration outcome targets to help improve the health, wellbeing, safety and life chances of those within regeneration areas (and beyond).</li> <li>c. Ward Councillors should be kept fully informed about specific proposals in their ward and a meaningful consultative structure established to ensure Ward Councillors are fully aware of, involved in, and able to influence the decision making process, and methodology, on any site decant and demolition.</li> <li>d. The HDV's Strategic Business Plan should be updated and presented to Overview and Scrutiny on an annual basis and senior HDV staff must be available to answer questions as required.</li> </ul>
28	The Overview and Scrutiny Committee must itself commit to ongoing scrutiny, possibly by setting up a separate HDV Scrutiny

No.	Recommendation
	Panel.
29	An independent advisor with experience in finance, risk and partnerships should be appointed to assist the Committee/Panel with its scrutiny work.
30	That Cabinet be asked to consider and respond to the deputation, attached at Appendix 3, presented to the Overview and Scrutiny Committee on 13 June 2017 by the Northumberland Park Supporters Group.

#### 4. Reasons for decision

*“Given that authorisation is scheduled for agreement at Cabinet in summer of 2017, the Panel believe that the proposals to establish the HDV would benefit from further scrutiny ahead of any final decision to be taken. It is suggested that further scrutiny would allow for further member engagement and to address the potential risks identified...”*

Interim Scrutiny Report on HDV Governance, January, 2017, HRSP

4.1 Overview and Scrutiny can review or scrutinise decisions made or actions taken in connection with the discharge of any of the Cabinet’s functions and make reports and recommendations to the Cabinet in connection with the discharge of any functions and make reports or recommendations on matters affecting the area or its inhabitants. In this context, and following the publication of the Panel’s interim report on governance arrangements, the Overview and Scrutiny Committee agreed on 17<sup>th</sup> January 2017, that the Panel should undertake further scrutiny of the proposed HDV.

4.2 The **Terms of Reference** for this scrutiny project are outlined below:

- To establish and provide recommendations on the feasibility of the proposed joint venture model of council tenants being re-housed on rent matching that of an equivalent council property and on the same terms, either on the estate or elsewhere in the borough, according to their choice;
- To establish and provide evidence and recommendations on whether the HDV can deliver a tenancy and evictions policy which protects vulnerable tenants in the same way as council tenancies do;
- To establish and provide recommendations on whether overcrowded tenants can be offered a replacement property of a size that meets their needs;
- To further establish and provide recommendations on whether the financial arrangements of the proposed HDV adequately protect the Council’s interest;
- To consider the impact of the HDV on the Council’s Commercial Portfolio, including the impact on current businesses and those who work in them;
- To consider the impact of the HDV on Metropolitan Open Land;
- To consider the equalities impact of the HDV;
- To further establish the risks of the venture and make recommendations on whether these risks can be adequately mitigated.

4.3 The recommendations contained in this report address these concerns.

#### 5. Alternative options considered

5.1 As outlined in section 6, evidence for this review was gathered in a variety of ways. Options considered are outlined in the body of the report. However, the Overview and Scrutiny Committee could decide not to approve the Panel’s

report and recommendations, which would mean they could not be referred to Cabinet for a response.

## 6. Methodology

- 6.1 During spring, the Panel held six evidence gathering sessions, meeting stakeholders with a wide range of knowledge and experience. This included local witnesses, such as council officers and community group representatives, as well as external contributors. A list of witnesses is attached at **Appendix 1** and the evidence they submitted is included at **Appendix 2**.
- 6.2 In addition to evidence received during this review, it is important to note that recommendations set out in this report reflect findings from earlier scrutiny investigations as well. This additional work, including the interim report on governance and the Call-In of the Cabinet's Decision to proceed to the Preferred Bidder phase of the procurement process, was undertaken during 2016/17 as part of the overall work programme for Haringey's Overview and Scrutiny Committee.
- 6.3 Members of the Panel also attended / asked questions at Cabinet meetings and assessed a range of documentary evidence and other published material. The reports and minutes from the following meetings were of particular interest:
- [HDV Business Case \(Cabinet, November 2015\)](#)
  - [Interim HRSP Report on HDV Governance \(OSC, January 2017\)](#)
  - [Cabinet Response to Interim HRSP Report \(Cabinet, February 2017\)](#)
  - [Approval of Preferred Bidder for HDV \(Cabinet, February 2017\)](#)
  - [Call-In: Recommendation of a Preferred Bidder for the HDV \(OSC, March 2017\)](#)
  - [Recommendation of a Preferred Bidder for the Haringey Development Vehicle – Outcome of Call-in to Overview and Scrutiny Committee \(Cabinet, March 2017\)](#)
- 6.4 Further information about the HDV, including links to the reports and minutes above, answers to FAQs, the HDV timeline and next steps, can be found via the following web-link – [Haringey Development Vehicle \(FAQs\)](#).

## 7. Introduction

- 7.1 A number of themes emerged from the Panel's investigations. These are set out below and relate, primarily, to: the business case; audit and risk; the scale of the proposed HDV, officer capacity; and concerns about the financial modelling and timing of the decision.
- 7.2 These findings have been used to develop recommendations which are based on important principles, including: protecting the Council's financial position; anticipating and managing risk; protecting residents' rights, the provision of affordable housing; advancing equality; ongoing democratic control and accountability; and ensuring transparency and probity.

7.3 Despite the above, it should be noted the subject of this inquiry has been unusually difficult to scrutinise by virtue of it being subject to ongoing negotiations, much of which has been deemed commercially sensitive. As a result, the Panel's recommendations are based on the information that was available concerning the HDV and from lessons learnt elsewhere. The Panel's concerns, findings and recommendations are intended to be useful in ensuring all matters are properly considered before a decision is made on whether to progress with the joint venture.

## 8. The Business Case

8.1 Building on concerns raised in sections 6.4 – 6.8 of the interim scrutiny report on governance, the 2015 Business Case for the HDV was quickly identified as a key line of enquiry for this review.

8.2 As set out in Appendix 2, several witnesses highlighted the substantive political and financial changes that have occurred since the decision was taken to enter into procurement for an Investment Partner for the HDV.

8.3 As demonstrated by evidence below, there was consensus that the Business Case needed to be revisited. This preceded the announcement of the unexpected General Election, which has brought further uncertainty and will mean further change. It was noted that this should be made a priority in order to limit the risks and uncertainties faced by the Council.

*“The Council’s Business Case of 2015 was prepared before the EU referendum and before the numerous changes in housing and planning law which were enacted in the Housing and Planning Act 2016 and trailed in the White Paper recently released. As a result of these changes in the economic and political environment the Council’s decisions have to be tested against a much wider range of possible circumstances than must have seemed likely in 2015.*

*“The economy of the UK is very weak, with low investment; what little growth we have being driven by expanding household debt and no clear prospect that we’ll be able to take advantage of a devalued pound to increase our exports. Many of our export sectors in finance, insurance and related professional services are directly threatened by brexit while others – like the university sector, a huge earner of foreign exchange, are threatened by visa restrictions. We share with Greece the decline in real incomes in the last decade.*

*“We thus need to consider the possibility that the UK economy will fail to grow and may contract in the coming decade. Furthermore the effect of inflation of import prices leading to higher interest rates would both impoverish an indebted population and change balance of power within the HDV.*

*“The other contextual factor is related to housing policy: it keeps changing in ways which make it ever harder for councils to resume house-building. That’s one of the reasons why Haringey has proposed the HDV. But it seems quite possible that government will find ways of extending the Right to Buy to Council-owned companies or in other ways inhibit the efforts of London Boroughs to circumvent government policy. Although the Minister has backed off the RtB threat recently we cannot be very confident.”*

Prof Michael Edwards, UCL Bartlett School of Planning

- 8.4 In addition, the Panel note with concern that Crossrail 2 was not included in the 2017 Budget, announced on 8 March.

*“The existing good transport links are continuing to be strengthened, with the real possibility of Crossrail 2 making a further significantly positive impact on the Borough.”*

Page 18, HDV Business Case, October 2015

- 8.5 An article in the Evening Standard<sup>3</sup> (3<sup>rd</sup> April) reports that several property developers and housing associations had written to Philip Hammond urging him to announce the go-ahead for Crossrail 2. Without it, they said, they could not commit to building the number of homes required by the London Plan.
- 8.6 The Panel also note the emerging Wood Green Area Action Plan is predicated, to a significant extent, on Crossrail 2 being given the go-ahead, with a station located in Wood Green. Given the stated aim is to transfer key Council buildings, such as River Park House and other Station Road buildings into the HDV, the Panel considers that there is a real substantial risk in this strategy and provides another reason for updating the Business Case.
- 8.7 Therefore, at the time of writing, Crossrail 2 is by no means certain to go ahead. However, it appears essential in order to provide capacity for the intensification of the whole Upper Lea Valley Opportunity Area and for the commercial expansion of Wood Green as a centre.

**Recommendation 1a**

**No decision on the HDV should be taken** until a fully updated business case is prepared and evaluated. For the avoidance of doubt, before Cabinet is asked to approve the legal documentation to establish the HDV, and its first set of business plans, there must be a meaningful update to the Business Case, originally published in 2015, to ensure it is still fit for purpose. The updated business case should:

- Review the economic modelling used in the initial Business Case to reflect recent circumstances, which have increased economic uncertainty, including: Brexit, Crossrail 2, numerous changes in housing and planning law which were enacted in the [Housing and Planning Act 2016](#), the recently released [Housing White Paper](#) (“Fixing our broken housing market”), a new good practice guide to estate regeneration published by the Mayor of London, and the results of the “snap” General Election.
- Be made public and transparent with sufficient time for meaningful scrutiny before a decision is taken.

**Recommendation 1b**

If time allows, this should be undertaken by an independent external advisor commissioned for this purpose.

<sup>3</sup> <http://www.standard.co.uk/news/transport/crossrail-2-property-developers-and-housing-associations-call-for-firm-commitment-a3505696.html>



## 9. Audit and Risk

- 9.1 It is recognised there is an inherent commercial risk in the establishment of a Local Asset Backed Vehicle (LABV) which is operated as a Limited Liability Partnership. However, throughout the course of this review, the Panel raised concerns that risks associated with the HDV had increased following publication of their interim report on governance.
- 9.2 The Panel's interim scrutiny report on governance highlighted the following:
- The lack of published evidence of the effectiveness of LABVs and their success in delivering large scale regeneration projects;
  - Financial and political uncertainty generated by the referendum decision to leave the European Union (Brexit);
  - Opacity of information on the operation of other LABVs;
  - The scale of the proposed HDV and prospective investment required from the Council far exceeds any other LABV established to date;
  - The paucity of consultation undertaken with affected tenants in both the commercial portfolio and prospective estate regeneration sites;
  - Unequal relationship with private sector partner.
- 9.3 With this in mind, a key line of enquiry for this review was to further establish the risks of the venture and to make recommendations on whether these risks can be adequately mitigated.
- 9.4 The Council's risk registers are the main means of identifying and recording risks, aiming to quantify the likelihood of the risk occurring and the impact that it would have on the Council's priorities. Their purpose is to provide a framework for debate on the mitigating controls and actions that may be required to reduce the level of risk to the council, to an appropriate level. They also allow for progress against actions to be monitored, so that the level of risk can be regularly re-evaluated. Risk registers are internal documents, to be used to identify, manage, monitor and control risks effectively.
- 9.5 It is recognised that some high level elements of the risk analysis are in the public domain, through Cabinet papers, scrutiny discussions and other material (including the online FAQ). However, because the detail of the governance structure is still the subject to negotiation, the Panel has not been able to consider a detailed risk register and/or in-depth assessments for the HDV. As a result, it has not been possible to explore in detail how the Council's exposure has been addressed, and the extent of the remaining risk.
- 9.6 The Panel was disappointed with this, especially as evidence received related to concerns about the structure of the HDV which, in the opinion of Justin Guest, a local resident and risk specialist, provided *"an open ended commitment by the Council but no proper way of managing that risk via an appropriate level of control over the actions of the HDV, and how money is taken out of the HDV (via fees etc.)"*.

**Table 2 – Four proactive remedies for managing risk**

<b>Accept It</b>	If managing or reducing the risk is not cost effective, but the risk is acceptable.
<b>Control It</b>	If it's an unacceptable risk, you should look to increase controls on it, e.g. putting more stringent management strategies in place to control or reduce the impact.
<b>Transfer It</b>	Insure against the consequences of the risk materialising, e.g. taking out contents insurance on the business premises.
<b>Avoid It</b>	Change the course of a business strategy to avoid the risk, e.g. withdrawing a problematic product line.

- 9.7 The points above, along with various concerns outlined in Appendix 2, lends support to the need for the full risk register and comprehensive risk assessments to be made available for public scrutiny prior to any decision being taken. For example, Justin Guest made the point that it was vital to work backwards from all the things that could go wrong, highlighting these clearly in a matrix that “sets out where risk arises and how it is allocated or mitigated / managed”.

#### **Recommendation 2**

That the full risk register, and comprehensive risk assessments, for the HDV be made available to the Housing and Regeneration Scrutiny Panel and made public **prior to any decision being taken**. This should work backwards from all the things that can go wrong, setting out where risk arises and the remedy for managing risk i.e. accept it, control it, transfer it, or avoid it.

- 9.8 In view of the above and the fact that the detailed financial structure and modelling of the HDV is also still subject to discussion, as part of the Preferred Bidder stage of the procurement process, the Panel was keen to further understand how risks would be managed.
- 9.9 Therefore, in addition to evidence received from the Council’s Head of Audit and Risk, outlined in sections 6.44 – 6.48 of the interim report on governance, the Panel considered the following points in relation to the audit function.
- 9.10 The Council’s external auditors are BDO. The “appointed auditor” has the ability to review or investigate any significant matters that comes to their attention during the course of an audit or as a result of concerns raised to them. The duties and the powers of the External Auditor are set out in the [NAO Code of Audit Practice](#) and the [Local Audit and Accountability Act 2014](#).
- 9.11 The role of the external auditor is to form an opinion on:
- Financial Statements
    - o Whether the financial statements give a true and fair view of the financial position of the group and authority and its expenditure and income for the period in question.

- Whether the financial statements have been prepared properly in accordance with the relevant accounting and reporting framework set out in legislation, applicable accounting standards or other direction.
  - Other Information
    - Whether other information, published together with the audited financial statement, is consistent with the financial statements (including the Council's statutory Annual Governance Statement).
  - Use of Resources
    - Whether the authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
  - Additional Powers and Duties of the External Auditor
    - To allow electors to raise questions about the accounts and to consider objections
    - Where appropriate, to consider the issue of a report in the public interest and to make a written recommendation to the authority.
    - Where appropriate, to apply to the court for a declaration that an item is contrary to law.
    - Where appropriate, to consider whether to issue an advisory notice or to make an application for judicial review.
- 9.12 In relation to the HDV, BDO have stated they will review the Council's work to address identified issues and to ensure appropriate plans around governance, performance management and risk management are in place. This review will form part of their normal annual duty to review the arrangements for the "proper use of resources" of the Council and will be reported in the Audit Completion Report presented to the Corporate Committee in September.
- 9.13 Evidence gathering by the Panel confirmed that the external auditor has held initial discussions about the HDV with the Council's officers, and has asked a number of questions regarding the availability of information used to inform decisions on the HDV. Toward the end of evidence-gathering, the Panel learned of a commitment that this review would be sufficiently progressed to allow concerns to be raised before the intended date for Cabinet's decision on the HDV proposal.
- 9.14 In addition to work taking place as part of the annual audit, the external auditor was also considering, under its additional powers and duties, a number of issues that have been reported to them by local residents.
- 9.15 In the event that the external auditor raises significant concerns with regard to the HDV, these will be discussed with Council Officers with a view to addressing them. However, as noted above, the External Auditor has a number of options available to them, under the Local Audit and Accountability Act, should these be required.

- 9.16 Given the potential risks posed by the HDV, the Panel are concerned findings from the external auditor may not be fully available before Cabinet is asked to establish the HDV, and its first set of business plans.
- 9.17 The Panel also received an update on the work of internal audit. The Panel was reminded that internal audit provides independent and objective assurance to the Council, its members, the Chief Executive and Senior Leadership Team and to the Chief Financial Officer to support them in discharging their responsibilities under S151 of the Local Government Act 1972, relating to the proper administration of the Council's financial affairs.
- 9.18 Internal audit needs to comply with the statutory [2013 UK Public Sector Internal Audit Standards \(PSIAS\)](#). For 2017/18 a full 30 day internal audit programme has been agreed and a draft project plan agreed. This is based on undertaking the following:
- Some high level assurance and advisory work regarding the planned governance of the HDV project and how risk is being identified, managed and communicated
  - A review of the proposed governance arrangements and testing the controls and mitigations in place to manage the identified risks if/when the approval to establish the HDV has been obtained
  - Some operational risk based systems audits, focused on the achievement of business objectives within governance processes embedded by management.
- 9.19 Evidence gathering by the Panel also confirmed that the focus, number and timing of audits (within the 30 day programme) undertaken on the HDV will be determined by risk assessment if/as the HDV is progressed. Additional days of audit will be provided if risk assessments, or outcomes from early review work demand it.
- 9.20 Whilst a draft project plan has been agreed, the Panel understands that at present, it is anticipated that internal audit will not report the outcomes of its initial work to Corporate Committee until 25<sup>th</sup> July. The timing of this report concerns the Panel as the audit report will be presented subsequent to the Cabinet meeting on 3<sup>rd</sup> July where a decision to establish the joint venture will be taken. As a result, the Panel believe the internal audit report should precede any final decision on the HDV. In addition, the Panel would like to see further information on what the 30 day programme of internal audit will entail.

**Recommendation 3**

**No decision should be taken** to establish the joint venture until:

- The Council's External Auditor has reviewed concerns, including those referred to them, relating to the HDV. Findings should be published (with actions to mitigate any risks set out and followed up) and considered by Corporate Committee.
- Corporate Committee has considered the outcomes of the initial work that has been undertaken by internal audit concerning the HDV.

**Recommendation 4**

Any final approval to establish the HDV by Cabinet must be accompanied by a robust set of measures to audit the work of the joint venture on a continuous basis. This must include a detailed plan of how the 30 days per year of the internal auditor looking at the HDV will be spent, to be addressed by Corporate Committee.

- 9.21 Should the Cabinet decide to approve the legal documentation to establish the HDV the Panel sets out further recommendations (sections 10–24), concerning its design and operation, to ensure transparency and accountability.

**10. Officer Capacity and Equality of Partnership**

*"The business plans of the HDV will provide the opportunity for the Council to enshrine its objectives into the sites and vehicle."*

Page 6, HDV Business Case, October 2015

- 10.1 On the issue of risk, concerns have been raised about whether the 50:50 arrangements constitutes an "equal partnership", and therefore whether the council's objectives are achievable, especially as "*commercial interest will no doubt conflict with the council's motivations at times*" (Prof Loretta Lees, Leicester University).

*"The people on the other side of this transaction do this sort of thing every day (think PFI). Officers in Haringey and Councillors do not. However exciting a piece of work this is, there is a need to step back and actually ask yourself are you well equipped to negotiate and manage a deal with partners who have such an advantage with respect to their level of competency and experience."*

Justin Guest, Local Resident and Risk Specialist

- 10.2 One way of addressing this is to ensure there is sufficient senior officer capacity so the Council's interests can be properly managed. This was highlighted by Cllr Ed Turner, Deputy Leader, Oxford City Council, based on his experience from various partnership development schemes:

*"Commitment of sufficient senior officer capacity (and of course strong relations with elected members) is vital. If there is insufficient officer resource to support the Board, the council's interest could slide, and very full engagement (along with officers doing the 'day job!') is essential."*

- 10.3 Similar issues were raised by other witnesses, especially as at the start of this scrutiny inquiry much needed to be resolved in negotiations with Lendlease, the preferred partner. Evidence submitted by Pete Redman, Associate Centre for London, highlights that *“the details of risk mitigation, and projected returns, in the final document should be “tested to destruction”, possibly with a further stage by this Scrutiny Committee as part of that process”*.
- 10.4 The Panel feel strongly that capacity issues need to be addressed before Cabinet is asked to establish the HDV. Further comments relating to risks associated with officer capacity, and whether a 50:50 arrangement constitutes an “equal partnership” in reality are set out in Appendix 2.

**Recommendation 5**

To address concerns raised by expert witnesses, and by Panel members themselves, about whether the 50:50 arrangements constitutes an “equal partnership”, and therefore whether the council’s objectives (policy framework/corporate plan) are achievable, the Head of Paid Service must ensure there is sufficient officer capacity to support the Council with its engagement with the HDV. This must be guaranteed, and outlined, before Cabinet is asked to establish the HDV.

**11. Due Diligence**

- 11.1 Due diligence is central to the issue of risk and risk management. However, as highlighted by questions raised by Justin Guest, a local resident and risk specialist, it is unclear to the Panel whether a full due diligence has been undertaken:

*“I see no discussion... on how (due diligence) is to be carried out (and indeed, if any proper (due diligence) has been carried out and by whom.)”*

*“Normally in a situation like this there is a rigorous (due diligence) process that looks at all aspects of the process by professionals (with insurance to back up their advice and work) and not (with the greatest of respect) an amateur Scrutiny Panel.”*

*“Who has looked at this and torn it to pieces to work out where this whole thing breaks?”*

- 11.2 Similar concerns were highlighted by the Panel during their earlier investigation. Whilst it is acknowledged this may be due to how information on the HDV has been presented, a number of issues remain unclear.

**Recommendation 6**

To ensure clarity, details of the due diligence process for establishing the HDV, and its first set of business plans, should be included in the HDV Cabinet report. This should include clear, comprehensive information on the work that has been carried out, by whom, and steps that have been taken as a result.

## 12. Financial Modelling

- 12.1 The Panel heard evidence from officers who stated that the HDV will be constituted as a Limited Liability Company and as such is required to comply with the Companies Act 2006 as it refers to the delivery of annual statement of accounts. The statement of accounts will be completed by appropriately qualified accountants and the accounts will be subject to external audit to ensure that they show a true and fair view of the financial situation. The annual statements will be presented to the Board. In addition to these normal safeguards around financial integrity, the HDV will employ independent cost accountants who will ensure that the costs applied in business cases represent good value to the HDV.
- 12.2 The nature of the financial flows to and from the HDV are complex in nature and the Council is in the process of assessing the financial skills it will need on the Council's client side to capture the complexity within the Council's and Homes for Haringey accounts.
- 12.3 From the evidence received, the Panel believe that **short-term** liabilities (i.e. the bills and invoices of all description that would come from Lendlease and be charged to the joint venture) would appear to be matched, or netted-off, against the Loan Note, a **long-term** asset of the HDV. Officers should provide clear and transparent information on how this will work to protect Haringey's interest and this should be done prior to any contract with Lendlease being signed.

### Recommendation 7a

Information on what the Balance Sheet will look like on Day One, including the short- and long-term assets and liabilities, should be included in the HDV Cabinet report. To ensure clarity, it is recommended that a model balance sheet is included to illustrate what the basic HDV financial structure will look like.

### Recommendation 7b

In addition:

- i. The updated HDV Balance Sheet, including any major changes to assets or liabilities, should be reported quarterly to the Housing and Regeneration Scrutiny Panel.
- ii. Management Accounts for the HDV should be reported quarterly to the Housing and Regeneration Scrutiny Panel.

- 12.4 The issue of what the two partners commit to the HDV is central to managing financial risks to the Council. The Panel heard evidence regarding this, for example from Professor Steve Jefferys (see Appendix 2i), which is reflected in the recommendation below.

### Recommendation 8

The legal framework for the HDV must include binding guarantees in relation to dispute resolution mechanisms and, in order to reduce financial risk, the legal framework for the HDV must allow the Council (giving six months notice) to withdraw from the HDV every five years and without any compensation to be paid to Lendlease or to its subsidiaries or staff, and with the whole property portfolio being transferred back to Haringey.

### 13. Governance Risk

- 13.1 Whilst the Panel's earlier investigation focused primarily on governance, during this review the scale and ambitions of the HDV were highlighted, leading to further discussions about the importance of HDV decision-making. The statements below were of particular interest:

*"Find good people to be ... Board members. These should be skilled people with experience and business acumen. These are not representative roles and need not be officers or members. They will have duties to the (HDV), and will be accountable to the Borough through appointment or removal by the Borough. Keep your very best most senior people in a Borough only role, overseeing the work of (HDV) Board members, and to act in extremis if necessary."*

Pete Redman, Associate, Centre for London

*"It strikes me you need someone with commercial experience of these structures acting for the council to make sure you get a good deal. I would not leave this to officers who have little or no experience of how the real (commercial) world works."*

Justin Guest, Local Resident and Risk Specialist

- 13.2 With this in mind, the recommendation below has been put forward to address these concerns.

#### **Recommendation 9**

A professional independent advisor should be appointed to support the Council on the HDV Board to ensure Haringey board members have a clear understanding of the matters put before them and the implications of any decision made by the board, to allow them to act in the best interest of the Council and local residents. This advisor would not be voting but would have full access to information and be able to input and participate at board meetings.

### 14. Project Management

- 14.1 As highlighted by the interim scrutiny report on HDV governance there are opportunities and strengths within the HDV proposal and, on the other hand, risks and weaknesses.
- 14.2 With this in mind the importance of successful project management, including independent external evaluation and feedback, was highlighted. In particular, the OGC Gateway methodology was considered by the Panel as a means of managing risks. This is a process that examines programmes and projects at key decision points in their lifecycle and is recognised as best practice in central government, where it is mandatory, the health sector and local government.
- 14.3 Underlying the OGC Gateway process is a set of guiding principles. These are applied by all Gateway users to maintain standards and are applicable to a range of programmes and projects, including:
- policy development and implementation
  - organisational change and other change initiatives
  - acquisition programmes and projects



- property/construction developments
  - IT enabled business change
  - procurements using or establishing framework arrangements
- 14.4 OGC Gateway Reviews deliver a "peer review" in which independent practitioners from outside the programme/project use their experience and expertise to examine the progress and likelihood of successful delivery of the programme or project. The review uses a series of interviews, documentation reviews and the teams experience to provide valuable additional perspective on the issues facing the project, and an external challenge to the robustness of plans and processes.
- 14.5 Successful project management provides an important vehicle for the delivery of local outcomes. Good and effective management and control of programmes and projects is, therefore, essential to the successful delivery of local objectives. The OGC Gateway Process is designed to provide independent guidance to ensure programmes and projects are delivered.
- 14.6 Given the HDV *"model is unproven, and the scale at which Haringey is undertaking it is unprecedented"* (Prof Lees, Leicester University) the Panel hope the recommendation below will be taken forward, ideally before a decision is taken.

**Recommendation 10**

Cabinet should invite and establish a Gateway Review (using OGC methodology) to deliver a "peer review" in which independent practitioners from outside the project use their experience and expertise to examine the progress and likelihood of successful delivery of the project. Ideally this should happen before a decision is taken to establish the HDV.

**15. Ensuring Transparency and Probity**

- 15.1 During evidence gathering, Professor Steve Jefferys, Emeritus Professor, London Metropolitan University, provided a critical analysis of Joint Private-Public 'Special Purpose Vehicles', highlighting the importance of transparency and probity. In view of this evidence, attached in full at Appendix 2i, the following recommendation has been put forward in order to protect the council's commercial interest.

**Recommendation 11**

To ensure probity, and to protect the council's commercial interests, the legal agreement to establish the HDV should contain a commitment from Lendlease not to recruit any Haringey Council employee/Councillor/consultant who has worked for Haringey on the HDV over the past 3 years (2015-2017). Furthermore, neither should Lendlease provide such individuals with any payment or service or benefits for a period of five years from the date of establishing the joint venture. This should include any company that is a subsidiary company of Lendlease.

Exclusivity and Value for Money Requirements

- 15.2 As set out in the Approval of Preferred Bidder for the HDV Cabinet Report (14<sup>th</sup> February 2017):

*“The recommended preferred bidder is Lendlease on the basis that this bidder received the highest overall score across all the criteria from the Evaluation Panel, and satisfied the minimum (or “floor score”) requirement across all five criteria set out...”*

- 15.3 A key element of the preferred bidder’s proposal, set out in section 6.38 of the Cabinet report, is *“a construction exclusivity, whereby the preferred bidder’s construction arm will be guaranteed a proportion of construction contracts, subject to satisfying value for money requirements”*.

- 15.4 This element of the proposal raised concerns during the Call-In meeting, held by the Overview and Scrutiny Committee on 2<sup>nd</sup> March 2017. These concerns, and Cabinet’s response to recommendations, are set out in the minutes (web-links below) from each meeting:

[Call-In: Recommendation of a Preferred Bidder for the HDV \(OSC, 2<sup>nd</sup> March 2017\)](#)

[Recommendation of a Preferred Bidder for the Haringey Development Vehicle – Outcome of Call-in to Overview and Scrutiny Committee \(Cabinet, 7<sup>th</sup> March 2017\)](#)

- 15.5 Matters relating to exclusivity and value for money requirements remained a key line of enquiry during this review. In view of the issues highlighted by the Overview and Scrutiny Committee in March, the statement below was of particular interest:

*“At one point in the publicly available papers the benefits of guaranteed future work for the (joint venture) is mentioned; elsewhere there is emphasis that future work “may” be transferred to the (joint venture). There should be no open promise of future work. The Borough should assess the proposal for each project in advance and then decide whether it is suitable for the HDV. The partner’s role (as distinct from the joint venture) will vary with each project, or type of project. There is no single % of exclusivity for the partner that is right for all projects and the % for each should be decided as part of that project’s business plan before transfer to the (joint venture).”*

*Pete Redman, Associate, Centre for London*

**Recommendation 12**

The overarching agreement with Lendlease, to establish the HDV, should not contain an exclusivity percentage. Any exclusivity percentage should only be applied on a site by site basis following consideration of value for money and an appraisal of likely costs for each project.

HDV Relationship with the Local Planning Authority

- 15.6 The Leader of the Council appointed the following Members to her Cabinet, with effect from 22 May:

Cllr Ejiqfor	Deputy Leader and Cabinet Member for Customer Services
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Cllr Ahmet	Cabinet Member for Environment
Cllr Arthur	Cabinet Member for Finance and Health
Cllr Ayisi	Cabinet Member for Communities
Cllr Demirci	Cabinet Member for Corporate Resources
Cllr Goldberg	Cabinet Member for Economic Development, Social Inclusion and Sustainability
Cllr Strickland	Cabinet Member for Housing, Regeneration and Planning
Cllr Vanier	Cabinet Member for Adult Social Care and Culture
Cllr Weston	Cabinet Member for Children and Families

- 15.7 The information above is noted. However, it was apparent, from the interim scrutiny report on governance, that there should be clear lines of separation between the Local Asset-Backed Vehicle (LABV), the Local Authority and the Local Planning Authority. This is because although an LABV may be partly owned by a Local Authority, in terms of any planning application and development process it should not receive, or appear to receive, any preferential treatment in the planning process, like any other applicant.
- 15.8 It was evident that other local authorities had sought to remove any ambiguities or perceptions about potential perceived conflicts that the LABV may have with the Local Planning Authority. While planning is a non-executive function, the member of the executive has lead responsibility for matters of planning policy.
- 15.9 *“The arrangements for the governance of the vehicle itself – covering matters such as the constitution of the Board, the decisions reserved to members of the company, the arrangements for resolving deadlocks etc. – will be set out in the Members’ Agreement and other legal documents which have been negotiated during procurement dialogue and which will be finalised with the preferred bidder before being presented to Cabinet for approval” (Approval of Preferred Bidder for HDV, Cabinet, February 2017).*
- 15.10 Within this framework, *“Board Members and voting rights are split 50/50 between both partners.... the Council will nominate 3 Board members, two officers (yet to be determined) and one Member (yet to be determined).” (Interim Scrutiny Report on HDV Governance, January, 2017).*
- 15.11 In terms of the proposed delegated decision schedule, decisions will either be made by the HDV or reserved to partners (the Council and Investment Partner). The following provides a summary of the division of decision making within the proposed HDV:

<b>The Council as partner</b>	<b>The HDV</b>
<ul style="list-style-type: none"> <li>• Approves Business Plans (including variations/reviews) and authorises new sites</li> <li>• Approves terms of development and management agreements</li> <li>• Makes decisions on reinvestment of dividends</li> <li>• Resolves Board deadlock in collaboration with private sector</li> </ul>	<ul style="list-style-type: none"> <li>• Decides how to deliver Business Plans’ high level outcomes</li> <li>• Proposes further sites and initiates Business Plans for them</li> </ul>

partner	
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- 15.12 In this context, the Panel remains concerned that the Cabinet Member for Housing, Regeneration and Planning could be a potential representative of the Council on the HDV Board, which may give rise to some ambiguity as regard to planning process given their oversight of the planning function as well.
- 15.13 The following recommendation was put forward in January, and the Cabinet response noted.

<i>Response to the Interim Scrutiny Report on HDV Governance</i>		
<b>Recommendation 12</b> To remove any ambiguity between the roles of the HDV with that of the Local Planning Authority, it is recommended that the Cabinet responsibility for each is disaggregated and allocated to separate members.	<b>This is accepted.</b> Whilst the Cabinet Member for Planning is not part of the local planning authority, Cabinet responsibility for Planning will not sit with the member or members that are nominated to the Board of the HDV or with a member who has lead responsibility for the relationship with HDV.	Leader of the Council  Summer 2017

- 15.14 In view of the recent Cabinet reshuffle (above) the Panel are unclear whether this response has been taken forward at this stage. With this in mind, the Panel agreed a further recommendation was needed. It is hoped the Cabinet responsibilities will provide clarity moving forwards.

<b>Recommendation 13</b> In view of the interrelationship between Regeneration, Planning and the HDV, the Leader of the Council should ensure responsibility for Regeneration and the HDV are set out in the same portfolio. In addition, and following Recommendation 12 of the interim scrutiny report on governance, in order to remove any ambiguity concerning responsibilities for Regeneration and the HDV with that of the Local Planning Authority, it is recommended Cabinet responsibility for Regeneration and Planning is disaggregated and allocated to separate members.
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## 16. Advancing Equality

- 16.1 One of the reasons cited for the Preferred Bidder Call-In<sup>4</sup> *“included: a failure to undertake proper Equalities Impact Assessments, potentially meaning the decision may well breach the Council’s public sector equalities duty...”* (Minutes, Overview and Scrutiny Committee, 2<sup>nd</sup> March 2017).
- 16.2 However, as set out in the Cabinet reports considered on 14 February and 7 March, and highlighted at the Call-In meeting itself, the recommendations to Cabinet expected in July 2017 – to establish the HDV, and to agree the first set of business plans – will be accompanied by full Equality Impact Assessments.

<sup>4</sup> <http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=128&MIId=8162&Ver=4>

- 16.3 The potential impact of the individual business plans is likely to be greater than that of the decision to establish the HDV. At present, these business plans, and the final terms of the HDV's establishment, are still in development. However, the evidence presented to the Panel highlighted that many opportunities existed to help address inequalities. For example:

*"Growth in housing supply, of all tenures, and extra resources for targeted services, will provide a positive step to address inequality."*

Pete Redman, Associate, Centre for London

*"...Seeing developments progress in a timely fashion and with replacement of social rented housing should have positive equalities impact, as would any provision of training and apprenticeships."*

Cllr Ed Turner, Deputy Leader, Oxford City Council

- 16.4 The Council is exploring how best to embed equalities into the governance of the HDV to ensure due regard is given to the Public Sector Equality Duty. As set out in Section 26, this will include full Equality Impact Assessments being considered by Cabinet in relation to all future business plans and any other decision made by the Council related to the HDV.

- 16.5 The impact of the HDV on the Council's Commercial Portfolio, including the impact on the current businesses and those who work in them was also a key line of enquiry. The following comments were made during evidence gathering:

*"Commercial property leases offer a fair balance between the interests of the tenants and landlord, and there is a well-tested framework for compensation. Transfer to the HDV does not change these."*

Pete Redman, Associate, Centre for London

*"Our Oxpens project is a mixed-use development and we see no issues here. We...always look for trading and business opportunities for council services, while accepting these have to be competitive."*

Cllr Ed Turner, Deputy Leader, Oxford City Council

- 16.6 The evidence presented by Council Officers also made clear *"with leases simply transferring from the Council to the HDV, with no change, the impact of the transfer itself on current businesses will be negligible. Any impacts following transfer would arise from the management regime to be agreed in the business plan for the portfolio (which is still under development, and subject to approval by Cabinet in summer 2017) and from the HDV Board's implementation of that business plan over time."*

Project Team Scrutiny Briefing

- 16.7 Despite these reassurances, the Panel still has particular concerns and are keen that all opportunities are taken to address inequality. This is particularly true for the Commercial Portfolio tenants, who the Panel understand have only received limited information on the HDV. To support these efforts to address inequality, the Panel recommend further work in these areas be undertaken by an independent external advisor.

**Recommendation 14**

No decision to commit any site should go ahead without a full and detailed equality impact assessment on each site. This work should be commissioned and completed independently, in order to demonstrate sufficient separation to the overarching Overview and Scrutiny Committee who should oversee this.

#### **Recommendation 15**

Given that the commercial portfolio would transfer immediately after establishing the HDV, a full and detailed equality impact assessment should be undertaken before the portfolio is transferred. If time allows, this should be undertaken by an independent external advisor. The final list of commercial properties proposed for transfer should be made public. The impact on the HRA should be quantified and made transparent as part of that listing.

## **17. Residents' Rights**

- 17.1 The provision of housing, particularly to vulnerable members of society, is one of the most important responsibilities for a local authority. The Panel is particularly mindful of the anxiety and concern of residents of housing estates expected to be transferred to the vehicle.
- 17.2 To assist the Cabinet in allaying these concerns, and mindful that the assets that comprise the Council's main stake in the Vehicle are largely residents' homes, the Panel would suggest the following commitments be made by Cabinet in advance of the final decision to establish the HDV.

#### **Recommendation 16**

To ensure **residents' rights** are protected, a set of formal policy documents should be drafted specifically related to the rights of tenants and leaseholders living in properties to be transferred to the HDV. These policies must establish and set out firm and transparent criteria and principles regarding residents' rights, including:

- a. That a clear, legally enforceable, commitment be made to council tenants to be re-housed on rent matching that of an equivalent council property and on the same terms, either on the estate or elsewhere in the borough, according to their choice.
- b. To protect homes for future generations of Haringey residents, the right-to-buy scheme should not be offered on replacement homes built by the development vehicle.
- c. In developing HDV tenancy and evictions policies, strong safeguards should be put in place to protect vulnerable tenants from eviction.
- d. That overcrowded tenants be offered a replacement property of a size that meets their needs.
- e. That robust and meaningful resident consultation be guaranteed, with a commitment that sites can only be transferred to the HDV once full resident consultation, has taken place. As part of the consultation process, the difference between refurbishment and demolition should be

made clear with a clear choice of regeneration or renewal being stated i.e. not everything needs to be demolished.

- f. There should be a Ballot of tenants and leaseholders as part of the consultation process and that the Council should provide the evidence to residents that it is beneficial for sites to be transferred to the HDV. *(This recommendation was not agreed by all Panel members)*
- g. Resident leaseholders should be provided with a package of support, including independent legal advice regarding their position, so they don't lose out when their property is subject to CPO.
- h. A clear policy should be set out to protect residents from onerous leasehold terms and escalating ground rents. In developing this policy, it is recommended consideration be given to Nationwide Building Society's new valuation policy for new build leasehold properties<sup>5</sup> ([available here](#)).

#### **Recommendation 17**

That a Residents' Charter, setting out the expectations of Northumberland Park residents (or any other affected estate), written by the residents themselves, be adopted by Cabinet to give a clear public commitment to meeting the ambitions of tenants and resident leaseholders.

## **18. The Provision of Affordable Housing**

- 18.1 The Panel heard about development schemes elsewhere in London that had not produced the levels of affordable housing originally promised, and had led to development far beyond the budgets of residents prior to development. This is a particular concern for the HDV, given it will focus development in areas and sites of high concentration of affordable and social housing, which if transferred for redevelopment may reduce the supply and the proportion of social and affordable housing.

### Viability Assessments

- 18.2 A key contributor to this shortcoming was the failures of the 'viability assessment' process with developers able to renege on previous commitments by arguing that it would be financially unviable for them to build the numbers of affordable housing agreed at the outset.
- 18.3 The Panel was particularly interested in evidence submitted by 35% Campaign, concerning developers, financial viability and regeneration at the Elephant and Castle in Southwark<sup>6</sup>. The Panel heard from one witness who had subsequently obtained a redacted copy of the viability assessment, which exposed flaws in the viability process and raised serious questions about its legitimacy.

<sup>5</sup> <http://www.nationwide.co.uk/about/media-centre-and-specialist-areas/media-centre/press-releases/archive/2017/5/05-protect-homeowners>

<sup>6</sup> Evidence submitted by Jerry Flynn, 35% Campaign (Appendix 2j)

- 18.4 In terms of the HDV it is recognised that the viability assessment would be brought forward by the 50:50 owned joint venture rather than the developer acting independently. This should be seen as an opportunity for utmost transparency and accountability. To ensure this the Panel recommend that the HDV's viability assessments are made public in full with no redactions.

**Recommendation 18**

The legal framework for the HDV must establish firm principles and policies which would be binding on any development carried out by the HDV. Cabinet must ensure that decisions on the HDV incorporate **important protections for the provision of affordable, and target rent social housing**, including:

- a. That the development vehicle be bound by Haringey's planning policy requiring at least 40% affordable housing and the Council should seek to use profits from the vehicle to boost affordable housing and target social rented numbers.
- b. Contractually making sure that target rent social homes are not transmuted into affordable rent homes.
- c. There should be no loss of target rented social housing – that is housing which was, prior to any demolition, council housing. Any new developments must reprovide – at minimum – an equivalent number of target rented homes on the same rents (without service charges) and security of tenure. The basis for calculating the number of such social target rent homes to be reprovided should be the number of council homes and leasehold properties on any estates before any people accept alternative accommodation i.e. the position at the start of any community engagement and consultation.
- d. All HDV viability assessments should be made public in full with no redactions.

- 18.5 The Panel heard compelling evidence from Cllr Ed Turner, Deputy Leader, Oxford City Council. He described various regeneration schemes which provided new homes for local people. This evidence, set out in Appendix 2c, provides the context for the recommendation below. During evidence gathering, the Panel was also made aware of many other wholly-owned housing companies established by local authorities across the country.

**Recommendation 19**

Consideration should be given to establishing a wholly council-owned housing company to purchase and manage HDV affordable homes and target rent social homes. This will ensure that there will be no reduction in homes wholly owned and managed by the council.

**19. Mixed Communities**



- 19.1 The Panel heard interesting evidence on how development can encourage or inhibit mixed communities, for example:

*“Policy makers everywhere accept uncritically mixed communities policies in the face of evidence which suggests they will not be successful in terms of social inclusion or reducing poverty and will lead to significant gentrification”*

Bridge et al (2012) Mixed Communities, Gentrification by Stealth

- 19.2 The renewal of Haringey’s council estates through the HDV is underpinned by the idea of mixing tenures in newly built mixed communities in order to:

*“Deliver economic growth and provide new housing on the scale required, the Council has to use its own landholdings. Estate renewal on the Council’s large and medium sized estates also provides a major opportunity to increase the number of homes, to improve the mix of tenures and sizes and to address the condition of the housing stock.”*

*“Achieve estate renewal by intensification of land use and establishment of a range of mixed tenures, together with tenure change across the Borough where appropriate. To secure wider social and economic benefits in areas affected, including community facilities, skills and training, health improvement or crime reduction for the benefit of existing residents.”*

Prof Loretta Lees, Leicester University

- 19.3 *“Yet mixed communities initiatives have been found, after extensive academic and policy research, both in the UK and the US, to produce gentrification and the displacement of public housing tenants. Current plans to redevelop council estates in Haringey will not only displace tenants from their homes but it also goes against the idea of the social (and economic) sustainability of cities (as is embedded in the London Plan and national urban policy).”*

Prof Loretta Lees, Leicester University

- 19.4 During the course of the review, the Panel received a wide range of evidence concerning mixed tenure council estate regeneration policies in London. This included information on the Aylesbury and Heygate estates in Southwark, the Ferrier estate in Greenwich, and Woodberry Down estate in Hackney.

**Table 3 – Main lines of criticism<sup>7</sup>**

- *“Most mixed community policy is one-sided – seldom advocated (or implemented because of land costs) in wealthier neighbourhoods.”*
- *“In terms of claims of greater social interaction, social capital – that there is little evidence that people from diverse backgrounds ‘actually mix’ - DCLG (2010) research also no evidence more social interaction - assumptions that physical proximity leads to closer social ties – is challenged in work of Butler and Robson (2003) on Brixton – incoming middle classes attracted by idea of diversity but no evidence social interactions – or Davidson’s (2010) research on socially mixed neighbourhoods in the redevelopment of riverside in London by major developers – which highlights high levels of segregation, gated developments and new residents in privately owned housing not seeing ‘the local area as offering appropriate or desirable retail, public, social and leisure facilities’ and instead gravitating towards central London and spending their money and leisure time elsewhere – little investment in surrounding neighbourhood.”*
- *“That mixed communities policies tackle the symptoms of poverty and inequality and not the causes (Cheshire. 2007) – mixed communities policy cannot reduce deprivation – statistics may show an increase in educational attainment, in income levels – but this reflects the composition of the incoming residents not any improvements in economic circumstances of existing residents.”*
- *“Cheshire (2007) disputes the view that ‘making communities more mixed makes the life chances of the poor any better’ - low income people can benefit from living in low cost areas.”*
- *“Successful at improving ‘place poverty’ not ‘people poverty’.”*

19.5 In addition, the evidence presented to the Panel highlighted key concerns in relation to the displacement of low income residents, gentrification of council housing estates and the loss of social housing.

19.6 A number of these concerns have been addressed elsewhere in this report. However, to ensure the model pursued by the HDV promotes genuine social integration, the Panel has put forward a number of additional recommendations. These are based on the lessons and safeguards from other council housing estate regeneration developments.

19.7 Further evidence is attached at Appendix 2, especially the submissions from Professor Loretta Lees, Dr Jane Martin, and 35% Campaign.

<sup>7</sup> Dr Jane Lewis, London Metropolitan University (Appendix 2f)

**Recommendation 20**

Given that the HDV will operate in line with Haringey's Housing Strategy the mixed communities model pursued by the HDV, with mix-tenure housing built in the same locality, must be underpinned by genuine social integration. Safeguarding for achieving this should include:

- a. Social housing must be of the same standard as private housing
- b. All new build of all tenures should be pepper potted, with no "poor door" arrangements
- c. A retail offer which reflects the needs and wishes of all residents rather than aimed at just higher-income residents
- d. Leisure amenities must be equally accessible to private and social tenants
- e. Blocks of private flats should not be gated

**20. Estate Regeneration/ Development Best Practice**

- 20.1 In the course of its work, the Panel heard extensively of different case studies of estate regeneration, which is an aim of the HDV proposal. With the aim of assisting Cabinet by referring to good practice elsewhere, and to help ensure the HDV accomplishes its aims, the Panel has the following suggestions for commitments prior to any final decision on the HDV.

**Recommendation 21**

The legal framework for the HDV must establish firm principles and policies which would be binding on any development carried out by the HDV. Cabinet must ensure that decisions on the HDV reflect **estate regeneration / development best practice**, including:

- a. There should be no building on Metropolitan Open Land.
- b. Good practice guidance, published by the Mayor of London on estate regeneration, should be complied with.
- c. There should be a suitable proportion of homes built to comfortably accommodate people with disabilities and all properties should be built to Lifetime homes standards.
- d. All building work by the HDV should be done to Passive House or Code 6 energy efficiency standards.
- e. Priority in all development design and building contracts should be given to sustainable housing contractors
- f. Ensuring all contracts engaged in by the HDV with third parties are awarded by transparent competitive tender.

- g. Arrangements being put in place with the construction subsidiary of Lendlease to provide local employment and training opportunities; particularly in respect of equalities groups, including job support and training for disabled people.
- h. To ensure the HDV provides decent jobs, preference in all subcontracts on HDV developments should be given to firms:
  - o Where apprentices are training for a Level 3 qualification and constitute 10% of the firms workforce.
  - o That are approved by the South-East Region TUC (SERTUC) as a good reputation concerning blacklisting, health and safety and have a trade union recognition agreement and comply with existing construction industry collective agreements.
  - o Where workers are all directly employed with CSCS cards and have recognised skill qualifications.
- i. No HDV or sub-contractor employee should be paid less than the London Living Wage.

## 21. Overseas Buyers

*“Earlier this year (2016), the Guardian revealed how a 50-storey block of 214 luxury apartments by the river Thames in Vauxhall was more than 60% owned by foreign buyers. In one of the starkest examples of the impact of foreign investment, it found that a quarter of the flats were held by companies in secretive offshore tax havens, and many were unoccupied<sup>8</sup>.”*

The Guardian, 30<sup>th</sup> September 2016

- 21.1 Throughout the course of this review, the Panel’s evidence gathering highlighted real concerns, across London, about the number of homes being bought by overseas investors and the impact this is having on housing costs, gentrification and the scale of “buy-to-leave”.
- 21.2 A recent Transparency International report<sup>9</sup> notes *“price rises consistently outstrip wage increases, dozens of prospective buyers compete for a shrinking pool of affordable stock whilst rent prices rise even higher... As a consequence, it is becoming more difficult to afford to stay in London for average people, with the Government admitting the UK housing system was “broken” in February 2017<sup>10</sup>. In response to this housing crisis the Mayor of London, Sadiq Khan, has launched an investigation into overseas investment*

<sup>8</sup> <https://www.theguardian.com/cities/2016/sep/29/london-mayor-sadiq-khan-inquiry-foreign-property-ownership>

<sup>9</sup> <http://www.transparency.org.uk/publications/faulty-towers-understanding-the-impact-of-overseas-corruption-on-the-london-property-market/>

<sup>10</sup> <http://www.bbc.co.uk/news/uk-politics-38884601>

*into the property market to assess its scale and whether it is a contributory factor to the capital's housing issues."*

- 21.3 The research by Transparency International also revealed that 100% of the 51 apartments at South Gardens, a flagship development at Elephant Park, replacing the now-demolished Heygate Estate, were sold to overseas investors. Evidence from Jerry Flynn, 35% Campaign, highlighted that many residents that had bought their council homes under the right-to-buy scheme in the 1980s were forced to leave the Elephant and Castle area as new properties on offer were far beyond the compensation they were given, which could be as low as £80,000<sup>11</sup>. Evidence received by the Panel showed prices at Elephant Park start at £569,000 for a studio flat and go higher than £1 million, meaning homes are out of reach for those on the average Southwark wage of £34,139. The homes on offer in the new development were being marketed as assets to global investors with adverts seen in China, Malaysia and Hong Kong<sup>12</sup>. Due to these high prices and extensive marketing, sales of homes in the development have been dominated by overseas investors.
- 21.4 The issues outlined above are a concern. As a result, the Panel hope that findings from the GLA's research will improve understanding of the role of overseas buyers in the London property market in order to inform how the HDV would manage the uptake of the new housing it seeks to provide.

**Recommendation 22**

The HDV must use all measures available, including any changes to national/regional policy, to enable homes built by the HDV to be only sold to UK residents, with priority given to Haringey residents and those with a local connection to Haringey (not overseas buyers).

**22. Property Management**

HDV Relationship with Homes for Haringey

- 22.1 Various issues in relation to the Housing Revenue Account and Homes for Haringey have been considered and recommendations were put forward in January as part of the interim scrutiny report on HDV governance.

<i>Response to the Interim Scrutiny Report on HDV Governance</i>		
<p><b>Recommendation 13</b> Given that the HDV will be delivering the regeneration of local estates managed by the ALMO it is recommended that:</p> <p>(i) there should be an alignment of the business plans of the two</p>	<p><b>This is accepted.</b> Close collaboration between Homes for Haringey and the HDV will be essential, from strategic planning right through to day-to-day operations. This will indeed be particularly important in the lead-up to any decision to transfer a site currently managed by Homes for Haringey, but will be equally</p>	<p>Director of Housing and Growth</p> <p>Ongoing</p>

<sup>11</sup> <http://www.standard.co.uk/news/london/residents-of-the-heygate-estate-forced-to-move-out-of-london-8743216.html>

<sup>12</sup> <http://www.independent.co.uk/news/uk/home-news/end-of-an-area-for-notorious-heygate-estate-social-housing-gives-way-for-high-rise-in-prices-8929998.html>

<p>organisations to ensure that there is strategic and structured process through which sites best suited for regeneration are transferred to the HDV;</p>	<p>important in other areas of joint work, for example in managing housing estates where multi-phase estate renewal is underway and in managing blocks containing both Council-owned homes and HDV-owned commercial properties. Sites can and will only be transferred to the HDV once full resident consultation has taken place (and in accordance with the HDV documentation).</p>	
<p>(ii) Further clarification and reassurance is provided as to the position and future viability of the HRA once HRA land is drawn down in to the HDV.</p>	<p><b>This is accepted.</b> The impact on the Council’s Housing Revenue Account will have to be understood as part of any decision to transfer a site to the HDV. This will be set out as part of the financial implications in any Cabinet decision to transfer sites to the HDV, whether as part of the initial decision to set up the HDV (for the first phase of sites) or in any later decision to transfer further HRA sites to the HDV. It will in turn be reflected in the Council’s HRA business plan.</p>	<p>Chief Operating Officer  Ongoing</p>

22.2 The Cabinet response, highlighted above, is noted and moving forward it is recognised close collaboration between Homes for Haringey and the HDV will be essential, from strategic planning right through to day-to-day operation. With this in mind, the Panel has put forward an additional recommendation in this area to ensure all matters are properly considered.

**Recommendation 23**  
 Given the number of housing estates already listed for transfer to the HDV, and the significant number of commercial properties paying rent to Homes for Haringey which are scheduled for transfer, we recommend that clear consultation with the board of Homes for Haringey is initiated forthwith. This would be to establish in detail the likely impact of the HDV on Homes for Haringey, the Housing Revenue Account and the Homes for Haringey repairs service and any other significant factors, e.g. impact on staffing, equalities, the impact on other estates and overall viability of Homes for Haringey and its in house services.

Costs Incurred Preparing Sites for Transfer

22.3 In addition, there are further significant issues and costs relating to the transfer of council estates to the HDV. In order to prevent these costs falling to the

Council, with only a promise of repayment in the future when development costs are paid, the Panel recommends the following:

**Recommendation 24**

Both the revenue and the capital costs incurred by the Council and HFH in preparing any site for transfer to the HDV should be reimbursed to the Council and HFH at the date of the transfer. These costs incurred to commence from the date any site was identified as moving to the HDV until the actual legal date of its transfer to the HDV. For example, the revenue and capital costs would include all staff costs, all repair and capital costs involved in providing accommodation for residents decanted, all leaseholder costs, all legal costs and all disturbance costs to both residents and leaseholders. These costs listed are examples only, all other costs incurred should also be reimbursed.

Welfare Reform and Work Act 2016

- 22.4 Within its evidence gathering the Panel understood that the [Welfare Reform and Work Act 2016](#) and [amendment regulations](#) required registered providers of social housing in England to reduce social housing rents by 1% a year for 4 years from a frozen 2015 to 2016 baseline and to comply with maximum rent requirements for new tenancies. This reduction also applies to affordable rented properties. With this in mind, the following recommendation has been put forward to assist with the regeneration of housing / estates across the borough.

**Recommendation 25**

The 1% rent reduction due as part of the government's 4 year rent reduction agenda should be appealed to the DCLG to be ceased for the Council and HFH properties within the HRA. The appeal to request exemption from any further rent reductions to enable the resultant extra rental income to assist with the regeneration of housing / estates.

Use of Right-to-Buy Receipts

- 22.5 The Council is currently handing a large amount of right-to-buy money back to the Government, due to the restrictions placed upon the council's use of these receipts. Only 30% of this income can be used to build new homes, meaning that 70% must be found elsewhere.
- 22.6 Legal opinion would need to be obtained as to whether the joint venture arrangement would fall within the permitted "body" definition of the right-to-buy regulations but also meet the other relevant criteria in relation to the provision of affordable housing. However, if this has not been considered within the current financial model then, if the legal view was that right-to-buy receipts could be utilised in this arrangement, in theory – and subject to agreement - this could provide subsidy within the financial model and potentially enable the provision of additional affordable social target rented housing.

**Recommendation 26**

That the Cabinet commit to exploring all options for using Haringey's right-to-buy receipts in conjunction with the HDV.

**23. Ongoing Democratic Control**

- 23.1 As the HDV proposals entail transferring the Council's assets to a joint venture, the Panel has concerns that this could entail a loss of accountability and democratic control over publicly-owned property. To help ensure there is an ongoing relationship to allow elected members to scrutinise decisions and reflect the interests of residents, the Panel has the following suggestions for commitments to be made prior to any final decision on the HDV.

**Recommendation 27**

The legal framework for the HDV must establish firm principles which would be binding on any development carried out by the HDV. Cabinet must ensure the following important protections **to guarantee ongoing democratic control** of major decisions:

- a. No scheme land transfer to take place without Cabinet approving the business plan which should set out expectations on: the number and type of housing, employment spaces, job numbers and employment, inclusion of open space and community facilities, the timetable for development and an assessment of the key risks.
- b. Regular reports to Cabinet on the performance of the Haringey Development Vehicle, based on clear and robust key performance indicators. As set out in the interim scrutiny report (Recommendation 6), these should include: (i) Challenging targets for both revenue and capital growth from the management of the Council's commercial property portfolio; and (ii) Ambitious regeneration outcome targets to help improve the health, wellbeing, safety and life chances of those within regeneration areas (and beyond).
- c. Ward Councillors should be kept fully informed about specific proposals in their ward and a meaningful consultative structure established to ensure Ward Councillors are fully aware of, involved in, and able to influence the decision making process, and methodology, on any site decant and demolition.
- d. The HDV's Strategic Business Plan should be updated and presented to Overview and Scrutiny on an annual basis and senior HDV staff must be available to answer questions as required.

**24. Commitment to Ongoing Scrutiny**

- 24.1 Given the regeneration and development focus of the HDV will span a period of 15-20 years, with an option to extend thereafter, the importance of ongoing scrutiny was highlighted throughout. This builds on earlier recommendations put forward, such as ensuring Overview and Scrutiny has an opportunity, on an annual basis, to review the HDV's Strategic Business Plan and performance against it. This critical friend challenge is based on best practice highlighted by the Centre for Public Scrutiny:

*“Now, more than ever, we need trusted decisions. We believe that decisions are better made when they involve others, whether that's democratically elected*



*representatives, those affected by the decisions or other key stakeholders, including employees and partners.”*

Page 1, Centre for Public Scrutiny Strategy 2017-20

- 24.2 In addition, and in view of provisions already set out in the Council’s Rules of Procedure (Constitution, Part 4, Section G) the following recommendations have been put forward for consideration by the Overview and Scrutiny Committee.

**Recommendation 28**

The Overview and Scrutiny Committee must itself commit to ongoing scrutiny, possibly by setting up a separate HDV Scrutiny Panel.

**Recommendation 29**

An independent advisor with experience in finance, risk and partnerships should be appointed to assist the Committee/Panel with its scrutiny work.

**25. Northumberland Park Supporters Group Deputation**

- 25.1 On 13th June 2017 the Overview and Scrutiny Committee received a deputation, attached at Appendix 3, from the Northumberland Park Supporters Group. Presented by Rev Paul Nicolson the deputation highlighted that the health of the poorest tenants in the Borough is an economic, legal and moral issue.

- 25.2 The Committee agreed that the issues raised should be considered by Cabinet prior to any decision being taken to approve the legal documentation to establish the HDV, and its first set of business plans.

**Recommendation 30**

That Cabinet be asked to consider and respond to the deputation, attached at Appendix 3, presented to the Overview and Scrutiny Committee on 13 June 2017 by the Northumberland Park Supporters Group.

**26. Contribution to strategic outcomes**

- 26.1 In agreeing a tight and focused scope, consideration was given to how this scrutiny review could contribute to strategic outcomes.

- 26.2 The recommendations outlined in this report relate to:

- Priority 4 of the Corporate Plan – “Sustainable Housing, Growth and Employment”
- Priority 5 of the Corporate Plan – “Create homes and communities where people choose to live and are able to thrive”

**27. Statutory Officers Comments**

**Legal**

- 27.1 Under Section 9F Local Government Act 2000 (“The Act”), Overview and Scrutiny Committee have the powers to review or scrutinise decisions made or other action taken in connection with the discharge of any executive and non-executive functions and to make reports or recommendations to the executive or to the authority with respect to the discharge of those functions. Overview and Scrutiny Committee also have the powers to make reports or recommendations to the executive or to the authority on matters which affect the authority’s area or the inhabitants of its area. Under Section 9FA of the Act, Overview and Scrutiny Committee has the power to appoint a sub-committee to assist with the discharge of its scrutiny functions. Such sub-committee may not discharge any functions other than those conferred on it.
- 27.2 Pursuant to the above provisions, Overview and Scrutiny Committee has established Scrutiny Review Panels of which include Housing and Regeneration Scrutiny Panel to discharge on its behalf defined scrutiny functions. On the request from Overview and Scrutiny Committee, Housing and Regeneration Scrutiny Panel has undertaken a review of the proposed Haringey Development Vehicle, the establishment of which is to be considered by Cabinet in July 2017. In accordance with the Council’s Constitution, the Panel must refer the outcome of its review to Overview and Scrutiny Committee for consideration and approval.
- 27.3 Overview and Scrutiny Committee must now determine whether to approve the Housing and Regeneration Scrutiny Panel’s findings and recommendations. The Committee has broad powers in this regard and should give due consideration to the extent to which the remit of the review has been met or otherwise. The remit of the Scrutiny Panel’s review is defined in the terms of reference set out in Paragraph 4.2 of this report. There are aspects of the review that are not strictly within the Scrutiny Panel’s terms of reference. For example, the parts with the headings “Project Management” “The Provision of Affordable Housing” “Mixed Communities” “Overseas Buyers” “Welfare Reform and Work Act 2016” and “Use of Right to Buy Receipts”. The Committee may decide to accept the findings under these headings on the basis of its importance and relevance to the subject matter and if consent had been sought for inclusion in the review, it would have been granted. Overall, the Committee should consider whether the findings and recommendations are based on good evidence, whether they accord with good practice and whether they are reasonable and rational.

### **Finance**

- 27.4 The costs of undertaking this scrutiny review have been contained within existing budgets while the Panel has put forward a number of recommendations for consideration.
- 27.5 Where there are financial implications of implementing the recommendations within this report, it is important that the recommendations are fully costed and a funding source identified before they can be agreed. If the recommendation requires funding beyond existing budgets or available external funding, then Cabinet will need to agree the additional funding before any proposed action can proceed.

27.6 Specific comments in relation to individual recommendations, from the Deputy Chief Finance Officer, are as follows:

- Recommendation 3 – the external auditor has been working with the Council to address identified issues. Should additional work be required this will require identification of an appropriate funding source.
- Recommendation 7a and 7b – these would be prepared by the HDV Finance function and not the Council's Finance Officers.
- Recommendation 9 – appointment of a professional advisor will require the identification of an appropriate funding source.
- Recommendation 10 – will require the identification of an appropriate funding source.
- Recommendation 15 – appointment of an external advisor will require the identification of an appropriate funding source. The impact on the HRA will be considered in the financial comments within the July Cabinet report.
- Recommendation 19 – the establishment of a wholly council-owned housing company could incur significant legal and professional fees in set up costs although consideration could be given to using the Council's ALMO for this purpose.
- Recommendation 23 – the financial impact on Homes for Haringey will be considered in the financial comments within the July Cabinet report.
- Recommendation 24 – the reimbursement of revenue and capital costs incurred by the Council and HFH in preparing any site for transfer will need to be considered as part of the Members agreement and Strategic Finance Business Plan. This will be addressed as part of the July Cabinet report.
- Recommendation 26 – the use of right-to-buy receipts to provide grant subsidy within the Strategic Business Plan would need to be further considered and legal advice obtained.
- Recommendation 29 – the appointment of an independent advisor, to assist Overview and Scrutiny with its work, will require the identification of an appropriate funding source (unless this is done on a voluntary basis).

## **Equality**

27.7 The Council has a public sector equality duty under the Equality Act (2010). This requires the Council to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited under the Act;

- Advance equality of opportunity between people who share a protected characteristic and those who do not;
  - Foster good relations between people who share a protected characteristic and those who do not.
- 27.8 As set out in the Cabinet report considered on 14 February and 7 March, the recommendations to Cabinet expected in July 2017 – to establish the HDV, and to agree the first set of business plans – will be accompanied by full Equality Impact Assessments. The potential impact of the individual business plans is likely to be greater than that of the decision to establish the HDV. Those business plans, and the final terms of the HDV's establishment, are still in development.
- 27.9 The Council is exploring how best to embed equalities into the governance of the HDV to ensure due regard is given to the public sector equality duty. This will include full Equality Impact Assessments being considered by Cabinet in relation to all future business plans and any other decision made by the Council related to the HDV.
- 27.10 Bespoke equality training has been provided to Council Officers who have been working on the HDV business plans to ensure the Council pays due regard to the Public Sector Equality Duty.

## **28. Use of Appendices**

Appendix 1 – Review Contributors

Appendix 2 – Evidence Pack

Appendix 3 – Northumberland Park Supporters Group Deputation

## **29. Local Government (Access to Information) Act 1985**

[Nationwide steps in to protect homeowners from unfair leasehold practices \(Press Release, 5<sup>th</sup> May 2017\)](#)

[Crossrail 2: Property developers and housing associations call for “firm commitment” \(Evening Standard, 3<sup>rd</sup> April 2017\)](#)

[Recommendation of a Preferred Bidder for the Haringey Development Vehicle – Outcome of Call-in to Overview and Scrutiny Committee \(Cabinet, 7<sup>th</sup> March 2017\)](#)

[Call-In: Recommendation of a Preferred Bidder for the HDV \(OSC, 2<sup>nd</sup> March 2017\)](#)

[Faulty Towers: Understanding the impact of overseas corruption on the London property market \(Transparency International UK, March 2017\)](#)

[Approval of Preferred Bidder for HDV \(Cabinet, 14<sup>th</sup> February 2017\)](#)

[Cabinet Response to Interim HRSP Report \(Cabinet, 14<sup>th</sup> February 2017\)](#)

[More affordable housing promised \(BBC News, 7<sup>th</sup> February 2017\)](#)

[Interim HRSP Report on HDV Governance \(OSC, 17<sup>th</sup> January 2017\)](#)

[London mayor launches unprecedented inquiry into foreign property ownership \(The Guardian, 30<sup>th</sup> September 2016\)](#)

[HDV Business Case \(Cabinet, 10<sup>th</sup> November 2015\)](#)

[End of an area for notorious Heygate estate: social housing gives way for high rise in prices \(The Independent, 8<sup>th</sup> November 2013\)](#)

[Residents of the Heygate estate forced to move out of London \(Evening Standard, 2<sup>nd</sup> August 2013\)](#)

[Haringey Development Vehicle \(Online FAQs\)](#)

External web links have been provided in this report. Haringey Council is not responsible for the contents or reliability of linked websites and does not necessarily endorse any views expressed within them. Listings should not be taken as an endorsement of any kind. It is your responsibility to check the terms and conditions of any other web sites you may visit. We cannot guarantee that these links will work all of the time and we have no control over the availability of the linked pages.

## Appendix 1

## Review Contributors

The Panel interviewed the following witnesses as part of their evidence gathering – in order of their appearance before the group

Name	Role
Justin Guest	Local Resident and Risk Specialist
Cllr Ed Turner	Deputy Leader, Oxford City Council
Pete Redman	Associate, Centre for London
Professor Loretta Lees	Professor of Human Geography, Leicester University
Dr Jane Lewis	Senior Lecturer (Sociology/Social Policy), London Metropolitan University
Gail Waldman	The Highgate Society
Professor Michael Edwards	Senior Lecturer, Economics of Planning at UCL Bartlett School of Planning, and Honorary Professor
Professor Steve Jefferys	Emeritus Professor, European Employment Studies, London Metropolitan University
Jerry Flynn	35% Campaign, Southwark
Dr Denis Dillon	Birkbeck College, University of London
Dan Hawthorn	Director of Housing and Growth, Haringey Council
Tracie Evans	Chief Operating Officer, Haringey Council
Patrick Uzice	Principal Lawyer for Property, Planning and Regeneration, Haringey Council
Stephen Hartrick	Manager Commercial Estates, Haringey Council
Laura Bridges	Property Review Programme Manager, Haringey Council

## Appendix 2

### Evidence Pack

A	Council Project Team	Haringey Council
B	Justin Guest	Local Resident and Risk Specialist
C	Cllr Ed Turner	Deputy Leader, Oxford City Council
D	Pete Redman	Associate, Centre for London
E	Professor Loretta Lees	Professor of Human Geography, Leicester University
F	Dr Jane Lewis	Senior Lecturer (Sociology/Social Policy), London Metropolitan University
G	Professor Michael Edwards	Senior Lecturer, Economics of Planning at UCL Bartlett School of Planning, and Honorary Professor
H	Gail Waldman	The Highgate Society
I	Professor Steve Jefferys	Emeritus Professor, European Employment Studies, London Metropolitan University
J	Jerry Flynn	35% Campaign, Southwark

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## HDV Scrutiny Project – Responses to Recommendations

Overall comments on the report			
Recommendation	Response (Agreed / Not agreed / Partially agreed)	Who and when	
<p>The original agreed scope for this scrutiny review is set out paragraph 4.2 of the Overview and Scrutiny Committee’s report to Cabinet. The report, and the recommendations set out and responded to below, take a broad interpretation of that scope covering a very wide range of current and future work by the Council and HDV. A number of the issues raised in the recommendations are comprehensively addressed in the report to Cabinet recommending establishment of the HDV, while others address issues of detail in relation to the HDV’s future activity which cannot be meaningfully addressed at this stage. The Council’s decisions and activity in respect of the HDV will undoubtedly be the subject of further scrutiny work during the HDV’s lifetime, though it is important to stress that the work programme of the HDV itself – which is an independent body – is not subject to the Council’s scrutiny function in the same way as the Council’s own.</p>			
1	<p>1a. No decision on the HDV should be taken until a fully updated business case is prepared and evaluated. For the avoidance of doubt, before Cabinet is asked to approve the legal documentation to establish the HDV, and its first set of business plans, there must be a meaningful update to the Business Case, originally published in 2015, to ensure it is still fit for purpose. The updated business case should:</p> <ul style="list-style-type: none"> <li>- Review the economic modelling used in the initial Business Case to reflect recent circumstances, which have increased economic uncertainty, including: Brexit, Crossrail 2, numerous changes in housing and planning law which were enacted in the <a href="#">Housing and Planning Act 2016</a>, the recently released <a href="#">Housing White Paper</a> (“<i>Fixing our broken housing market</i>”), a new good practice guide to estate regeneration published by the Mayor of London, and the</li> </ul>	<p>Partially agreed.</p> <p>The Cabinet decision to establish the HDV and agree its first set of business plans is accompanied and informed by a fully up-to-date financial model, prepared collaboratively by Lendlease and the Council and made available in the published Cabinet papers. Its integrity has been verified by independent auditors, and the assumptions (including those taking account of current market conditions) and outputs have been tested by the Council’s expert commercial advisers GVA. This model is an integral part of what will become the business plan and budget for the HDV.</p> <p>However, this will not be presented in the context of a revised Business Case in the format used to support the November 2015 decision. That format was appropriate for the decision being made then, but the level of detail set out in the Cabinet papers supporting the decision to establish the HDV supersedes the content of that</p>	<p>Director of Housing &amp; Growth July 2017</p>

	<p>results of the “snap” General Election.</p> <ul style="list-style-type: none"> <li>- Be made public and transparent with sufficient time for meaningful scrutiny before a decision is taken.</li> </ul> <p>1b. If time allows, this should be undertaken by an independent external advisor commissioned for this purpose</p>	<p>Business Case.</p> <p>In respect of 1(b), while external advisers have been retained by the Council to support the procurement process, it is not considered necessary or appropriate to secure additional external advice for the work described above.</p>	
2	<p>That the full risk register and comprehensive risk assessment for the HDV should be made available to the Housing and Regeneration Scrutiny Panel and made public prior to any decision being taken. This should work backwards from all the things that can go wrong, setting out where risk arises and the remedy for managing risk i.e. accept it, control it, transfer it, or avoid it.</p>	<p>Agreed.</p> <p>The Council’s risk register – and the description of the overall approach to risk to be taken by the Council as a member of HDV – has been made available to the Housing &amp; Regeneration Scrutiny Panel, and to the public via the Council website where it will be updated regularly.</p> <p>There is no separate documentation with the title or purpose of ‘risk assessment’. The legal documentation presented to Cabinet for approval is very largely informed by a detailed, expert assessment of the risks to the Council arising from the HDV approach and has been with the principal aim of managing that risk in the most effective way possible. This documentation can therefore be considered a detailed expression of the Council’s risk assessment, as informed by expert legal and commercial advisers.</p>	<p>Director of Housing &amp; Growth Ongoing</p>
3	<p>No decision should be taken to establish the joint</p>	<p>Partially agreed.</p>	<p>Head of Audit &amp; Risk</p>

	<p>venture until:</p> <ul style="list-style-type: none"> <li>- The Council’s External Auditor has reviewed concerns, including those referred to them, relating to the HDV. Findings should be published (with actions to mitigate any risks set out and followed up) and considered by Corporate Committee.</li> <li>- Corporate Committee has considered the outcomes of the initial work that has been undertaken by internal audit concerning the HDV.</li> </ul>	<p>Given the Committee timetable, there will not be an opportunity for this work to be considered by Corporate Committee ahead of the Cabinet decision on establishing the HDV.</p> <p>Internal audit are due to report the findings of their initial work to the July meeting of the Corporate Committee, so the report will be in the public domain. As with all internal audit reviews, if there are any significant governance or control issues identified within the audit scope, these will be raised with senior management in advance of the report being produced so any action required can be taken. No issues have been identified to date which would prevent the internal audit work from being completed and reported in accordance with agreed procedures.</p> <p>The external auditor has confirmed that he will be notifying the council of any issues raised as a result of his review before the cabinet meeting of 3 July, however he is at pains to point out that his role is not to stop the decision being made but to raise issues if there are any of concern.</p>	<p>Management July 2017</p>
4	<p>Any final approval to establish the HDV by Cabinet must be accompanied by a robust set of measures to audit the work of the joint venture on a continuous basis. This must include a detailed plan of how the 30 days per year of the internal auditor looking at the HDV will be spent, to be addressed by Corporate Committee.</p>	<p>Partially agreed.</p> <p>The HDV represents one of the risk areas for the Council that internal audit would be concerned with on an on-going basis using their risk-based approach for the allocation of internal audit resources. Internal audit resources will therefore be used to provide ongoing assurance to senior management and members that</p>	<p>Head of Audit &amp; Risk Management Ongoing</p>

		<p>risks are being appropriately identified and managed. Internal audit outcomes are provided to the Corporate Committee and reports are publicly available to provide transparency.</p> <p>During 2017/18, internal audit has agreed an initial allocation of 30 days to undertake assurance work and a high level plan has been approved with senior managers as to how these will be used. In the longer term, the internal audit resources required for HDV assurance will be kept under review as the HDV progresses and appropriate resources allocated as required.</p>	
5	<p>To address concerns raised by expert witnesses, and by Panel members themselves, about whether the 50:50 arrangements constitutes an “equal partnership”, and therefore whether the council’s objectives (policy framework/corporate plan) are achievable, the Head of Paid Service must ensure there is sufficient officer capacity to support the Council with its engagement with the HDV. This must be guaranteed, and outlined, before Cabinet is asked to establish the HDV.</p>	<p>Agreed.</p> <p>The Head of Paid Service is satisfied that arrangements are in place to support the Council in its partnership with the proposed HDV, both in terms of dedicated staff and in terms of engagement with the HDV and its work programme across the Council. This will be kept under close periodic review. It is neither possible nor appropriate for the Head of Paid Service to ‘outline’ how this approach will be defined and adapted over a 20-year period, nor is it clear what any kind of ‘guarantee’ in this context would look like or achieve.</p> <p>It should be stressed, however, that the joint venture approach based on the equal 50:50 partnership has been a fundamental principle, agreed by both the Council and Lendlease, from the start of this process and has been the firm basis of the work done by the Council team and its expert external advisers to secure</p>	<p>Head of Paid Service Ongoing</p>

		the Council's position in the legal documentation.	
6	To ensure clarity, details of the due diligence process for establishing the HDV, and its first set of business plans, should be included in the HDV Cabinet report. This should include clear, comprehensive information on the work that has been carried out, by whom, and steps that have been taken as a result.	Agreed.  The Cabinet report proposing establishment of the HDV includes a detailed description of the process for defining the key terms of the arrangement and for selecting Lendlease as the proposed partner for the HDV.	Director of Housing & Growth July 2017
7	7a. Information on what the Balance Sheet will look like on Day One, including the short- and long-term assets and liabilities, should be included in the HDV Cabinet report. To ensure clarity, it is recommended that a model balance sheet is included to illustrate what the basic HDV financial structure will look like.  7b In addition:  i. The updated HDV Balance Sheet, including any major changes to assets or liabilities, should be reported quarterly to the Housing and Regeneration Scrutiny Panel.  ii. Management Accounts for the HDV should be reported quarterly to the Housing and Regeneration Scrutiny Panel.	Partially agreed.  The Cabinet report clearly sets out the structure of the HDV's financing and an illustration of the HDV's early financial position.  It is agreed that the HDV will report to Cabinet on an annual basis, and the Cabinet's decisions in respect of that report is subject to scrutiny in the normal way. It is not accepted that a quarterly report or balance sheet is appropriate or proportionate, given the HDV's status as an independent body with its own governance and audit arrangements.  It should be stressed, however, that the joint venture approach based on the equal 50:50 partnership has been a fundamental principle, agreed by both the Council and Lendlease, from the start of this process and while the balance sheet will of course change all the time, the equal matching of equity that underpins the arrangement will always be in place.	Director of Housing & Growth July 2017
8	The legal framework for the HDV must include	Partially agreed.	Director of Housing & Growth

	<p>binding guarantees in relation to dispute resolution mechanisms and, in order to reduce financial risk, the legal framework for the HDV must allow the Council (giving six months notice) to withdraw from the HDV every five years and without any compensation to be paid to Lendlease or to its subsidiaries or staff, and with the whole property portfolio being transferred back to Haringey.</p>	<p>The legal agreement between the members of the HDV includes provisions for disputes and deadlock situations between the members of the HDV.</p> <p>However, the proposal for a five yearly break clause is not accepted. The Council is deliberately establishing a long-term partnership and has designed the arrangements accordingly. The Council has the ability to withhold future sites/phases from the HDV if performance is not as expected; this, alongside the overall governance and performance management regime described in the Cabinet paper, is considered an appropriate and sufficient safeguard against poor performance. Nor would it be commercially acceptable to our proposed partner or permissible within procurement regulations to introduce this requirement at this stage.</p> <p>However, the legal documentation does include provisions for the winding up of the vehicle under a range of circumstances, and In the event of a winding up of the HDV or if the private sector member wishes to sell its share of the HDV, the Council retains the first option to acquire the interest of the member.</p>	<p>July 2017</p>
<p>9</p>	<p>A professional independent advisor should be appointed to support the Council on on the HDV Board to ensure Haringey board members have a clear understanding of the matters put before them and the implications of any decision made by the board, to allow them to act in the best interest of the Council and local residents. This advisor would not be</p>	<p>Not agreed.</p> <p>The Council's nominees to the board of the HDV will have constant access to advice and input from Council officers and (where considered appropriate) external advisers. However, it is not considered necessary or appropriate to use Council resources to appoint an</p>	<p>-</p>

	voting but would have full access to information and be able to input and participate at board meetings.	advisor on a standing basis in the way proposed, nor is it consistent with the governance arrangements put forward in the Members Agreement.	
10	Cabinet should invite and establish a Gateway Review (using OGC methodology) to deliver a “peer review” in which independent practitioners from outside the project use their experience and expertise to examine the progress and likelihood of successful delivery of the project. Ideally this should happen before a decision is taken to establish the HDV.	<p>Not agreed.</p> <p>While it is agreed that the decision to establish the HDV and agree its work programme is worthy of careful scrutiny and consideration, it is not considered given the procurement process already conducted and the significant external commercial and legal advice received that a Gateway Review of this sort, applied to the Council’s decision to create the HDV, would add value in proportion to the work associated with it.</p> <p>OGC Gateway Reviews are usually undertaken to provide assurance and confidence during the lifecycle of major projects that they are on track and delivering the stated benefits. The successful delivery of the overall aims and objectives of the HDV will depend on the cumulative impact of each of the projects within it. Best practice programme and project methodology must be used throughout the HDVs lifetime, which is one reason the Council has sought to procure a partner with high quality expertise of that nature. The HDV Board will keep programme delivery under review, including by considering from time to time what the best method for doing that is.</p>	-
11	To ensure probity, and to protect the council’s commercial interests, the legal agreement to establish the HDV should contain a commitment from Lendlease not to recruit any Haringey Council employee/Councillor/consultant who has worked for	<p>Not agreed.</p> <p>The legal agreement between the members of the HDV includes a non-solicitation clause, containing a requirement that our preferred bidder undertake not to</p>	-

	Haringey on the HDV over the past 3 years (2015-2017). Furthermore, neither should Lendlease provide any individual with any payment or service or benefits for a period of five years from the date of establishing the joint venture. This should include any company that is a subsidiary company of Lendlease.	offer employment to senior Council officers directly involved in the process of establishing the HDV, for a period ending six months after the execution of the legal agreements.  However, it would be illegal in employment and contract law to impose a requirement along the lines proposed.	
12	The overarching agreement with Lendlease, to establish the HDV, should not contain an exclusivity percentage. Any exclusivity percentage should only be applied on a site by site basis following consideration of value for money and an appraisal of likely costs for each project.	Not agreed.  The proposed contractual arrangement for Lendlease Construction to carry out a defined percentage of construction contracts – under strictly monitored conditions to ensure value for money – was central to Lendlease’s bid which was submitted as part of the procurement process, and has been accepted by the Council.  The safeguards in place, provided by the independent verification team as described in the Contractor Framework Agreement, are considered adequate to ensure the HDV – and by extension the Council – secures value for money from all construction contracts. With these safeguards working effectively, the HDV will benefit from having a dedicated construction partner, including through the application of construction expertise early in project design, guaranteed availability at times of pressure in the market, and reduced time and expense associated with procurement.	-
13	In view of the interrelationship between	Partially agreed.	Leader of the Council



	<p>Regeneration, Planning and the HDV, the Leader of the Council should ensure responsibility for Regeneration and the HDV are set out in the same portfolio. In addition, and following Recommendation 12 of the interim scrutiny report on governance, in order to remove any ambiguity concerning responsibilities for Regeneration and the HDV with that of the Local Planning Authority, it is recommended Cabinet responsibility for Regeneration and Planning is disaggregated and allocated to separate members.</p>	<p>The work of the HDV will – as set out in the business plans – span the full range of the Council’s business, and therefore the full range of Cabinet portfolios. However, given the particular links between the HDV and rest of his portfolio, the Cabinet Member for Regeneration, Housing and Planning has taken the overall lead for Cabinet in driving the work on the HDV.</p> <p>However, it is not accepted that responsibilities for Regeneration and Planning need to be split. This is of course not an issue which relates only to the HDV, but it is not overall considered that there is any conflict between leading the regeneration work of the Council and being the Cabinet member for Planning, especially given the entirely separate quasi-judicial role of the Regulatory Committee in fulfilling key functions of the Local Planning Authority. In addition it should be noted that there are examples of the same situation in other Councils and in some the Cabinet Member even sits on planning committee.</p>	<p>Ongoing</p>
14	<p>No decision to commit any site should go ahead without a full and detailed equality impact assessment on each site. This work should be commissioned and completed independently, in order to demonstrate sufficient separation to the overarching Overview and Scrutiny Committee who should oversee this.</p>	<p>Partially agreed.</p> <p>All business plans – the mechanisms for committing sites to the HDV – are (and will continue to be) accompanied by equality impact assessments (EqIAs) which inform the content of the plans, and which Cabinet will consider alongside the business plans themselves as part of the decision on whether to approve them. This is to ensure that Cabinet members discharge their Public Sector Equality Duty (PSED). The business plans’ EqIAs contain actions to commit to</p>	<p>Director of Housing &amp; Growth Ongoing</p>

		<p>undertaking further EqIAs for specific elements of the business plans.</p> <p>However, it is not accepted that this should be undertaken by an external advisor. It is good practice for the individual or team to develop the EqIA alongside the development of a proposal as this allows equality issues to be embedded in proposals. It also allows the Council to document how it has shown due regard to the PSED throughout the development of the proposal as the duty does not just apply to decision makers but also people developing and implementing decisions. An external advisor would be detached from the process.</p> <p>Bespoke training and additional support has been provided to officers to help them develop EqIAs .</p>	
15	<p>Given that the commercial portfolio would transfer immediately after establishing the HDV, a full and detailed equality impact assessment should be undertaken before the portfolio is transferred. If time allows, this should be undertaken by an independent external advisor. The final list of commercial properties proposed for transfer should be made public. The impact on the HRA should be quantified and made transparent as part of that listing.</p>	<p>Partially agreed.</p> <p>All business plans, including that for the commercial portfolio, are accompanied by equality impact assessments (EqIAs) which have informed the content of the plans, and which Cabinet will consider alongside the business plans themselves as part of the decision on whether to approve them. This is to ensure that Cabinet members discharge their Public Sector Equality Duty (PSED). The business plans' EqIAs contain actions to commit to undertaking further EqIAs for specific elements of the business plans.</p> <p>However, it is not accepted that this should be undertaken by an external advisor. It is good practice for the individual or team to develop the EqIA alongside</p>	<p>Director of Housing &amp; Growth July 2017</p>

		<p>the development of a proposal as this allows equality issues to be embedded in proposals. It also allows the Council to document how it has shown due regard to the PSED throughout the development of the proposal as the duty does not just apply to decision makers but also people developing and implementing decisions. An external advisor would be detached from the process.</p> <p>Bespoke training and additional support has been provided to officers to help them develop EqIAs.</p> <p>The list of properties proposed for transfer is appended to the Cabinet report seeking approval for the transfer.</p> <p>For the Commercial Portfolio, there is a commitment to undertake an EqIA for any property when there is a change in the conditions or rent of the property at the point when leases are renewed or the relevant review point in the lease occurs.</p> <p>The financial implications for the Council – including on its Housing Revenue Account – are fully set out in the Cabinet report.</p>	
16	<p>To ensure residents' rights are protected, a set of formal policy documents should be drafted specifically related to the rights of tenants and leaseholders living in properties to be transferred to the HDV. These policies must establish and set out firm and transparent criteria and principles regarding residents' rights, including:</p> <ol style="list-style-type: none"> <li>a. That a clear, legally enforceable, commitment be made to council tenants to be re-housed on rent matching that of an</li> </ol>	<p>Partially agreed.</p> <p>The Cabinet report recommending establishment of the HDV sets out the specific provisions that enshrine requirements on rehousing (including the terms of rehousing) in the legal documentation, building on the commitments made in the Council's draft updated Estate Renewal Rehousing &amp; Payments Policy which is currently the subject of public consultation and which specifically describes how its terms relate to the HDV.</p>	<p>Director of Housing &amp; Growth July 2017</p>

	<p>equivalent council property and on the same terms, either on the estate or elsewhere in the borough, according to their choice.</p> <p>b. To protect homes for future generations of Haringey residents, the right-to-buy scheme should not be offered on replacement homes built by the development vehicle.</p> <p>c. In developing HDV tenancy and evictions policies, strong safeguards should be put in place to protect vulnerable tenants from eviction.</p> <p>d. That overcrowded tenants be offered a replacement property of a size that meets their needs.</p> <p>e. That robust and meaningful resident consultation be guaranteed, with a commitment that sites can only be transferred to the HDV once full resident consultation, has taken place. As part of the consultation process, the difference between refurbishment and demolition should be made clear with a clear choice of regeneration or renewal being stated i.e. not everything needs to be demolished.</p> <p>f. There should be a Ballot of tenants and leaseholders as part of the consultation process and that the Council should provide the evidence to residents that it is beneficial for sites to be transferred to the HDV. <b>This recommendation was not agreed by all Panel members.</b></p> <p>g. Resident leaseholders should be provided with a package of support, including</p>	<p>It also describes the specific requirement for full, statutory section 105 consultation to be carried out with affected residents on estates proposed for regeneration, and that such consultation must be carried out – and the results referred to Cabinet – before any housing site can transfer to the HDV.</p> <p>The Council has been clear that right to buy should not be offered on homes held by the HDV.</p> <p>The HDV will put in place appropriate safeguards to ensure leaseholders are not met with onerous terms or escalating ground rents. The Council as a member of the HDV will also be able to prevent this in its approval of the business plan.</p> <p>The one element which is not accepted is the requirement for a ballot. There is a strong commitment to comprehensive and meaningful engagement with residents about all regeneration projects delivered by the HDV, but it is not expected that the Council or HDV will use yes/no ballots. As set out in the Mayor of London’s draft Estate Regeneration Good Practice Guide, ballots <i>‘can risk turning a complex set of issues that affects different people in different ways over many years into a simple yes/no decision at a single point in time’</i>.</p>	
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	<p>independent legal advice regarding their position, so they don't lose out when their property is subject to CPO.</p> <p>h. A clear policy should be set out to protect residents from onerous leasehold terms and escalating ground rents. In developing this policy, it is recommended consideration be given to Nationwide Building Society's new valuation policy for new build leasehold properties<sup>1</sup></p>		
17	<p>That a Residents' Charter, setting out the expectations of Northumberland Park residents (or any other affected estate), written by the residents themselves, be adopted by Cabinet to give a clear public commitment to meeting the ambitions of tenants and resident leaseholders.</p>	<p>Agreed.</p> <p>As stated on the Council website in a Q&amp;A for Northumberland Park residents, PPCR (the independent tenant and leaseholder advisor for Northumberland Park) is working with residents to get an understanding of what they want from the regeneration programme. This will contribute towards the development of a Regeneration Charter, setting out a series of commitments to residents, based on what residents have said they wish to see the regeneration programme deliver, which would then be presented to Cabinet for adoption.</p>	<p>Director of Regeneration July 2018</p>
18	<p>The legal framework for the HDV must establish firm principles and policies which would be binding on any development carried out by the HDV. Cabinet must ensure that decisions on the HDV incorporate important protections for the provision of affordable, and target rent social housing, including:</p>	<p>Partially agreed.</p> <p>All HDV developments will of course be subject to the normal planning process, including testing against whatever planning policy is current at the time. The business plans proposed to Cabinet for the first phase of sites do provide a policy compliant mix of housing</p>	<p>Director of Housing &amp; Growth July 2017</p>

<sup>1</sup> <http://www.nationwide.co.uk/about/media-centre-and-specialist-areas/media-centre/press-releases/archive/2017/5/05-protect-homeowners>

	<p>a. That the development vehicle be bound by Haringey’s planning policy requiring at least 40% affordable housing and the Council should seek to use profits from the vehicle to boost affordable housing and target social rented numbers.</p> <p>b. Contractually making sure that target rent homes are not transmuted into affordable rent homes.</p> <p>c. There should be no loss of target rented housing – that is housing which was, prior to any demolition, council housing. Any new developments must reprovide – at minimum – an equivalent number of target rented homes on the same rents (without service charges) and security of tenure. The basis for calculating the number of homes to be reprovided should be the number of council homes and leasehold properties on any estates before any people accept alternative accommodation i.e. the position at the start of any community engagement and consultation.</p> <p>d. All HDV viability assessments should be made public in full with no redactions.</p>	<p>with 40% affordable homes. The use of the returns from the vehicle, which will no doubt be subject to many competing demands, will be a matter for determination through the Council’s normal budget-setting process at the relevant time.</p> <p>In relation to the recommendation in (b), the HDV is committed to comply with the Council’s Housing Strategy and other housing policies. The HDV Board, in collaboration with the Council, will determine how this is best achieved.</p> <p>In relation to the recommendation in (c), the Council’s Housing Strategy – adopted by Full Council in November 2016 – sets out (in section 5.4 ‘Promoting Estate Renewal’) the Council’s aim to ensure that there is no net loss of affordable habitable rooms in estate renewal projects. This will apply to all HDV projects. However it is made clear in the Strategy why a commitment to the reprovision of the same number of homes is not always achievable.</p> <p>In relation to the recommendation in (d), while the Council and Lendlease have made a clear commitment to transparency in the work of the HDV, it is not possible to commit to 100% publication of viability assessments. For example, they may contain information that is commercially confidential and would hinder the Council/HDV position in negotiating contracts.</p> <p>However the Council’s policy is for full disclosure of viability assessments and requests for redaction will be</p>	
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		considered in the same way for the HDV as for other developers.	
19	Consideration should be given to establishing a wholly council-owned housing company to purchase and manage HDV affordable homes and target rent homes. This will ensure that there will be no reduction in homes wholly owned and managed by the council.	<p>Agreed.</p> <p>The Council will continue to consider the potential benefits of using a Council-owned housing company to acquire and hold stock on the Council's behalf. There is no reason such a vehicle could not acquire homes from the HDV, subject to agreement with the HDV, appropriate budgets being identified, and a full business case and assessment of risk including in respect of exposure to Right-to-Buy.</p>	Director of Housing & Growth Ongoing
20	<p>Given that the HDV will operate in line with Haringey's Housing Strategy the mixed communities model pursued by the HDV, with mix-tenure housing built in the same locality, must be underpinned by genuine social integration. Safeguarding for achieving this should include:</p> <ul style="list-style-type: none"> <li>- Social housing must be of the same standard as private housing</li> <li>- All new build of all tenures should be pepper potted, with no "poor door" arrangements</li> <li>- A retail offer which reflects the needs and wishes of all residents rather than aimed at just higher-income residents</li> <li>- Leisure amenities must be equally accessible to private and social tenants</li> </ul>	<p>Partially agreed.</p> <p>The HDV will operate in line with the Council's Housing Strategy and other housing policies. It is wholly accepted that new mixed-use, mixed-tenure development should be based on standards of quality, access and experience that are blind to tenure. Individual proposals will be considered – both by the HDV Board and the Council's planning function – as they come forward, and tested against these principles while being balanced with other factors such as efficiency of maintenance regimes and affordability of mandatory service charges which can sometimes make separate building cores for different tenures the most effective way to ensure affordability and good housing management.</p>	Director of Housing & Growth July 2017

	- Blocks of private flats should not be gated		
21	<p>The legal framework for the HDV must establish firm principles and policies which would be binding on any development carried out by the HDV. Cabinet must ensure that decisions on the HDV reflect estate regeneration / development best practice, including:</p> <ul style="list-style-type: none"> <li>a. There should be no building on Metropolitan Open Land.</li> <li>b. Good practice guidance, published by the Mayor of London on estate regeneration, should be complied with.</li> <li>c. There should be a suitable proportion of homes built to comfortably accommodate people with disabilities and all properties should be built to Lifetime homes standards.</li> <li>d. All building work by the HDV should be done to Passive House or Code 6 energy efficiency standards.</li> <li>e. Priority in all development design and building contracts should be given to sustainable housing contractors.</li> <li>f. Ensuring all contracts engaged in by the HDV with third parties are awarded by transparent competitive tender.</li> </ul>	<p>Partially agreed.</p> <ul style="list-style-type: none"> <li>a. Given the very strict tests that are applied by the planning process to any proposed development on Metropolitan Open Land (MOL), any sites transferring to the HDV which include MOL would be very unlikely to be proposed for development. Any proposal that did come forward would rightly be subject to those tests.</li> <li>b. Every estate renewal project promoted by the HDV will comply with the Mayor's Good Practice Guidance, and its business plan will show how the individual elements of the Guidance have been addressed.</li> <li>c. Requirements for accessible and lifetime homes are enshrined in planning policy, and the HDV will comply with this.</li> <li>d, e. The commitments to high sustainability standards are set out in the Strategic Business Plan being presented to Cabinet for approval. While it will not always be possible to deliver 100% of homes and developments to these high standards for viability reasons, the HDV's commitment to sustainable development is central to its plans.</li> <li>f. Notwithstanding the provisions of the Contractor Framework Agreement, the HDV's proposed Procurement Policy – included as part of the Cabinet papers for the establishment of the HDV – sets out clear</li> </ul>	<p>Director of Housing &amp; Growth July 2017</p>



	<p>g. Arrangements being put in place with the construction subsidiary of Lendlease to provide local employment and training opportunities; particularly in respect of equalities groups, including job support and training for disabled people.</p> <p>h. To ensure the HDV provides decent jobs, preference in all subcontracts on HDV developments should be given to firms:</p> <ul style="list-style-type: none"> <li>○ Where apprentices are training for a Level 3 qualification and constitute 10% of the firms workforce.</li> <li>○ That are approved by the South-East Region TUC (SERTUC) as a good reputation concerning blacklisting, health and safety and have a trade union recognition agreement and comply with existing construction industry collective agreements.</li> <li>○ Where workers are all directly employed with CSCS cards and have recognised skill qualifications.</li> </ul> <p>i. No HDV or sub-contractor employee should be paid less than the London Living Wage.</p>	<p>requirements for competitive tendering and other elements of procurement good practice.</p> <p>g. Agreed. These arrangements are set out in the Social &amp; Economic Business Plan.</p> <p>h. One of the four impact themes of the HDV Social Economic Business Plan is to create better prospects; it describes how the HDV will procure construction services from Lendlease through the Construction Framework agreement, and as part of this there will be substantial investment in social and economic outcomes. Principal activities will include paying London Living Wage and cascading this requirement down the supply chain, investing in traineeships, employing local labour and investing in upskilling, schools engagement, Considerate Contractor Scheme, Investing in workforce wellbeing, local supplier days, and a Sustainable Supply Chain School. However, this work has not yet reached a level of detail where all elements of this recommendation can be considered.</p> <p>i. Agreed. This commitment is set out in the Social &amp; Economic Business Plan.</p>	
22	The HDV must use all measures available, including any changes to national/regional policy, to enable homes built by the HDV to be only sold to UK	Partially agreed.  The Delivery section of the Strategic Business Plan sets	Director of Housing & Growth July 2017

	residents, with priority given to Haringey residents and those with a local connection to Haringey (not overseas buyers).	out the measures proposed to prioritise local sales and marketing. These include a general commitment to align with emerging best practice, as well as specific commitments to exclusive early access to sales – and early purchase incentives – for local buyers.	
23	Given the number of housing estates already listed for transfer to the HDV, and the significant number of commercial properties paying rent to Homes for Haringey which are scheduled for transfer, we recommend that clear consultation with the board of Homes for Haringey is initiated forthwith. This would be to establish in detail the likely impact of the HDV on Homes for Haringey, the Housing Revenue Account and the Homes for Haringey repairs service and any other significant factors, e.g. impact on staffing, equalities, the impact on other estates and overall viability of Homes for Haringey and its in house services.	<p>Agreed.</p> <p>Senior Council officers have already held dedicated discussions with Homes for Haringey’s Chair, Managing Director and Executive Leadership team, and participated in a dedicated meeting with the Board. These covered the potential impacts and opportunities arising from it in the short, medium and long term. These discussions will continue, within Homes for Haringey and between Homes for Haringey and the Council, assuming the Council approves the establishment of the HDV and to proceed with development on sites managed by Homes for Haringey.</p> <p>The continuing viability and success of Homes for Haringey is seen as vitally important, and will be part of those ongoing discussions and subsequent agreements. The option for Homes for Haringey to manage future housing and estates is a potential way to mitigate the impact of reduced numbers of stock under its management. The short and medium term management arrangements, while the relevant housing estates are developed, will certainly involve Homes for Haringey as the provider of housing and estate services.</p> <p>It is worth noting that management of the HRA is the responsibility of the Council, and not Homes for</p>	Director of Housing & Growth Homes for Haringey Board Ongoing

		Haringey. The income from the commercial properties on Council estates goes to the HRA and not to Homes for Haringey.	
24	Both the revenue and the capital costs incurred by the Council and HFH in preparing any site for transfer to the HDV should be reimbursed to the Council and HFH at the date of the transfer. These costs incurred to commence from the date any site was identified as moving to the HDV until the actual legal date of its transfer to the HDV. For example, the revenue and capital costs would include all staff costs, all repair and capital costs involved in providing accommodation for residents decanted, all leaseholder costs, all legal costs and all disturbance costs to both residents and leaseholders. These costs listed are examples only, all other costs incurred should also be reimbursed.	<p>Partially agreed.</p> <p>It is accepted that appropriate Council costs associated with Land Assembly, including those costs associated with rehousing, should be reimbursed to the Council – this is enshrined in the Land Assembly Agreement, which sets out the categories of cost covered by this arrangement.</p> <p>However, costs associated with the day-to-day management and maintenance of properties between their identification as potential HDV sites and transfer to HDV will not fall on HDV.</p>	Director of Housing & Growth July 2017
25	The 1% rent reduction due as part of the government's 4 year rent reduction agenda should be appealed to the DCLG to be ceased for the Council and HFH properties within the HRA. The appeal to request exemption from any further rent reductions to enable the resultant extra rental income to assist with the regeneration of the above mentioned housing / estates.	<p>Not agreed.</p> <p>Exemption from the 1% rent cut would of course be very welcome indeed in order to improve the long term viability of the HRA and the investment options available to the Council. Officers – in discussion with the appropriate Cabinet members – have given careful consideration to the possibility of seeking an exemption.</p> <p>However, it is thought very unlikely indeed that an exemption would be granted. Government guidance is very clear that councils are required to show that all</p>	-

		possible other measures have been taken to improve the position of the HRA, including for example by reducing maintenance standards to the bare statutory minimum and disposing of high value street properties. The decision was therefore taken, in light of our not being able (and/or willing) to meet all these requirements, that the work involved in seeking an exemption was not justified given other priorities and the very slim chances of success; this remains the recommendation of officers.	
26	That the Cabinet commit to exploring all options for using Haringey's right-to-buy receipts in conjunction with the HDV.	Agreed.	Director of Housing & Growth Ongoing
27	<p>The legal framework for the HDV must establish firm principles which would be binding on any development carried out by the HDV. Cabinet must ensure the following important protections to guarantee ongoing democratic control of major decisions:</p> <ul style="list-style-type: none"> <li>a. No scheme land transfer to take place without Cabinet approving the business plan which should set out expectations on: the number and type of housing, employment spaces, job numbers and employment, inclusion of open space and community facilities, the timetable for development and an assessment of the key risks.</li> <li>b. Regular reports to Cabinet on the performance of the Haringey Development Vehicle, based on clear and robust key</li> </ul>	<p>Agreed.</p> <p>The Cabinet report recommending establishment of the HDV sets out the specific provisions that enshrine requirements (a)-(c) in the legal documentation.</p> <p>On (d), the Overview and Scrutiny Committee will be able to scrutinise in the normal way the annual presentation of the business plan to Cabinet.</p>	Director of Housing & Growth July 2017

	<p>performance indicators. As set out in the interim scrutiny report (Recommendation 6), these should include: (i) Challenging targets for both revenue and capital growth from the management of the Council’s commercial property portfolio; and (ii) Ambitious regeneration outcome targets to help improve the health, wellbeing, safety and life chances of those within regeneration areas (and beyond).</p> <p>c. Ward Councillors should be kept fully informed about specific proposals in their ward and a meaningful consultative structure established to ensure Ward Councillors are fully aware of, involved in, and able to influence the decision making process, and methodology, on any site decant and demolition.</p> <p>d. The HDV’s Strategic Business Plan should be updated and presented to Overview and Scrutiny on an annual basis and senior HDV staff must be available to answer questions as required.</p>		
28	<p>The Overview and Scrutiny Committee must itself commit to ongoing scrutiny, possibly by setting up a separate HDV Scrutiny Panel.</p>	<p>Partially agreed.</p> <p>While it is for the Overview and Scrutiny Committee to determine its scrutiny programme, it should be stressed that the formal role of scrutiny does not extend to the decisions and activity of the HDV itself, which is an independent body. While invitations to HDV executives</p>	-

		may be extended from time to time, formal scrutiny activity in respect of the HDV will be limited to the decisions and activities of the Council that relate to the HDV.	
29	An independent advisor with experience in finance, risk and partnerships should be appointed to assist the Committee/Panel with its scrutiny work.	<p>Not agreed.</p> <p>It is for the Head of Paid Service to determine the allocation of resources – including advice of this nature. It is not normal practice for paid advice of this nature to be used in connection with scrutiny activity, and there is no special case for a different approach in this case.</p>	-
30	That Cabinet be asked to consider and respond to the deputation, attached at Appendix 3, presented to the Overview and Scrutiny Committee on 13 June 2017 by the Northumberland Park Supporters Group.	<p>Not agreed.</p> <p>While this is not a recommendation from the Panel as such, the terms of the deputation are not accepted.</p> <p>The deprivation experienced by residents of Northumberland Park ward is one of the main reasons that the Council is not prepared to accept the current situation on the estate, whether in terms of housing, economic opportunity, health or crime. The Council has considered very carefully its options for tackling these stubborn issues, and has concluded that this approach – alongside a wide range of other work as part of the wider Tottenham regeneration programme – offers the Council and most importantly residents the best chance of tackling these stubborn issues.</p> <p>The emerging proposals for Northumberland Park have already been the subject of extensive engagement with local people, and this engagement will continue and intensify as plans develop. Clear commitments have been made to Council tenants and leaseholders about</p>	-

		<p>their right to return to a new home, and the terms on which this will happen; in no way can this be described as ‘abandoning’ tenants to the housing market.</p> <p>Alongside its duty to tackle the deprivation experienced by existing Council tenants, the Council also has a duty – and a has made it a strategic priority – to meet the needs of households who have no permanent home at all, whose ambitions to stay in Haringey will depend on the provision of new housing, and especially affordable housing. Again, the Council after careful deliberation has taken the clear view that the proposed HDV is the most effective way to achieve this in terms of development on the Council’s own land.</p>	
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## **Overview and Scrutiny Committee 13<sup>th</sup> June 2017 Northumberland Park Supporters Group Deputation. Rev Paul Nicolson**

The harmful impact of low incomes and debt on health is beyond doubt. Ground breaking reports after ground breaking reports over decades have produced the conclusive evidence. Professors Black 1980, Acheson 1999, Wanless 2002 and Marmot 2010 have all informed governments that low income impacts on health. The health of the poorest tenants in the Borough is an economic, legal and moral issue.

Dr Angel Donkin of the Institute of Health Equity on the 10th February this year opened a series of nine blogs on health equality on the Taxpayers Against Poverty website by stating "Income impacts on health directly; for instance insufficient money to heat your home or buy a healthy balanced diet. Cold homes increase rates of respiratory disease, cardiovascular disease, excess winter deaths and mental illness. Inadequate diets increase the risk of malnutrition, obesity, diabetes and cardiovascular disease. Debt impacts on health indirectly through increased stress, depression and anxiety." The devil is in the detail.

Despite all that robust evidence £73.10 a week JSA the corner stone of the benefit system, on which all other unemployment benefits are built, has been allowed to lose value since 1979. It equals £317 a month under the Universal Credit (UC). It is paid to over 4 million people in the UK, and every benefit claimant in the borough. (ONS BEN01 Key out of work benefits).

Family and disability benefits are added to that bottom rung of the benefit system. It is so inadequate that parents need the children's benefits to survive and the disabled are forced into destitution when they fail the work capability assessment and their disability benefits are stopped.

£73.10 a week is incapable of providing a healthy diet and other necessities at any time in particular for a woman before and during the development of a child in her womb. Low birthweight is high in Northumberland Park.

Poor maternal nutrition and low birth weight have, since 1972, been called the strongest predictor of poor learning ability, school performance, behavioral disorders and crime by the Institute of Brain Chemistry and Human Nutrition.

Appendix 3

Sadly unaffordable rents needed for shelter compete with food, fuel and water for hopelessly inadequate unemployment incomes. The result is record increases in evictions, record admittance to hospital with malnutrition and unprecedented rises in mortality and infant deaths in 2015 at national level. I have asked the council to produce those figures for the borough and am shocked to discover they are not readily available to councillors or the public from the council

Northumberland Park is the most deprived ward in the Borough. You are required under the Health and Social Services Act 2012 to improve the health of local population. You are already making it worse by enforcing council tax against shredded benefits. In the HDV you will at best the fail to carry out that duty by disrupting the tenants lives and their children's education.

You are destroying council housing for ever. Council Housing is the only housing whose affordability the council can control as landlords. You are abandoning your tenants to a housing market where rents are taking an ever increasing amount of the income needed for food fuel, clothes transport and other necessities. In fact to greater poverty and ill health.

I have raised this point about the link between low incomes and ill health with the council since 2012, in the magistrate's court, the high court, the supreme court and with the council's auditors. The Supreme Court noted that;

"Their income was already at a basic level and the effect of Haringey's proposed (council tax) scheme would be to reduce it even below that level and thus in all likelihood to cause real hardship, while sparing its more prosperous residents from making any contribution to the shortfall in government funding."

That is a rotten principle on which to base local government funding. The demolition of Northumberland Park will pile hardship on the existing hardship of the council's tenants, without the borough's more prosperous residents making any contribution to the shortfall in government funding.

**Report for:** Cabinet, 3 July 2017

**Item number:** 10

**Title:** Haringey Development Vehicle – Financial Close and Establishment

**Report authorised by:** Lyn Garner, Director of Regeneration, Planning & Development

**Lead Officer:** Dan Hawthorn, Director of Housing & Growth

**Ward(s) affected:** All

**Report for Key/  
Non Key Decision:** Key

## 1. Describe the issue under consideration

- 1.1 The purpose of the report is to advise Cabinet of the outcome of the Preferred Bidder stage of the Competitive Dialogue procurement process under the Public Contracts Regulations 2015 authorised by Cabinet on 10 November 2015, to procure an investment and development partner with which to establish the Haringey Development Vehicle ('HDV').
- 1.2 Cabinet is asked to approve the conclusion of the process, and in particular to approve for execution the suite of legal agreements which will facilitate the establishment of the HDV and to approve the business plans that will form the basis of its initial work programme.
- 1.3 Cabinet's attention is in particular drawn to some of the most significant elements of the proposed arrangements:
  - An estimated 6,400 new homes, of high quality and meeting Council policy in terms of affordable housing, and potential for more than 20,000 jobs overall
  - Estimated development returns to the Council of £275m, plus a share of enhanced rental returns from the commercial portfolio, plus estimated section 106 and Community Infrastructure Levy investment of £37.7m, plus council tax and business rate uplift rising to an estimated £13m per year.
  - £8m HDV investment into its social & economic programme, plus a £20m investment from Lendlease in a Social Impact Vehicle to drive long-term social outcomes.
  - Firm guarantees for existing tenants in estates proposed for development by the HDV that they will have a right to return to the estate, and to be rehoused on similar terms and rents, plus a dedicated support package for resident leaseholders.
  - Overall, an agreement that drives – through a co-ordinated programme across the whole borough – long-term improvements in the prosperity and wellbeing of the borough and its residents, at a scale and pace that the Council could never achieve alone.

- 1.4 The critical elements of the proposed HDV – in terms of governance, the commercial deal and the proposed work programme – are all set out in this report, providing the information felt necessary for Cabinet members to make the necessary decisions. The detailed legal and business plan documentation is published alongside this report in the interests of transparency.

**2. Cabinet Member Introduction (Cllr Strickland, Cabinet member for Housing, Regeneration & Planning)**

Bringing the homes, jobs and facilities our residents have asked for

- 2.1 Our residents have made very clear that they want more affordable homes, more jobs, better town centres and more community facilities. And they have been clear that in bringing these important changes, regeneration must benefit existing residents and their children, improving life chances across the borough.
- 2.2 Politically, we know that huge amounts of investment and specialist skills are needed to make this change happen, complex change that will take 20 years or more. We know that the Council simply cannot deliver this ambitious change alone.
- 2.3 However, we're equally clear that to get the very best outcomes for our residents, we want to remain in control of this change; and to get the best deal for our residents we want to make sure that development pays a social dividend to support community facilities and public services, not just a financial dividend to shareholders.
- 2.4 To make these new homes, jobs and community facilities really work for residents and be sustainable for the future, we believe that a piecemeal, site by site approach simply won't be good enough. We need to holistic, co-ordinated, borough wide action that delivers our vision that housing and regeneration is fundamentally about people and communities, not just bricks and mortar. We want to build stronger communities, not just more homes and that means integrated regeneration which brings the new health centres, schools and parks that our residents need.

Setting up a new partnership

- 2.5 We have worked very hard to think about the best ways to bring these homes, jobs and community facilities in a co-ordinated, borough-wide way that gives us the benefit of external funding and skills, while allowing the Council to retain significant control.
- 2.6 The Council's cross party Future of Housing Review saw a group of councillors travel around the country, meeting councils, housing associations, housing co-operatives and joint ventures to actively explore the different options open to us. That review concluded that a partnership – a 'joint venture' between the Council and a partner was likely to be the best option for bringing the type of regeneration we want to see.

- 2.7 A business case presented to Cabinet in 2015 by external procurement experts also concluded that a borough-wide joint venture was the structure most likely to deliver integrated, borough-wide improvements in a way that maintain significant Council control.
- 2.8 This report therefore recommends setting up a new joint company with Lendlease on a 50/50 basis to combine public sector priorities for communities, ambitious plans for our borough and some public land, with significant external investment and world class expertise.

Maintaining significant democratic control

- 2.9 In setting up a 50/50 company, we're creating an organisation which can only move forward on the basis of consensus. Nothing can happen without the agreement of the Council's board members and the company can only act within the priorities and plans set out in the company's Business Plan. This Business Plan must be agreed by the Council's Cabinet, and can only be changed if agreed by the Council's Cabinet.
- 2.10 Unlike many London regeneration schemes, where Council's hand over land and lose control, the 50/50 company means that over the next 20 years, Haringey's elected councillors retain real control over key decisions. Even when the company is established, only councillors decide which pieces of council land are passed to the company for development, when this happens, what is built on them and how the Council's share of the subsequent profit is split.
- 2.11 Working in partnership is always challenging and no-one is pretending that this approach is without risk. But it is far easier to manage risk when you're sitting at the board room table and exercising significant control over what is happening.

Bringing major benefits to Haringey residents now and in the future

- 2.12 This approach, a partnership on homes and jobs will deliver really important benefits for our residents and represents a major contribution to tackling the housing crisis, Haringey's persistent unemployment challenges and the need for major investment in new community facilities:

*Thousands of new homes, with at least 40% affordable*

- 6,400 new homes across Wood Green, North Tottenham and Muswell Hill
- At least 40% affordable with the Council at the table making the decisions
- A guaranteed Right to Return written into legal agreements and Cabinet policy, so that all Council tenants on estates being re-built get a brand new home on that estate on equivalent terms
- Extensive further consultation with tenants and leaseholders, supported by Independent Tenant and Leaseholder Advisors

*New jobs with programmes to help Haringey residents and local businesses make the most of the new opportunities*

- £8million investment in schemes such as skills and training for local residents and community programmes that include mental health support

- A £20million long-term social investment programme focused on improving local resident's prospects, health, environment and sense of community involvement
- On Union recognition, Lendlease have agreed to sign a Framework Agreement, like the one signed at the Olympic Park, which will guarantee:
  - Union access
  - Local labour and training requirements
  - Cracking down on bogus self-employment by sub-contracting firms
  - Work throughout the supply chain and running local suppliers days
  - Paying London Living Wage and enforcing this throughout the supply chain
- Total of £20m of jobs and skills investment in phase 1 to fund:
  - Apprenticeships
  - Programmes with local schools
  - Community outreach scheme to support local applications for roles
  - Building a sustainable supply chain
  - A programme to oversee prioritising spend in the local economy

*New community facilities*

- New buildings for schools at Northumberland Park
- New parks and green spaces throughout the schemes, with biodiversity corridors and other green features
- New community spaces

*A major boosting to our local town centres and local economy*

- Major improvement to Wood Green town centre including new shops, office space homes and public space
- New shops and enterprise space in Northumberland Park
- Better management of the Council owned industrial estates to make them fit for the modern economy and make sure that public land is delivering as many jobs as it can.

### **3. Recommendations**

*It is recommended that Cabinet:*

- 3.1 a) Notes the outcome of the Preferred Bidder Stage of the Competitive Dialogue Procedure under the Public Contracts Regulations 2015 as outlined in this report;
- b) Confirms Lendlease Europe Holdings Limited (“Lendlease”) as successful bidder to be the Council’s HDV partner; and
- c) Approves the setting up of the HDV with Lendlease or a subsidiary vehicle set up by Lendlease on the basis that the Council will hold 50% and Lendlease 50% of the vehicle and based on the proposed structure as set out in this report.

- 3.2 Approves the legal documents at Appendices 1b through 1j of this report and summarised in paragraphs 6.35 to 6.90 of this report so as to give effect to recommendation 3.1, subject to recommendation 3.4 below.
- 3.3 Approves the following Business Plans at Appendices 2a through 7a, and summarised in paragraphs 6.91 to 6.121 of this report, subject to recommendation 3.4(d) below:
- a) Strategic Business Plan
  - b) Northumberland Park Business Plan
  - c) Wood Green Business Plan
  - d) Cranwood Business Plan
  - e) Commercial Portfolio Business Plan
  - f) Social and Economic Business Plan
- 3.4 Gives delegated authority to the section 151 officer, after consultation with the monitoring officer:
- a) To approve the final terms of the two Property Management Agreements, referred to in paragraphs 6.70 to 6.72 of this report, to a maximum total value as set out in the exempt part of this report, such agreements to be agreed before the Members Agreement is entered into;
  - b) To approve any of the financial agreements and instruments listed in paragraph 2.1.1 of the Members' Agreement (at Appendix 1b);
  - c) To approve any further deeds and documents which are ancillary to the legal documents approved here, as described in paragraph 2.1.1 of the Members' Agreement (at Appendix 1b); and
  - d) To approve any amendments to the legal documents and business plans approved here as may be necessary, for reasons including but not limited to ensuring consistency between them and finalising any outstanding areas.
- 3.5 Agrees:
- a) to declare that the Commercial Properties listed in Appendix 6c are no longer required for housing purposes, and to appropriate these properties for general fund purposes (subject to obtaining any necessary Secretary of State consent);
  - b) to dispose of the Council's commercial portfolio (as listed in Appendices 6c and 6d) to the HDV's Investment LP subsidiary in phases (as set out in the Agreement for Sale of the Investment Portfolio at Appendix 1c) for the total sum of £45m, and that the disposal shall be on the basis of a long leasehold interest for a term of 250 years and based on the lease referred to in the Agreement for Sale of the Investment Portfolio;
  - c) that the sum of £45m referred to above will be the Council's initial investment in the HDV; and
  - d) to give delegated authority to the section 151 officer to agree the timing for the disposal of these properties to the HDV's Investment LP subsidiary and to approve individual final leases to facilitate such disposals.
- 3.6 Agrees to give the HDV an option for a 250-year lease on land identified in the Development Framework Agreement as being Category 1A land in Wood

Green and within the Council's freehold ownership, subject to the valuation methodology set out in the Development Framework Agreement.

3.7 Notes that:

- a) in agreeing to the suite of legal agreements and to the Business Plans, it is not being asked to decide whether any part of Northumberland Park or Cranwood is to be disposed of to the HDV or any of its subsidiaries, and that nothing within any of them commits the Council to make any such disposal;
- b) any such decisions will only be made following community consultation, including statutory consultation under section 105 Housing Act 1985, and further equality impact assessments, all of which will be reported back to Cabinet in future report(s) for decision;
- c) if Cabinet in its discretion does make future decisions to dispose of any part of Northumberland Park or Cranwood to the HDV or any of its subsidiaries, there will also be need for Full Council authorisation for making an application for consent to dispose to the Secretary of State under sections 32 and 43 Housing Act 1985.

3.8 Notes that as a result of the disposal of the commercial portfolio and the transfer of some of the management services there may be a small number of employees that will be TUPE transferred (to the HDV or its supply chain) and the Council and Lendlease have agreed that – if this occurs – these employees should remain within the Haringey Pension Fund.

#### 4. Reasons for decision

##### The case for growth

4.1 The Council's corporate plan makes a strong commitment to growth. Specifically, it identifies the need for new homes to meet significant housing demand which is making decent housing unaffordable for increasing numbers of Haringey residents, and causing more and more families to be homeless. It also identifies the need for more and better jobs, to revitalise Haringey's town centres, increase household income for Haringey residents and give all residents the opportunity to take advantage of London's economic success. This commitment to growth is further reflected and developed in the Council's Housing Strategy and Economic Development & Growth Strategy.

4.2 The need among Haringey's population is stark:

- In Northumberland Park ward, unemployment (at 26%) is almost double the rate across the whole borough and three times the national average. More than a quarter of residents (26%) in the ward have no formal qualifications, against 13% for all of Haringey.
- There is also a growing incidence of "in- work poverty": 32% of Haringey residents earn below the London Living Wage compared to 24% in 2010. Median income of employees living in Tottenham is £11.40 an hour, compared to £16.90 in the rest of Haringey and £16.60 in London.
- Too many young Haringey residents are not in employment, education or training (NEET). Northumberland Park, St Ann's and Noel Park wards have



a 16 and 17 year old NEET rate over 4%, compared to the Haringey average of 3.6% and the national average of 3.1%.

- Life expectancy is demonstrably worse in the east of the borough compared to the west of the borough: on average the difference between parts of the east and parts of the west is 7 years. Obesity amongst children in Tottenham and mental health challenges in the whole borough are significant, and stubborn.
- Market rents in Haringey have increased from a median rent of £900 per month in 2011 to £1,400 per month in 2016. In order to afford the median rent for a two-bedroom private rented flat in the borough, a household would need to earn an annual income of around £63,000, based on the principle that a household shouldn't have to spend more than 40% of their net income on housing costs. On this principle, a household on the median income in the borough could afford to pay rent of £878 per month, compared to the actual median rent (£1,400 per month as above). This means that a lot of households are in fact spending 50%+ of their net income on housing costs.
- Meanwhile, for prospective purchasers, the average house price in Haringey is now around £430,000, up from £225,000 ten years ago, which in turn leads to higher demand for private rented housing, pushing rents up still further. House prices in the borough are now 13.7 times the median income – in 2002 it was 7 times.
- This means that for both renters and buyers, market-price housing is less and less accessible – making the need for new affordable housing more important than ever, and showing how demand in all parts of the market is failing to keep up with supply. And in the next ten years, Haringey's population is estimated to grow by 10.9%, adding another 30,000 residents by 2025 and a total of 52,000 additional residents by 2035.
- At the end of March 2017 there were 9,098 households on Haringey Council's Housing Register. The number of social housing lets in Haringey in 2017/18 is expected to be just under 500; in 2011/12 it was just over 1,100. Across London, supply of new homes has been below the London Plan target every year, and even further adrift of the London Strategic Housing Market Assessment target.
- There are over 50,000 London households who are homeless and in temporary accommodation, with over 3,000 of those Haringey households. Homeless acceptances in Haringey have increased from 355 in 2010 to 683 last year. Increasingly these are households who were evicted from the private rented sector because they could not afford the rent.
- Overall, based on data from the combined Indices of Multiple Deprivation (2015), Northumberland Park ward falls among the 10% most deprived areas in England and many parts of the ward are in the 5% most deprived.

4.3 Growth is also essential to the future sustainability of the Council itself. With Government grant dwindling, local authorities are increasingly dependent on income from council tax and – in light of recent reforms – business rates. Without growing the council tax and business rate base, the Council will increasingly struggle to fund the services on which its residents depend. Improvement in the living conditions, incomes, opportunities and wellbeing of Haringey residents will directly contribute to the full range of aims in the Council's Corporate Plan.

- 4.4 Particular groups - including women, disabled people and BAME groups – are more likely to experience these inequalities in prosperity and wellbeing, and therefore most likely to benefit from the positive outcomes from growth.
- 4.5 By securing growth in homes and jobs – and maximising the quantity, quality and/or pace of such growth – is core to achieving the Council’s aims, including:
- meeting housing demand will lead to more and more families are able to afford a home in the borough, either to rent or buy, alleviating the stark housing crisis.
  - meeting housing demand also drives down levels of homelessness, so fewer households find themselves in crisis, and the significant pressure on the council budget through increased temporary accommodation costs is relieved.
  - increasing the number of jobs in the borough will lead to more opportunities for Haringey residents to boost their incomes and job prospects, more vibrant and successful town centres with more activity and spending during the working day, with reduced risk of ‘dormitory borough’ status as working residents leave the borough to work elsewhere.
  - increasing levels of development in turn increase the Council’s receipts in s106 funding and Community Infrastructure Levy, in turn increasing the Council’s ability to invest in improved facilities and infrastructure (like schools, health centres, open spaces and transport) and in wider social and economic programmes such as those aimed at improving skills and employability.
  - growing the council tax and business rate base will reduce the risk of financial instability for the Council and of further, deeper cuts in council budgets and hence to council services as Government grants dwindle to zero over the coming years.

Options for driving growth on Council land

- 4.6 The Council cannot achieve its growth targets without realising the potential of unused and under-used council-owned land. Accordingly, in autumn 2014 the Council commissioned work from Turnberry Real Estate into the options for delivering these growth objectives. Turnberry also examined the market appetite for partnership with the Council to deliver new housing and economic growth.
- 4.7 In February 2015 Cabinet, on the basis of this work, agreed to commission a more detailed business case to explore options for delivery. At the same time, the member-led Future of Housing Review concluded (as set out in its report to Cabinet in September 2015) that a development vehicle was ‘likely to be the most appropriate option’ for driving estate renewal and other development on Council land.
- 4.8 The business case developed following Cabinet’s February 2015 decision compared a number of options for achieving the Council’s objectives, and ultimately recommended that the Council should seek through open procurement a private sector partner with whom to deliver its objectives in an overarching joint venture development vehicle. This business case, and the

commencement of a procurement process, was agreed by Cabinet on 10 November 2015.

The joint venture development vehicle model

- 4.9 The joint venture model approved by Cabinet on 10 November 2015 is based on bringing together the Council's land with investment and skills from a private partner, and on the sharing of risk and reward between the Council and partner. The Council accepts a degree of risk in that it will transfer its commercial portfolio to the vehicle (as part of its initial investment), and will (subject to the satisfaction of relevant pre-conditions) also commit other property, as its equity stake in the vehicle. It has also to bear the costs of the procurement and establishment of the vehicle, and a share of development risk. However, in return, the contribution to its Corporate Plan objectives, including high quality new jobs, new homes including affordable homes and economic and social benefits, would be at a scale and pace that would otherwise be unachievable. The Council will also receive a financial return, principally through a share of profits that it can reinvest in the fulfilment of its wider strategic aims as set out in the Corporate Plan.
- 4.10 Under this model, the development partner matches the Council's equity stake, taking a 50% share of the vehicle and hence a 50% share of funding and development risk. In return, and by maintaining strong relationships and delivery momentum, they obtain a long term pipeline of development work in an area of London with rising land values, and with a stable partner.

The procurement process

- 4.11 As well as approving the business case for establishing the HDV, at its meeting on 10 November 2015 Cabinet also resolved to commence a Competitive Dialogue Procedure under the Public Contracts Regulations 2015 to procure an investment and development partner with which to establish the HDV. Following a compliant procurement process, Lendlease was approved as preferred bidder by Cabinet at its meeting on 7 March 2017. Cabinet also approved a reserve bidder in the event that it was not possible to finalise the agreement with Lendlease.
- 4.12 Following that decision, further work was undertaken by the Council and Lendlease teams to confirm the terms of the Lendlease bid, in order to arrive at an agreed set of legal agreements (to establish the HDV) and business plans (to set out its first phase of work). By approving the legal agreements and business plans put forward here, and therefore authorising establishment of the HDV and agreeing its initial work programme, Cabinet will be taking a major step in unlocking the considerable growth potential of the Council's own land and meeting a number of core Council ambitions.
- 4.13 The establishment of the HDV (through the execution of the legal agreements) and the agreement of its initial work programme (through the approval of the business plans) represent a significant step in delivering the Council's objectives for improving the prosperity and wellbeing of Haringey's residents. However, it is also important to recognise the flexibility in the arrangement to

respond to changing circumstances and changing priorities – and the Council's capacity to control that change. For example:

- It is likely that plans for major development schemes will change following extensive consultation with residents and other stakeholders;
- If market conditions change, the HDV can decide to amend its proposals – for example, switching homes for sale to homes for rent – or to rephase its programme;
- Arrangements for the ownership and management of homes are flexible, and can respond over time including in response to changing Council priorities and changes in the local and national funding regime.

All material changes would be subject to the Council and Lendlease agreeing any necessary elements of – or amendments to – the scheme business plans. Further, any additional Council property proposed for development by the HDV would be subject to a new business plan which would have to be approved by the Council (and Lendlease) before work could commence.

- 4.14 In addition to these controls over the work programme of the HDV through its status as a 50% partner, the Council will retain its statutory functions in respect of the HDV work programme, including as local planning authority, giving it further influence and assurance over the implementation of the HDV's programme of work.

## **5. Alternative options considered**

- 5.1 In November 2015, Cabinet considered and approved a business case for establishing an overarching joint venture vehicle to drive housing and job growth on council land. That business case identified and assessed a number of alternative options for achieving the Council's objectives, and found that the overarching joint venture vehicle would be the most effective mechanism for achieving those goals.
- 5.2 Throughout the process of procuring a partner with which to establish the HDV, the Council has reserved its position to not appoint any of the bidders in the event of the bids not being satisfactory, or otherwise not wishing to proceed. This report outlines the benefits and projected outcomes that will arise from the establishment of the HDV, in the context of the Council's objectives and aspirations as set out in the November 2015 report to Cabinet. If the Cabinet chooses not to proceed with establishing the HDV, it will risk not obtaining these likely benefits, or not obtaining them at the scale, pace and/or quality which would otherwise be possible.
- 5.3 The Council has within its procurement documentation made clear that bidders' participation in the Competitive Dialogue process is at their own expense, that the Council will not be responsible for bid costs and that it is not obliged to accept any tender.

## **6. Background information**

### **The importance of growth**

- 6.1 As set out in section 4 above, growth in housing and jobs is key to the Council's long term strategy for the future of the Borough. Growth is needed to meet the needs and expectations of current and future residents, and to improve their prosperity and wellbeing. Housing and employment will improve the quality of life for residents. Further, the resulting growth in Council tax and business rate income will help to put the Council's finances – and therefore Council services – on a more sustainable long term footing as grant funding and other revenues decrease.
- 6.2 The Council has made a major commitment to growth in housing and employment through the Council's own Corporate Plan 'Building a Stronger Haringey Together', and through its own contribution to the London Plan, which says that the Borough needs to provide 20,000 new jobs and 19,000 new homes over the next 15 years. The nature and scale of these ambitions are further set out in the Council's Economic Development and Growth Strategy and Housing Strategy. For Tottenham, the Strategic Regeneration Framework sets out the need to deliver at least 10,000 new homes and 5,000 new jobs in Tottenham over the next twenty years. In Wood Green, a draft Area Action Plan – based on a high growth vision for the town centre – was approved by Cabinet in January 2017.

### **Delivering growth on Council land**

- 6.3 To deliver economic growth and provide new housing on the scale required, the Council has to use its own landholdings. Estate renewal on the Council's large and medium sized estates also provides a major opportunity to increase the number and quality of homes, to improve the mix of tenures, to provide a range of all types and sizes and to address the condition of the housing stock.
- 6.4 Strategically there are a number of factors that demonstrate Haringey's readiness for development of new homes and jobs on a scale that such a vehicle could deliver: in planning policy terms, with the development of the Local Plan, site allocations and Area Action Plans for Tottenham and Wood Green; from the Council's work on regeneration with the Strategic Regeneration Framework for Tottenham, and the emerging Wood Green Investment Framework; and with the Housing Strategy and the Housing Investment and Estate Renewal Strategy.
- 6.5 The Council does not have the financial resources to achieve its Corporate Plan objectives on its own land alone. In common with many local authorities and public sector bodies, the Council has a demonstrable shortage of investment capacity and expertise to deliver the schemes required.
- 6.6 The value of seeking a private investment partner is that they will bring both capital resources, and skills and expertise to help achieve the Council's objectives. Financial returns will accrue on a phased basis giving the Council the option to spend these on further development (including affordable housing), on wider social and economic benefits or on other corporate plan objectives. During the Future of Housing Review, the member review group felt that in principle, some kind of development vehicle was needed as the Council has little choice of option to achieve its objectives.

- 6.7 In autumn 2014, the Council commissioned Turnberry Real Estate to carry out a high level feasibility study of the options for driving development, as well as soft market testing to see if there was interest from potential private sector partners in taking forward development in Haringey. Exploratory discussions with a range of developers, investors and development managers – the potential private sector partners – confirmed that this was indeed the case. The market sees Tottenham and Wood Green as areas of high potential, believes in the Council's 'affordable London' message and shares the interest and belief in mixed tenures including private rented housing. The market has a growing confidence in the Council's leadership.
- 6.8 Following the approval of Cabinet on 10 February 2015 to explore options for delivery, the Council appointed commercial advisers (Bilfinger GVA with Turnberry Real Estate) and legal advisers (Pinsent Masons LLP) to examine in detail the feasibility of a joint venture development vehicle for Haringey, alongside other options for driving development, and to work with officers and advise the Council on the procurement of the investment and development partner and the establishment of the HDV.

### **The Future of Housing Review Group**

- 6.9 At the same time as this work was underway, the Council's separate review of the Future of Housing demonstrated forcibly that there is insufficient capital funding available to deliver all the Council's aspirations, and because of that the potential options for maintaining homes, delivering new housing and economic growth are extremely limited. It also concluded that a joint venture development vehicle may be a potential solution.
- 6.10 The report of the independent advisor supporting the review noted that:
- a range of development vehicles has been established country wide. These are predicated on carrying out regeneration and development through use of local authority assets. They can be local authority owned companies which operate outside the Housing Revenue Account, borrowing and ultimately holding assets in the General Fund. Alternatively, they can involve the private sector in a number of forms usually in some form of partnership or joint venture, generally on a 50:50 shared basis. In this case, the Council puts its land or buildings into the vehicle, and the private sector partner brings finance, skills and business acumen.
  - where a development company is established, it is most likely to be developing new housing, frequently through demolition and redevelopment of existing properties. It is unlikely to be established principally as a refurbishment vehicle. The premise of the company is likely to be based on enhancing land values, predominantly by intensification of development. They will not only deliver housing but often employment and retail uses as well. The purpose of this model is to increase the available stock of socially rented and affordable housing, and there is not likely to be a net loss of social housing, at least on a room by room basis, when considered across the area as a whole.

- as far as the housing produced by such a vehicle is concerned, the review noted that tenure will vary from social housing, through ranges of affordable to open market housing. The ultimate ownership of such social and affordable housing can also differ. It may be returned to the Council, or passed to a housing association or indeed held in the company. At present local authority controlled companies can hold property exempt from the right to buy, but the Government has signalled its intention to remove this exemption. This will leave joint venture vehicles, part owned by the private sector, as the only mechanism whereby properties can be protected for social use. The relationship with tenants, where a development vehicle is proposed will be one of rehousing and return, rather than of transfer. Leaseholders will effectively negotiate on an open market sale basis; with of course the ultimate possibility of compulsory purchase.
- the governance and financial structures will vary from case to case. Subject to the viability of their schemes such vehicles have a significant part to play in increasing new build homes, and of bringing about regeneration. The down side is that Councils taking part in such vehicles do take on some development risk. When such vehicles are successful, they can provide Councils with a long term revenue return, and the opportunity to enhance social and community provision in an area.
- the overall viability of the proposals will depend significantly on the location of the estate and existing / potential density of the estate. It will also depend on the scope to produce some market sales and market rented properties in order to cross subsidise the replacement social (or affordable) rented dwellings.

6.11 The member review group that drove the Future of Housing project concluded that *'To deliver improvements to homes on major estates, the Review Group recommends that a development company is likely to be the most appropriate option. A proposal should be brought forward for a development vehicle, either Council owned or a joint venture. Given the importance of improving major estates, we recommend that a proposal is brought forward swiftly for consideration.'*

6.12 At its meeting in September 2015 Cabinet endorsed the recommendation that:

*'a development vehicle is potentially the best solution to progress major estate renewal, maximise the potential for investment in the Council's housing stock, and the delivery of new social and affordable housing. That the Council should aim to replace the same number of affordable habitable rooms and that the deal for tenants is broadly comparable under the Vehicle. A separate report will be brought to Cabinet on this.'*

### **The development vehicle concept**

6.13 At its meeting on 10 November 2015, Cabinet considered a detailed report which outlined the various options for progressing its ambitions, based on the business case it had commissioned in February 2015. It noted that following soft market testing by Turnberry Real Estate Ltd, there was market interest in a

development vehicle, and that the Council's member-led Future of Housing Review group felt that some kind of development vehicle was an option to help the Council achieve its objectives, given the financial constraints and the limited choice of options available.

6.14 Cabinet also approved the objectives that had been developed by officers and Cabinet members, against which the options for driving development were tested in the business case, and which were subsequently incorporated into the procurement documentation. These were:

- To deliver growth through new and improved housing; town centre development; and enhanced use of the Council's property portfolio.
- To achieve and retain a long term stake and control in the development of the Council's land, maintaining a long term financial return which can be reinvested in accordance with the Council's statutory functions, on new housing, on social and economic benefits or on other Corporate Plan objectives.
- In partnership with the private sector, to catalyse the delivery of financially unviable schemes.
- Achieve estate renewal by intensification of land use and establishment of a range of mixed tenures, together with tenure change across the Borough where appropriate.
- To secure wider social and economic benefits in areas affected, including community facilities, skills and training, health improvement or crime reduction for the benefit of existing residents.
- To incorporate land belonging to other stakeholders, both public and private sector, into development.

6.15 The report was clear that as well as the housing and employment outcomes, and the financial returns, the wider social and economic benefits of the vehicle were critical to its success and that these would be central to the evaluation of potential partners.

6.16 The business case considered by Cabinet assessed the pros and cons of six potential options for driving growth on Council land. These were:

Option1: Base Case

The Council continues with its current approach i.e. taking forward and developing out sites, including undertaking the restructuring of the commercial portfolio. The Council continues to provide funding and uses available grant funding to work up sites in conjunction with the relevant stakeholders as appropriate.

Under this option, the Council would continue to take forward assets itself. This could be done through site sales/disposals, the Council developing out sites itself, through development agreements with clawback provisions etc. This option would therefore involve the use of conventional structures to take forward sites, and would to an extent be dependent on the Council's appetite for risk and the availability of funding (including grant funding) to take sites forward.



This option carries limited risk to the Council, but stands no chance of delivering the Council's aspirations particularly given that there appears little likelihood of sufficient funding being available to facilitate this option in any realistic timetable.

#### Option 2: Disposal of Individual Sites

The Council takes forward sites (subject to available resources, financial resources and grant funding) and then sells the sites into the market. Sites could be sold individually or packaged up and sold as portfolios e.g. the commercial portfolio. Sites could be sold on a phased basis over time through development agreements (with or without overage provisions) to the private sector or other public sector stakeholders, or through straight disposals.

This would involve the Council marketing sites so that they could be disposed of on a straight sale basis e.g. disposal on the open market as freehold or leasehold assets. It is likely that those sites which do not fit the objectives of the Council would be sold on a straight sales basis. However, the large regeneration schemes and town centre sites would be marketed with appointment of a strategic development partner i.e. entering into a development agreement with a development partner in the short/medium term.

Under this structure the Council would enter into a traditional development agreement with a development partner and the site would be drawn down as development pre-conditions are satisfied i.e. the site is drawn down in phases as specific "development criteria" are satisfied. The development partner would need sufficient financial and resource capability to provide the necessary funding for the site development, achieving planning etc.

The Council is able to exercise control through planning powers and is able to insert conditions as to when development should commence, albeit this will impact on sale value. The Council would also receive sale proceeds and overage as the site is developed out.

There are serious questions as to whether the Council's aspirations are deliverable through this route:

- This option would produce considerably less financial benefit for the Council, reducing the amount to be reinvested or used to cross-subsidise the stated socio-economic objectives and Corporate Plan outcomes.
- While there is little development risk to the Council through this approach the private sector will consider these developments more risky without the appeal of a guaranteed pipeline of development, with consequent increased costs and lower returns.
- In the bigger schemes such as Northumberland Park Regeneration Area it is doubtful given the level of initial funding required that the market would be interested in the short term, if at all.
- Without the opportunity for a development vehicle to mitigate borrowing for Compulsory Purchase Order (CPO) costs, it is likely that the impact on the Council's borrowing requirement will be higher, and given the risk issues discussed above, it will be harder to persuade a developer to fully indemnify the Council for these costs.

- Given the support of the Mayor for vehicle-type approaches, it appeared at the time of the analysis that further Housing Zone funding may be less likely.
- The ultimate result of this will be significantly less delivery, for example in the number of housing units delivered.

### Option 3: Outsource Asset Management and Services

The Council outsources the management of its entire development portfolio, including the commercial portfolio (which is currently managed in-house) and the responsibility for development of the large estate renewal sites, to a third party provider who provides services on behalf of the Council. This could include sale and leaseback and services provision, increased asset management and facilities management, refurbishment programmes, undertaking surplus property disposals and development of key sites as part of a full outsourcing service. A key focus would be on maximising returns from the portfolio, usually through 'sweating' the assets i.e. increased asset management of investment generating assets.

This option is relatively low risk but suffers from the same issues with regard to deliverability as the previous two options. While this would bring financial benefits it is impossible to see them being sufficiently significant to deliver the Council's stated socio-economic objectives and Corporate Plan aspirations.

### Option 4: Council Wholly-Owned Vehicle

A vehicle is established which is wholly owned by the Council. This vehicle is an independent company (i.e. wholly owned by the Council, albeit as an arm's length organisation) which is not controlled by the borrowing limitations, and therefore funding implications, of the HRA restrictions. It has the potential to offer greater flexibility on tenure and the ability to develop mixed tenure schemes including homes for sale, shared ownership, and most importantly, rented accommodation at social/affordable/market rents. This flexibility can enable cross subsidy between tenures, with market sale or rent homes enabling the provision of more affordable homes which would be the priority for the company. The assets and debts of the company will remain on the public sector balance sheet, with private sector involvement limited to works and services paid for by the company. A local example of this approach is Broadway Living, the local authority company wholly owned by the London Borough of Ealing.

To achieve the Council's aspirations through a wholly-owned company, the Council would need to support all the costs (of compulsory purchase, development, sales and marketing etc) through borrowing. All this money, and all the development risk, would be the Council's responsibility throughout the process, so this is clearly a high risk option. This option is not feasible from the Council's point of view on a financial basis, because of the high levels of borrowing required and consequent costs of servicing the borrowing.

In addition, it is highly unlikely that a wholly-owned company could deliver the scale of outputs required. The wholly owned companies set up by other London authorities are generally delivering significantly fewer homes than are anticipated through this vehicle, without considering the town centre, economic and growth ambitions that the Council has. The range of delivery varies, but is typically less than 500 homes over a five year period, though the sponsoring Councils will aspire to higher in due course.

It remains unlikely that a wholly-owned vehicle would be able to address the skills and capacity issues more effectively than the Council itself. Further, housing kept in a wholly-owned company would also create potential exposure to the right to buy, as it is understood that Government is closely monitoring the situation with these types of vehicles and may bring forward legislation to enforce the right to buy and compulsory disposal.

#### Option 5: Site Specific or Asset Focused Vehicles

Under this option the Council would establish site or asset specific vehicles, predominantly for the estate renewal sites, and the town centre assets, with different private sector delivery partners. Each individual vehicle would take the form of a special purpose vehicle, which would be owned equally by the Council and different private sector partners. Each vehicle would be for a specific asset, for example carrying out estate renewal at Northumberland Park Regeneration Area; or town centre redevelopment in Wood Green; or development of individual medium sites.

Each vehicle would need to be procured separately and would require its own governance structure with associated management resource and costs.

The Council could invest particular sites into specific individual vehicles for example a housing vehicle, which would develop the Council's large housing estates such as Northumberland Park Regeneration Area, and smaller estates across the Borough that have proved uneconomical to invest in. The private sector partner would invest the equity. The vehicle would then work up the site up according to a pre-agreed business plan. The site could revert back to the Council if the vehicle does not progress the site as specified.

A separate vehicle could be bought forward using the council's assets to support Town Centre regeneration, which would seek to reinvigorate Wood Green. A partner would invest equity and the Vehicle would then develop the site according to a pre-agreed business plan. Again, the site(s) could revert back to the Council if the Vehicle does not progress the asset as specified.

Having a number of separate vehicles would make it more difficult for the Council to include receipts from profitable schemes to support more financially challenging opportunities in a State aid compliant manner than would be possible with a single vehicle. Managing a stake in several difficult vehicles may also place a greater governance burden on the council than would a single vehicle.

#### Option 6: Overarching Vehicle

This option builds on the initial concept set out at Option 4. However, under this option the Council and a strategic partner e.g. a development partner or strategic funding investment partner, create an overarching strategic partnership through an Overarching Vehicle ("OV"). The OV can then take assets forward by way of different delivery mechanisms beneath the overarching level through for example development agreements, joint ventures etc. Assets could be taken forward individually, as portfolios or through sub portfolios of assets. The structure would also allow for the cross funding of

income from the commercial portfolio and quick win projects (i.e. value release properties) to be used to fund projects such as the key estate renewal sites.

The OV could also provide an asset management role to enhance returns from the assets in this portfolio or be established with an investment partner with delivery of sub portfolios beneath this using development partners and local services providers.

This model is already used by a number of local authorities and public agencies in the UK to bring forward major development on their land, where those authorities do not have the investment capacity and skills to achieve the best possible regeneration outcomes for the council without a partnership approach of this kind. A joint venture development vehicle can combine Council land with private investment and expertise while maintaining an appropriate degree of Council control over the pace and quality of development. It can also potentially give the Council a long term income stream as well as capital returns, which may be reinvested in accordance with the Council's statutory functions, on new housing, on social and economic benefits or on other Corporate Plan objectives.

The OV could also act as a development manager, asset manager and fund manager and provide a strategic funding role in taking schemes forward. The model would also allow the Council involvement in those schemes where it has limited land ownership. This is the approach taken by the LB Hammersmith and Fulham, and by Sunderland Council.

An OV approach of this nature would not prevent the Council deciding to take one or more sites forward outside of the OV if the specific circumstances of those sites suggested a different approach were more pragmatic.

### **The preferred option**

- 6.17 On 10 November 2015, Cabinet considered the business case and the strengths and weaknesses of each of these options in detail, and examined the qualitative analysis attaching weightings based on the Council's objectives and scores to each option.
- 6.18 As a result of the analysis, Cabinet accepted the recommendation to proceed with Option 6 (the overarching vehicle), because it is the model that best provides a means by which the Council can achieve its objectives. Specifically:
- This option gives the greatest chance of achieving regeneration and development on a scale consistent with the council's ambitions, in turn encouraging further growth and enabling the wider social and economic benefits to which the Council aspires.
  - The option allows the Council to retain influence and control over the pace and quality of development through its 50% stake in the vehicle, including nominations to the board of the joint venture vehicle.
  - This approach is projected to achieve a considerable financial return which can be invested in accordance with the Council's statutory functions, in the further development of the stated socio-economic objectives or spent on the

delivery of wider Corporate Plan objectives. This is significantly as a result of the bringing in of private sector resources to enable and make viable development. The other options project a significantly lower return in the event that they can be made to work at all.

- This approach also provides the flexibility to combine the benefits of the other options, by allowing for the use of different mechanisms such as asset management, development management, fund management, joint venture and services provision under the overarching structure.
- Value can be extracted from the commercial portfolio and the town centre market led opportunities (at Wood Green) to be used to cross fund other projects, such as more financially challenging estate renewal sites. Money can also be retained within the vehicle and used to cross subsidise or fund other projects.
- While the Council will undertake a measure of development risk, it has in return the opportunity for reduced costs, and a share in very likely increased profits which may be reinvested in accordance with the Council's statutory functions in the promotion of the stated socio-economic objectives. This level of risk, which is limited to the extent of land committed to the vehicle, and the commercial portfolio which is proposed to go in at day one, is significantly less than if the Council bears the whole burden of borrowing and cost to finance development. It is however, not a risk free situation and is the price paid for ongoing influence and control together with financial returns.
- The vehicle would also have the ability to adapt and respond, particularly to changes in market conditions, but also to any changes in requirements that the Council itself requires. The report recommended and Cabinet agreed that Option 6, the overarching joint venture Development Vehicle, was the best solution because it is the model that best provides a means by which the Council can achieve its objectives.

6.19 In particular respect of the Council's aspirations to deliver the greatest possible amount of high quality affordable housing, this approach has two key strengths. First, it enables the Council – via its stake in the vehicle – to ensure that the vehicle's development proposals secure not only the greatest possible amount of affordable housing from development on Council land, but that this housing meets the particular housing demand in Haringey as set out in the Council's Housing Strategy. This can always start with the presumption that sites delivered through the vehicle would meet council policy – for example to yield 40% affordable housing overall – with a strong governance position from which to secure those outcomes. Second, the Council will always have the option, on a case by case basis, to reinvest its financial returns from the vehicle in affordable housing, allowing future developments promoted by the vehicle to achieve better outcomes – whether larger overall amounts of affordable homes, a different tenure mix, or lower rents – than would be possible based on those developments' basic viability.

6.20 Similarly, the Council's governance stake in a vehicle of this nature puts it in a stronger position than might be possible through some other delivery methods to deliver other key policies. For example, via a vehicle of this nature the Council would seek to secure and deliver its aims of protecting the rights of

existing tenants to return to a new home in an estate renewal scheme, and to do so on similar rents and tenancy terms.

### The procurement process

6.21 On 10 November 2015, Cabinet approved the Business Case for the establishment of the HDV and agreed to the commencement of a Competitive Dialogue Procedure under the Public Contracts Regulations 2015 and gave delegated authority to the Director of Regeneration, Planning and Development after consultation with the Leader of the Council to agree procurement documentation and deselect bidders in accordance with evaluation criteria throughout the procurement process, and to return to Cabinet for approval of the preferred bidder.

6.22 Cabinet also agreed that the procurement process would be conducted on the basis of a first phase of sites – referred to as the ‘Category 1’ sites – proposed for development by the vehicle. These were:

- The Northumberland Park Regeneration Area
- The Civic Centre, Station Rd office buildings and Library in Wood Green
- The former Cranwood Care Home

Cabinet also agreed that the Council’s commercial property portfolio would transfer to the vehicle, to improve the performance of the portfolio and to give the vehicle working capital from the start.

6.23 A second list of sites – referred to as Category 2 – was agreed as having potential for subsequent development by the vehicle, subject to Cabinet approval at the time of their being taken forward for development. It was also agreed that any other site in the Council’s current or future ownership (‘Category 3’) could be brought forward for development by the vehicle, again subject to Cabinet approval at the time.

6.24 A Prior Indicative Notice was published on 30 November 2015, advising the market of the forthcoming procurement. On 7 January 2016 the Director of Regeneration, Planning and Development, after consultation with the Leader, approved the OJEU Notice, Pre-Qualification Questionnaire with Guidance Notes and scoring matrix, Memorandum of Information and Draft Invitation to Participate in Dialogue. The OJEU Notice was published on 11 January 2016. To introduce bidders to the Council and the process, a well attended Bidder Day was held on 1 February 2016.

6.25 The pre-qualification questionnaires were returned on 22 February 2016 and evaluated in accordance with pre-determined criteria. The evaluation panel was formed of the Council’s lead officers, together with internal and external advisers (Bilfinger GVA, Turnberry Real Estate and Pinsent Masons LLP) (the ‘Evaluation Panel’). The evaluation process was moderated by the Council’s Head of Procurement. The top six bidders received an Invitation to Participate in Dialogue (‘ITPD’) and an Invitation to Submit Outline Solutions (‘ISOS’), in accordance with the delegation.

- 6.26 Those bidders proceeding to the ISOS stage were announced and notified on 16 March 2016 and the relevant documents were issued on 21 March 2016, following approval, in accordance with the Delegation, by the Director of Regeneration, Planning and Development, after consultation with the Leader.
- 6.27 Three sessions of dialogue were held with each bidder, and queries and clarifications dealt with through the Council's procurement portal. Bidders then submitted their outline solutions to the Council on 8 June 2016.
- 6.28 Submissions were evaluated by the Evaluation Panel in accordance with the guidance issued at ITPD/ISOS stage. On 4 July 2016, the Director of Regeneration, Planning and Development, following consultation with the Leader, approved three successful bidders to proceed to the Invitation to Submit Detailed Solutions ('ISDS') stage. Documentation for this stage was approved and issued on 28 July 2016, including updated draft legal documents and a draft Invitation to Submit Final Tenders document, again with the necessary approvals in accordance with the delegation.
- 6.30 The selected bidders then engaged in producing detailed solutions. An introductory dialogue session and four full dialogue sessions were held, together with additional financial and legal dialogues with the three bidders. Queries and clarifications during the ISDS stage were dealt with through the procurement portal.
- 6.31 The Invitation to Submit Final Tender ('ISFT') was updated and finalised to reflect the dialogue sessions and clarifications, and issued on 9 December 2016. The issue of this document brought dialogue to a close, meaning that negotiations and discussions on detailed solutions were at an end.
- 6.32 Final submissions of the detailed solutions were received from the three bidders on 16 December 2016. These were evaluated by the Evaluation Panel in January 2017, in accordance with the evaluation methodology and criteria as set out below. The Council's Head of Procurement again performed a moderating role, and both internal and external legal advisers were in attendance when required. The detailed requirements of bidders and evaluation criteria were set out in the report approved by Cabinet on 7 March 2017.

### **The preferred bidder stage**

- 6.33 On 14 February 2017, Cabinet approved Lendlease as preferred bidder, and a reserve bidder whose bid could potentially be reactivated in the event of it not being possible to reach final agreement with the preferred bidder. Following a call-in process, and a report from Overview & Scrutiny Committee to Cabinet, this decision was reconfirmed by Cabinet on 7 March 2017.
- 6.34 Following the selection of Lendlease as preferred bidder, there followed a preferred bidder stage during which teams from Lendlease and the Council (and their respective advisers) worked to confirm the terms of the bid submitted by Lendlease at the ISFT stage. As a result, a suite of key documents has now been agreed.

## The legal documentation

6.35 The full suite of key legal documents to be entered into is set out in Appendix 1 of this report. Appendix 1a – a report from Pinsent Masons LLP (‘the Pinsent Masons Report’), the Council’s external legal advisors – refers to all the legal agreements to which the Council is to be a party, or which will have a direct impact on the Council as a member of the HDV and therefore require Council approval, with a short description of each one’s purpose and some of the main terms. The legal documents proposed for approval by Cabinet are:

- Members’ Agreement
- Agreement for Sale of the Investment Portfolio
- Development Framework Agreement
- Private Sector Partner Guarantees
- Development Management Agreement
- Strategic Asset Management Agreement
- Land Assembly Agreement
- Contractor Framework Agreement
- Limited Partnership Agreement

There are also additional legal documents and financial instruments and agreements which are ancillary to the key legal documents, some of which are described in the Pinsent Masons Report and which are listed in full in paragraph 2.1.1 of the Members Agreement.

6.36 The remainder of Appendix 1 comprises the individual legal agreements themselves.

6.37 This part of the report draws out some of the particularly key elements of the suite of key legal documents which define the governance and operation of the HDV. The overarching legal agreement is the Members’ Agreement – which sets out the constitutional arrangements for the partnership and describes the principal governance and financial rights and obligations for the two partners or ‘Members’.

### Members Agreement

6.38 The overarching legal agreement is the Members’ Agreement – which sets out the constitutional arrangements for the limited liability partnership and describes the principal governance and financial rights and obligations for the two partners or ‘Members’. Clause 2.1.1 of this document sets out legal documents that would need to be entered into as a result of The Members Agreement. The purpose and some of the main terms of the Members Agreement are set out in the Pinsent Masons Report.

### Objectives of the HDV

6.39 The Objectives of the HDV are enshrined in the Members’ Agreement, and are the objectives to which the HDV Board must give consideration in setting and implementing the strategy and programme of the HDV. They are:



1. to deliver growth through new and improved housing; town centre development; and enhanced use of the Council's property portfolio;
2. to achieve and retain for the Council a long term stake and control in development of the Council's land, maintaining a long term financial return for the Council which can be reinvested, in accordance with the Council's statutory functions, on new housing, on social and economic benefits or on other Council Corporate Plan objectives;
3. in partnership with the private sector to catalyse delivery of financially challenging schemes;
4. to achieve estate renewal by intensification of land use and establishment of a range of mixed tenures, together with tenure change across the Borough where appropriate;
5. to secure wider social and economic benefits in areas affected, including community facilities, skills and training, health improvement and crime reduction for the benefit of existing residents;
6. to incorporate land belonging to other stakeholders, both public and private sector, into development; and
7. to achieve a commercially acceptable return.

### The legal structure

- 6.40 A structure chart is contained on page 3 of the Pinsent Masons Report. The main HDV entity is proposed as a 50-50 partnership between its two members: the Council and Lendlease. Its work will be conducted initially through two principal subsidiary entities: a development subsidiary (for managing development projects) and an investment subsidiary (for managing the long-term investment assets, starting with the commercial portfolio but over time possibly including other housing and commercial assets). The two principal subsidiaries will likely, over time, have subsidiaries of their own in order to ensure projects remain self-contained, or the HDV can set up other development subsidiaries.
- 6.41 The main HDV and its development subsidiaries are proposed as limited liability partnerships (LLPs). This is proposed because LLPs are 'tax transparent' which means that their members are taxed on the proceeds of the LLP's business on the basis of their own tax status. As the Council is not liable for corporation tax, it will not be taxed on its share of profits from the LLPs.
- 6.42 The investment subsidiary of the HDV is proposed as a Limited Partnership (LP). This is a different kind of entity which is a more attractive investment proposition for third party investors from which the HDV partners may, from time to time, seek additional investment in HDV assets. The LP Agreement is the constitutional document required to establish 'InvLP' as an LP. It contains the governance arrangements and terms on which InvLP will operate which shall (as far as is applicable) mirror the Members' Agreement. Some of the main terms of this agreement are set out in the Pinsent Masons Report.
- 6.43 As set out in the Pinsent Masons Report, the subsidiary LLPs and the subsidiary LP all need one or more so-called 'nominee companies' (or 'nominee cos') in order to be set up in accordance with the law. Both LPs and LLPs require at least two members, hence Nominee Co 1 is part of the structure to hold a nominal interest in InvLP (the investment subsidiary) and Nominee Co 3

holds a nominal interest in DevLLP (the development subsidiary). Different nominees act as the relevant second members so that the ownership of DevLLP and InvLP are ring fenced as far as possible. An LP requires a general partner to carry out its day to day business as it does not have a legal personality and so Nominee Co 1 will also perform this role. Nominee Co 2 Ltd's role is to act as second trustee of the legal title to the commercial portfolio, as an LP cannot hold property itself and future funders and purchasers will require two entities to act as trustees in order to give a proper receipt of sale proceeds on any future sale.

- 6.44 As set out in the Members Agreement, each member of the HDV LLP will nominate three nominees to the HDV. Collectively, these nominees form the 'board' of the LLP (though the term 'board' does not have legally defined meaning for an LLP in the way it does for a limited company). The Council's nominees to the HDV will be made in accordance with the Council Constitution in advance of the first formal meeting of nominees which is expected in September 2017. The HDV subsidiary vehicles will be governed through Boards comprising the same six nominees as the top-level HDV.
- 6.45 Schedule 3 of the Members' Agreement – the Delegation Policy – sets out the levels at which different decisions are made. The most important decisions (including changing HDV objectives; agreeing and materially amending business plans; major asset disposals; admitting new members; approving accounts; amending HDV delegation or procurement policies) can only be made by the two members of the HDV, based on a recommendation from the HDV Board. Where the Council is making decisions under this provision, those decisions will be subject to the Council Constitution as with any other Council decision.
- 6.46 Other decisions can be made by the HDV Board, and others still by Lendlease in its capacity as provider of Development Management or Asset Management services to the HDV (see below). However, it is important to stress that where a decision (financial or otherwise) is taken by the HDV Board or by the Development/Asset Manager, this can only occur if it is consistent with a business plan, or within the limit of a financial approval, given at the appropriate more senior level in the cascade of delegations. All decisions made under this Delegation Policy, therefore, are ultimately constrained by decisions made by the Council and Lendlease as members of the HDV. Further, all those decisions must be made in accordance with the HDV objectives set out at paragraph 6.39 above.
- 6.47 Where decisions are to be taken by the Board, and where votes are cast in the taking of a Board decision, nominees from each Member will vote as a bloc. The chair of the Board will rotate between Board members, but there will be no casting vote. Agreement between nominees of the two Members is therefore required for decisions to be approved by the Board.
- 6.48 Given the clear framework provided for the HDV's work by the business plans, deadlock at the board is likely to be very rare. However, the potential for deadlock built into the composition of the HDV Board, and the Members' Agreement also sets out an agreed process for resolving any deadlock at HDV Board level. This comprises:

- First, escalation to senior officers and (if unsuccessful) the chief executives of the two Member organisations.
- Failing that, and if the two Member organisations agree, the matter can be referred to a relevant expert for determination.
- Failing that, or if it not agreed as appropriate, then the matter is referred for mediation.
- If none of these is successful, the next stage is to consider winding up either the HDV subsidiary to which the deadlock applies or – if it is such a fundamental matter that the whole partnership is affected – winding up the HDV itself.

6.49 In the event of an unresolved deadlock, or in any other scenario where the two Members of the HDV agree to wind up the partnership (including a default by one of the partners on the terms of the agreement, a mutual agreement to terminate early, or simply the end of the HDV's 20-year agreed life), the Members' Agreement defines the process for winding up the HDV. This includes provisions for the Council to buy out some or all of the interest of Lendlease; this takes place at a discount if Lendlease has caused the winding-up through a default on the agreement, or at a premium if the default is by the Council. If the winding-up occurs while one or more development projects (or phases) are underway but incomplete, the Agreement states that such projects (or phases) shall be completed before winding up is completed if that is possible. Any Council property which is the subject of an agreed business plan but which has not transferred to the HDV at the time of winding up simply remains in Council ownership.

### The financial structure

- 6.50 Equally important is the financial structure of the HDV. The most important principle is that the two partners' 'equity' investment in the HDV must be equal at all times. (While this investment is not 'equity' in a technical sense it is referred to as equity throughout this report as in all important respects it is treated like equity, and is most easily understood in that way).
- 6.51 Where Council has put in more than Lendlease, because the value of its property that has transferred is more than the cash HDV needs to draw down from Lendlease at that time, only the matching element is treated as equity; the Council earns interest on the remainder as a loan. Lendlease is obliged to match the remainder, at which point Council's loan is converted to equity. This is best illustrated by considering the position on 'day one' of the HDV's life. If Council invests (say) £20m worth of its commercial portfolio but HDV only draws down £4m of upfront working capital from Lendlease, the Council and Lendlease get £4m equity each, and the Council's remaining £16m is treated as a loan. Lendlease is legally obliged to pay its remaining £16m over time, with the Council's loan element decreasing, and converting to equity, as it does so.
- 6.52 This arrangement is expressed in the legal agreements in terms of 'loan notes':
- When either partner makes an equity investment, this is documented by an 'A Loan Note' issued by the HDV to the partner(s).

- When the Council investment of commercial portfolio property exceeds that required for initial equity purposes, the balance is documented as a 'B Loan Note'.
  - When the Council investment of a development site exceeds that required for initial equity purposes, the balance is documented as a 'C Loan Note'.
- 6.53 'D Loan Notes' are a separate category. In some instances, and in particular in estate regeneration projects, it is not possible to raise finance, to fund third party land acquisitions, through the commercial funding markets which can stall development. The Council has the opportunity to improve the viability of schemes by providing separate, secured funding to the HDV at an advantageous rate of interest. This has the potential to improve the financial viability of the scheme and make it financially deliverable. To reflect this additional investment from the Council in such a scenario, the Council D Loan is repaid ahead of all other Member finance or profit share, and if a scheme supported by such an investment from the Council then exceeds profit expectations, the Council gets a greater than 50% share of the 'superprofits'.
- 6.54 Alternatively, the Council may acquire third party interests in advance of development taking place (as part of a land assembly strategy agreed with HDV at that time). In this instance, the Council and HDV may agree that HDV shall assist the Council with its borrowing costs (net of any income actually received by the Council) from the date of acquisition by the Council until the date of land drawdown by the HDV. After drawdown, the invoice will accrue interest at the agreed rate until paid.
- 6.55 Formal agreement to the operation of loan notes will be achieved through a set of detailed financial instruments, to be agreed between the parties. Delegated authority is sought for the section 151 officer, after consultation with the monitoring officer, to approve these financial instruments on behalf of the Council.
- 6.56 Once proceeds of development are available, net of development costs, they are distributed according to a strict priority order:
- Council land acquisition costs are paid first
  - Then debt funding used to fund development, from a bank or other source (which could include the Council and/or Lendlease)
  - Then any 'D Loan' is repaid to the Council
  - Then any 'mezzanine' funding is repaid (this is funding used where there is not sufficient equity in a scheme to raise the necessary debt, and extra funding is needed)
  - Then any outstanding 'C Loan' is repaid to the Council
  - Then equity investment is repaid to the two partners
  - Then remaining profits are shared between the two partners

Development Framework Agreement: the development project process

- 6.57 The Development Framework Agreement deals with the Category 1 properties and is a conditional option agreement which allows the HDV to draw down from the Council a 250 year lease of the various sites once the conditions have been satisfied. The Agreement distinguishes between those properties in respect of

which the Council has made a decision to dispose (Category 1A Properties) and those in respect of which no such decision has been taken (Category 1B Properties).

- 6.58 Currently, the only Category 1A Property included in the Development Framework Agreement is Wood Green. The process to bring forward a Category 1A site for development is as follows:
- a) Once the business plan presented with this report is approved by the Council, this constitutes the Council's commitment to transfer the property to the HDV for development (and Lendlease's commitment to make a corresponding equity investment) subject to certain 'conditions precedent' being met. These include: appropriate planning consent being obtained; vacant possession being achieved; a viable funding scheme being in place; and, where appropriate, the consent of the Secretary of State being obtained to dispose of the land, an application for which must be approved by full Council.
  - b) Once the conditions are met, the land may be drawn down by HDV and the construction phase of development can begin. Once the development is complete, and the proceeds realised, these proceeds are shared in accordance with the priority set out above.
- 6.59 Northumberland Park and Cranwood are included in the Development Framework Agreement as Category 1B Properties. No decision may yet be taken by the Council to bring forward these sites for development by the HDV, and this report does not recommend any such decision. However, the Development Framework Agreement includes a mechanism whereby either site may be elevated to a Category 1A site at a future date, at which stage the process described above will similarly apply.
- 6.60 In particular, a Category 1B site will only be re-categorised as a Category 1A site if and when Cabinet takes a decision, in its discretion, to dispose of the site to the HDV or any of its subsidiaries, following community consultation, including statutory consultation under section 105 Housing Act 1985 (which will also then require Full Council to authorise the making of an application for Secretary of State's consent).
- 6.61 It should particularly be noted that nothing in the Development Framework Agreement imposes any obligations on the Council to make a decision to dispose of any Category 1B site, or to obtain any necessary Secretary of State consent. If the Council decides not to dispose of a Category 1B site or does not obtain consent to dispose from the Secretary of State, it will not incur any legal liability in relation to the HDV. Rather, where these pre-conditions are not satisfied within a stipulated time frame, the Category 1B Property will be removed from the scope of the Agreement.
- 6.62 Therefore any decision regarding the redevelopment of Northumberland Park and Cranwood by the HDV remains firmly within the Council's discretion.
- 6.63 These two different processes - depending on whether a site require section 105 consultation and Secretary of State consent or not - will apply to all future sites (so-called 'Category 2' and 'Category 3' sites as set out in the November

2015 Cabinet report). This may include an outright sale of the property to HDV or its inclusion as a Category 1A Property under the DFA (or similar document with appropriate option conditions). More information on Category 2 and 3 sites is set out below, in the Strategic Business Plan section.

- 6.64 It should be noted that while the processes described above make reference to development of a site in its entirety, in some cases the process will relate only to a single phase of a larger development project. The Development Framework Agreement sets out the arrangements regarding investment by the HDV in site wide infrastructure which is made at the start of an early phase but which is also for the benefit of one or more future phases of the same project. In this case, the HDV is exposed to the risk that the business plans for those future phases will not be agreed, or the conditions precedent for land drawdown not met. In such a scenario, the Council stands to potentially benefit from that infrastructure investment if it decided to pursue later phases via non-HDV means. The Development Framework Agreement describes the obligation for the Council to reimburse the HDV for its investment in those circumstances – but only if and when the Council does indeed develop out those later phases and achieve development proceeds from them.

#### Agreement for sale of the investment portfolio

- 6.65 The Agreement for Sale (Investment Portfolio) governs the transfer (by way of the grant of a lease for a term of up to 250 years of each property) of the Council's Commercial Portfolio (listed in Appendices 6c and 6d of this report). A standard form of lease has been agreed and is attached to this document, and delegated authority will be required to agree these as and when the transfers happen. The commercial properties are to be transferred in phases as and when the criteria for transfer have been satisfied. The purpose and some of the main terms and conditions are set out in the Pinsent Masons Report.
- 6.66 The commercial properties listed in Appendix 6c are held for housing purposes within the Housing Revenue Account, but subject to business tenancies. The Council considers that these properties are no longer needed in the public interest for housing purposes and the more needed, for accounting purposes, to be within the General Fund portfolio. The reversions will then be transferred to the HDV as part of the Council's initial investment into the HDV they. Accordingly, the recommendation is to appropriate these properties for General Fund purposes. Where there are self contained flats included within any individual business tenancies the consent of the Secretary of State would be required in respect of the appropriation.
- 6.67 The agreed total price for the transfer is £45m if all the properties are transferred. The price paid constitutes the Council's initial equity investment in the HDV once the portfolio has fully transferred to the HDV. This figure was part of the bid made by Lendlease during the ISFT stage of the procurement process, and has been confirmed by Lendlease following further due diligence during the preferred bidder stage. The list of properties proposed for sale under this agreement are included at Appendix 6c and 6d, with a property-by-property breakdown of prices to be paid included as a schedule in the Agreement for Sale (exempt part). As certified in the letter from the Council's commercial

advisers GVA (Appendix 8), this deal on the commercial portfolio properties represents best consideration for the Council.

- 6.68 It has been agreed that the commercial property portfolio will transfer in phases. The timing and contents of the first phase and all subsequent phases will be driven by two principal considerations: the need to ensure that all property meets statutory compliance requirements before transfer. The first phase of transfers is expected to take place on the first quarter day after the HDV is established; all future transfers are also expected to take place on quarter days. This is to minimise disruption for tenants, the Council and the HDV in making an orderly transfer of leases and management. The Agreement states that all property will be drawn down within 24 months of the HDV's establishment.

#### Strategic Asset Management Agreement and Property Management Agreements

- 6.69 Where properties have been transferred to the HDV, strategic asset management of those properties will be carried out by Lendlease acting as Asset Manager for HDV under the Strategic Asset Management Agreement presented for approval here. The Strategic Asset Management Agreement is a services contract under which the Asset Manager will provide services in respect of the Commercial Portfolio, and also potentially any assets that are developed by DevLLP subsidiaries and retained by InvLP as an investment asset. The purpose and some of the main terms of this agreement is set out in the Pinsent Masons Report.
- 6.70 Day-to-day management of the properties will be carried out by a third party provider under a Property Management Agreement between that provider and the HDV.
- 6.71 Where properties are within the list of properties agreed for transfer, but have not transferred yet and remain in Council ownership for the time being, they will still be managed by the same third party provider – under a separate but similar Property Management Agreement, this time between that provider and the Council – to ensure that the benefits of improved management can be achieved from the start while maintaining co-ordinated management across the portfolio. This arrangement will also apply to a number of other Council properties which are currently part of Category 1A development sites.
- 6.72 Delegated authority is sought for the two Property Management Agreements – including the key performance indicators associated with them – to be agreed by the section 151 officer after consultation with the monitoring officer. The maximum total value for this delegation is set out in the exempt part of this report.

#### TUPE

- 6.73 Consideration of the application of the Transfer of Undertakings Protection of Employment (TUPE) Regulations suggests that a small number of employees, likely to be a maximum of four, may be in scope to transfer to the new provider of property management services. Consultation with those employees is in progress and Trade Union representatives will be consulted as necessary.

- 6.74 It has been agreed that any employees subject to TUPE will remain within the Haringey Pension Fund. This will need to be agreed by the Pension Sub Committee, which will require the Property Manager to enter into an Admission Agreement. The Admission Agreement will impose full pension liabilities for all deficits on the Property Manager. It has been agreed with Lendlease that the HDV's investment subsidiary (InvLP) will bear all of the pension liabilities. This will include all employer contributions above the current rate of 32.4% and all cessation deficits (including strain cost).

#### Development Management Agreement

- 6.75 The Development Management Agreement is a contract through which Lendlease will act as Development Manager, providing various development services to the HDV Group. The Agreement will be entered into between the Development Manager and DevLLP, however it is intended that the Development Manager will also provide services to other members of the HDV Group (for example DevLLP subsidiaries in relation to services relating to a specific Development Site or Phase). The purpose and some of the main terms of this agreement are set out in the Pinsent Masons Report.

#### Strategic Asset Management and Development Management Agreements: services and fees

- 6.76 As described above, Lendlease will provide strategic asset management services to the HDV under the terms of the Strategic Asset Management Agreement. The fee charged for this service will be limited to Lendlease's costs incurred in providing the service, plus a 20% management overhead. This rate was accepted as part of Lendlease's bid at the ISFT stage of procurement.
- 6.77 Lendlease will also provide development management services to the HDV under the terms of the Development Management Agreement. The fee charged for this service will be limited to Lendlease's costs incurred in providing the service, plus a 20% management overhead, until the land is drawn down by the HDV from the Council; after this point, the rate is 1% of development costs. This rate was accepted as part of Lendlease's bid at the ISFT stage of procurement.
- 6.78 These fees are considered competitive compared to the market, and a good deal for the HDV (and therefore for the Council) in the context of the wider commercial deal, as set out in the letter from GVA at Appendix 8. More on the overall commercial deal – including the analysis of value by the Council's commercial advisers GVA – is set out below.

#### Contractor Framework Agreement

- 6.79 The Lendlease bid was based on securing access to a share of construction contracts for the company's construction arm. The impact of this is that Lendlease Construction would be given the opportunity to seek the award of up to a maximum of 60% of 'vertical build' plus the site infrastructure works for any phase of work where Lendlease Construction is awarded a 'vertical build' contract on that phase. 'Vertical build' is a term used to describe buildings (including foundations and sub-structure). The Contractor Framework



Agreement is a contract pursuant to which Lendlease Construction is given the opportunity to seek the award of this share of construction works procured by the HDV Parties. The purpose and some of the main terms of this agreement is set out in the Pinsent Masons Report.

6.80 There are benefits to the HDV – and to the Council – in this arrangement:

- The supply chain security provided by having access to the services of a major, proven construction firm without the cost, time and uncertainty of procurement will at times be positive, especially when the construction market is buoyant.
- Lendlease Construction is a Tier 1 contractor. This means that – even for the 60% of vertical build contracts and any site infrastructure contracts awarded to Lendlease Construction – a large proportion of the value of those contracts is sub-contracted to smaller firms. The relationship with Lendlease and the stated HDV social and economic objectives gives the HDV – and in particular the Council – a greater deal of confidence and certainty about the sub-letting of these contracts to local firms than would be the case through other procurement routes.
- For the same reason, the arrangement better enables HDV/the Council to secure other wider benefits from construction including commitments to the London Living Wage throughout the supply chain and local employment and training.

6.81 This arrangement however can only succeed if value for money – normally driven through a competitive procurement process, absent for these contracts – can be assured through other means. The Contractor Framework Agreement sets out the arrangements for providing that assurance:

- The assurance process is co-ordinated by an 'Independent Verification Team' (IVT) appointed by the HDV. This decision of the DevLLP Board – to appoint the members of the IVT – is taken by the Council's nominees alone, as the Lendlease nominees are conflicted out of the decision.
- The IVT is a professional advisory team, comprising a cost consultant, lawyer and programme auditor, plus any other professional advisor appointed by the HDV in the same way.
- The IVT provides reports and recommendations to the HDV on the procurement and awarding of contracts to Lendlease Construction and via them to a range of sub-contractors (e.g. verifying value for money and monitoring performance against agreed protocols and key performance indicators).
- Where the HDV – on the advice of the IVT – determines that Lendlease Construction's offer for a specific contract under the protocols, amongst other things, is not 'market' or providing 'value for money' and/or that Lendlease Construction is performing poorly against the key performance indicators set out in the Contractor Framework Agreement, then the DevLLP Board can decide not to award the contract to Lendlease Construction (even if this ultimately means that the agreed maximum of 60% of contracts to Lendlease Construction will not be reached) and other procurement means can be pursued.

- 6.82 The remaining 40% (minimum) of ‘vertical build’ contracts not awarded to Lendlease Construction (plus any additional contracts not awarded to Lendlease Construction because of its failure to meet the performance requirements of the Contractor Framework Agreement or because of refusal by the DevLLP Board to award the contract) will be let under a competitive procurement process set out in the HDV procurement policy, which is contained within the Members Agreement.

#### Land Assembly Agreement

- 6.83 The Land Assembly Agreement sets out the basis on which the HDV will work with the Council to agree the procedures and steps for acquiring any land interests that are not currently owned by the Council (including costs associated with compulsory purchase orders), and the strategy for rehousing residents. The purpose and some of the main terms of this agreement are set out in the Pinsent Masons Report. Most significantly this relates to the acquisition of leasehold interests in properties which have been purchased from the Council by residents under the ‘Right to Buy’ scheme, though it also relates to any other land interest acquired by the Council.
- 6.84 The Agreement sets out the arrangement whereby the Council may make the upfront capital investment in acquiring these land interests, and retains the benefit of them until the Council’s land transfers under the terms of the Development Framework Agreement as set out above, during which period it can, for example in the case of bought-back leasehold properties, rent them out for temporary accommodation. The HDV’s liability for payment of the land costs occurs upon the HDV’s drawing down of the land concerned. The Council receives interest from the HDV on its investment from land drawdown until such time as the proceeds from development are available from the relevant site, net of development costs, at which point the Council is repaid its capital investment before any other payments are made from those proceeds. The Council is not obliged to lend to the HDV in this way, but to elect not to do so could significantly threaten the viability of the scheme, and therefore the achievement of the outcomes which the Council wants.
- 6.85 The Land Assembly Agreement also sets out the obligations of the HDV to existing Council tenants and leaseholders who are resident on a site proposed for development, including a right to return to a new home on the estate and on equivalent terms. This includes an agreed approach to consultation and engagement, and a commitment by the HDV to honour the terms of the Council’s draft Estate Renewal Rehousing and Payments policy, which was approved by Cabinet on 20 June 2017 for public consultation, except where any departure from the ERRPP has been expressly agreed (including by the Council) either in the relevant scheme business plan or the Land Assembly Agreement itself and subject to certain specific clarifying qualifications.
- 6.86 In addition, the Agreement commits the HDV – for any housing stock it owns itself – to observe the Council’s allocations and tenancy policies, and to mirror Council tenancies as far as possible, apart from the right to buy.

#### Key performance indicators

6.87 There are four sets of key performance indicators that relate to the work of the HDV:

- **Asset Management.** Under the Strategic Asset Management Agreement, it is proposed that key performance indicators will not be used to measure the performance of Lendlease, the strategic asset manager, for an initial period of 12 months after the transfer of any given asset. This is to allow for the management regime to settle down following the transfer. During that 12-month period, the HDV Board will agree a set of KPIs that will apply to the management of that asset. These will be based on a set of 'market norm' KPIs set out in the Strategic Asset Management Agreement, with any amendments to those KPIs to be determined by the HDV Board.
- **Property Management.** The third party property manager will be bound by KPIs set out in the two Property Management Agreements described above. These KPIs will be agreed as part of those agreements, delegation for approval of which is sought for the section 151 officer after consultation with the monitoring officer.
- **Development Management.** For each development project, the HDV Board will agree a set of KPIs that will apply to the development management service provided by Lendlease for that project. These will be based on a set of 'market norm' KPIs set out in the Development Management Agreement, with any amendments to those KPIs to be determined by the HDV Board.
- **Contractor Framework Agreement.** The Contractor Framework Agreement will set out a set of construction KPIs, again based on market norms, which will – as well as determining the deductions/incentives paid under construction contracts – determine whether Lendlease Construction retains its right to 60% of vertical build contracts (and related infrastructure) as stipulated in the Agreement. The detail of these KPIs is yet to be agreed and is one of the issues that will be agreed by the section 151 officer after consultation with the monitoring officer under the delegation in this report.

6.88 In all cases, it is expected that the HDV Board will set terms for these service providers that deduct fees in the event that KPIs are not met, and may also provide incentives for when KPIs are exceeded.

#### Transparency and accountability

6.89 It has been agreed – and set out in the Members Agreement – that the HDV's Strategic Business Plan will be updated, for consideration by the HDV's two members, on an annual basis; there is an obligation on the Council to use all reasonable endeavours to agree this. Cabinet's consideration of this annual plan will be subject to the agreed Council scrutiny process, as will all other actions and decisions reserved to the Council as a member of the HDV as described above. There is no obligation on the Council to approve individual Development Business Plans (in which case Sites would not transfer into the HDV).

6.90 Further, the members of the HDV have made a strong commitment to best practice in terms of transparency in the workings of the HDV itself. While the detailed implementation of this approach will be a matter for the HDV Board to

set out in due course, this will include a strong commitment to public sharing of information, and to regular direct access to the HDV team and work programme for key local stakeholders including local councillors in wards affected by HDV projects.

## Strategic Business Plan

6.91 The Strategic Business Plan comprises three sections:

- **Placemaking.** This section sets out the current Haringey context in terms of demographics and economics, before describing the proposed overall approach of the HDV to: design (including public realm); mix of housing types and tenures, including market analysis for private housing; employment space; infrastructure including transport and social infrastructure; housing ownership and management; meanwhile uses; and sustainability. These overall approaches are the basis of the site-specific proposals for the category 1 development sites, and other elements of the HDV work programme.
- **Delivery.** This section sets out the proposed approach of the HDV to: management and governance, including indicative staffing structures and resourcing plans; land assembly, including the role of the Council; development and ongoing management of housing, commercial space and other facilities; planning, design and construction delivery; communications and marketing; and other issues including health and safety and risk management.
- **Finance & Commercial.** This section sets out: the financial modelling work done to underpin the initial proposed work programme of the HDV; the strategy for funding the HDV's work; the legal structure that underpins the commercial arrangements; the approach to viability testing; and the arrangements for provision of development and asset management services by Lendlease.

The most significant elements of the Strategic Business Plan are set out here.

### The overall commercial deal

6.92 Several elements come together to form the main pillars of the commercial deal between the Council and Lendlease that underpins the HDV arrangement. The principal elements comprise some which have already been described in this report:

- The agreed position on equal equity.
- The £45m price paid for the Council's commercial property portfolio.
- The Lendlease fees proposed for strategic asset management and development management services.
- The fact – and terms – of the Council's role in forward-funding land assembly.
- The risks and guarantees in relation to site-wide infrastructure (in the exempt report).

Other elements have not been described:

- The quantum and timing of returns to the Council and Lendlease, through profit returns and other means. This is set out in more detail immediately below.
- Council share of uplift on land value. In order to determine the value of the Council's land for a proposed development site – and therefore the size of its equity stake, and the corresponding cash equity required from Lendlease – the land is valued twice. The first valuation for Category 1 sites was set as part of Lendlease's bid during the procurement process; for subsequent Category 2 and 3 sites, it takes place when the business plan is first approved. Land is valued again at the point the land transfers to the HDV, once all the conditions precedent have been met. Because a planning consent and vacant possession will usually add value to the land, the uplift will be shared between the Council (the landowner) and the HDV (which has done the work to achieve the uplift). The agreed share is set out in the exempt part of this report.
- In order for the Council to have continuity in its income over the first 5 years of the HDV, given it will have transferred the commercial portfolio from which it currently receives income, it has been agreed that (a) the Council will retain 100% of income on commercial portfolio assets until they transfer to the HDV; (b) the Council will receive 50% of net income from commercial portfolio assets that have transferred to the HDV; (c) the Council will receive interest on any 'B' Loan currently in place; and (d) the Council will receive an additional income top-up up to get the total income to £15m over the first 5 years of HDV's life.

6.93 In order to understand the balance of the commercial deal, it is possible to compare the benefits that each side is expected to secure:

- First, the two partners share equally in the proceeds of development and management of the investment assets. Based on the assumptions in the current financial model, this includes an estimated £275m each for the Category 1 development sites. This is based on an estimated gross development value ('GDV', or the total value of the completed assets after development) of around £4bn, compared to the £2bn estimated GDV shown in the indicative financial modelling that accompanied the business case considered by Cabinet in November 2015. The two partners are correspondingly equally exposed to development risk. The partners also share in the rental returns from the commercial property portfolio, and any other property held by the investment subsidiary after development by the HDV. This figure cannot easily be estimated, especially given the uncertainty over costs associated with the management of the commercial portfolio.
- However, there are some benefits which the Council alone can expect to see:
  - The share of land value uplift (the land value for Category 1 sites is set at £18m before any uplift)
  - Council tax and business rate uplift (modelled at an estimated £13m per year by 2031 for Category 1 sites)
  - Section 106 & Community Infrastructure Levy (modelled at an estimated £37.7m for Category 1 sites)

- £8m HDV investment (from the Category 1 programme) in the HDV's social/economic programme plus £20m Lendlease investment in the social investment vehicle plus further employment, training and local business outcomes from construction and other initiatives.
  - Outcome benefits of more and better homes and jobs, plus social and economic outcomes, all of which are of strategic value to the Council.
- The principal benefit which Lendlease alone can expect to see is the contracts for Lendlease Construction under the Contractor Framework Agreement (with a margin modelled in the range of £50-80m for Category 1 sites, based on c. £2bn of HDV construction contracts overall).

6.94 Reinvestment of Council profits from the HDV will always be a matter for the Council to decide. The Financial and Commercial section of the Strategic Business Plan proposes that early profits (both the Council's and Lendlease's share) are reinvested in the HDV programme in order to improve the cashflow and speed up development, with the first cash profits coming to the Council around year 6 depending on performance. By approving the Strategic Business Plan, the Council is approving this early reinvestment. Once cash returns come to the Council, their use is simply subject to the Council's normal budget-setting process as set out in the Council Constitution.

6.95 The impact of the proposed approach to the HDV on the Council's Housing Revenue Account (HRA) is set out in the financial comments in section 8 below. It should in particular be noted that this impact is driven both by the proposed transfer of the commercial portfolio sites (a proportion of which are currently held in the Council's HRA) and by the proposed transfer of development sites (of which the same is true).

#### Best Consideration and State Aid

6.96 Section 123 of the Local Government Act 1972 provides that local authorities may dispose of land as they see fit and, subject to certain exceptions, that they must seek the best consideration reasonably obtainable ('best consideration').

6.97 The letter from the Council's commercial advisors GVA, included as part of Appendix 8, sets out GVA's assessment of the Council's commercial position in the commercial deal. This is partly to confirm that the Council is receiving Best Consideration for its assets under section 123.

6.98 The full letter is included as an appendix in the exempt part of this report, but the central conclusions are:

- The decision to appoint Lendlease was made following a thorough and robust 18 month OJEU procurement exercise which enabled the Council to drive the strongest possible commercial deal for itself.
- The HDV offer represents best consideration for the Council's asset and land interests and will allow the Council to satisfy its statutory obligations under S123 of the Local Government Act 1972.

- A hypothetical private sector investor in comparable circumstances to the Council would take the same investment decision to that currently being considered by the Council.

6.99 The letter from Pinsent Masons LLP, the Council's legal advisors, also included as part of Appendix 8, advises that the overall deal is compliant with State Aid regulations, informed partly by the letter from GVA described immediately above. The full letter is included as an appendix in the exempt part of this report.

#### Housing ownership and management

- 6.100 The Strategic Business Plan is clear that the HDV will keep open a number of options for the ownership and management of affordable and other rented housing, for the purposes of scheme design, business planning and for consultation with tenants at the appropriate time. A range of factors – including housing and rents policy and available external funding, as well as the viability of individual schemes – will affect what the HDV Board proposes as the most advantageous approach for the HDV, its members and its tenants and customers for any given scheme. In all cases, the proposed approach will be set out in the relevant scheme business plan for approval by the Council and Lendlease.
- 6.101 For ease of understanding and avoiding complexity based on as yet unknown options, the HDV's financial model as set out in the Strategic Business Plan is based on the forward sale of rented housing to a Registered Provider, or an institutional investor. Other options may include for the affordable housing to be held in the HDV or its subsidiaries.
- 6.102 Decisions on housing management for any given block cannot be taken until there is certainty about its ownership. However, the Council has a strong housing management function in Homes for Haringey, and under some ownership models at least Homes for Haringey would be a clear candidate for taking on management responsibilities, especially given the fact that – on major multi-phase estate renewal schemes – Homes for Haringey will already be managing existing Council homes on estates where new HDV stock comes into use.

#### Category 1B sites

- 6.103 As explained above, no decision is sought to dispose of either Northumberland Park or Cranwood to the HDV. Any decision to bring forward these sites for development by the HDV will be taken at future Cabinet meetings, following full consultation with residents and other interested parties, including updated EqlAs. If Cabinet decides to dispose of either site, Full Council authorisation will be required to make an application to the Secretary of State for consent to such disposal. Therefore, notwithstanding the business plans for Northumberland Park and Cranwood (discussed below), the Council retains full and sole discretion as to the future plans for their development.

#### Category 2 & 3 sites

6.104 The Strategic Business Plan sets out an indicative programme for the next phase of development sites – those sites described as ‘Category 2’ sites in the November 2015 Cabinet report. The Council and Lendlease are also considering whether the HDV could play a role in delivering the Council’s new library, civic space and office accommodation in Wood Green, and will continue to keep under review other potential development opportunities. However, approval of the Strategic Business Plan does not constitute a binding commitment on the part of the Council to transfer any of these sites to the HDV, now or in the future. Each site will be the subject of its own business plan, in accordance with the process defined in the Development Framework Agreement.

### Sustainability

6.105 The Council has made a commitment to reduce the Borough’s carbon emissions by 40% by 2020 (the baseline being 2005) and stated an ambition to be a zero carbon borough by 2050. The Council is therefore committed to reducing the impact of existing development and activity as well as to managing the impact of future growth. Improving local air quality, fuel poverty, sustainable transport, and addressing the challenges of a future climate are also at the forefront of the Council’s sustainability and well-being agenda. The HDV as a long term partnership vehicle will play a key role in enabling and accelerating the necessary change across the borough, and will need to deliver continuous improvement in energy and sustainability performance aligned with the Council’s ambitions.

6.106 The Placemaking section of the HDV Strategic Business Plan sets out the overarching approach and outlines how the HDV will actively deliver the Council’s ambition to improve the local environment and performance of new developments and existing building stock for which it will be responsible. The Sustainability Framework and Goals proposed for the HDV will give a clear direction and strategy for the lifetime of the HDV and support continuous improvement and innovation. The proposed HDV Sustainability Goals encompass energy and zero carbon, resilience and adaptation, water, waste, materials and supply chain, nature, and responsible investment. A commitment to post-occupancy evaluation of residential and commercial spaces along with measurement and monitoring of carbon, water and waste performance will help to facilitate continuous improvement across the HDV’s portfolio.

6.107 Each individual project Business Plan sets out the proposed site specific solutions to deliver against Haringey’s Local Plan and the Council’s sustainability strategies including connecting to the planned Decentralised Energy Networks at North Tottenham and Wood Green, and proposals to nominate the Northumberland Park regeneration scheme for the C40 Cities Climate Positive Development Programme. Each individual project Business Plan also provides further detail demonstrating how the HDV will deliver against the HDV’s strategic sustainability goals. Finally, as required of all new development, a sustainability and energy assessment will also be undertaken and submitted with each planning application, with the aspiration to go beyond the policy requirement.



6.108 The HDV will be resourced by a dedicated Sustainability Manager responsible for the delivery of the HDV goals and the sustainability strategy across each of the individual projects. Construction, Environmental Management and Compliance will be overseen by a Construction Sustainability Manager. The HDV's Sustainability Strategy will be regularly reviewed and presented to the HDV Board, and HDV Sustainability reporting will be on a timeline to align with the Council's Annual Carbon Report publication.

### **Northumberland Park Business Plan**

6.109 The Northumberland Park Business Plan sets out:

- How the HDV will work with the local community to develop regeneration plans that put people at the heart of change.
- The opportunity for approximately 5,000 new homes, including the delivery of high quality new affordable homes and mixed tenure homes to buy and rent for all income levels.
- How existing residents will benefit from new homes in Northumberland Park and a guaranteed right to return
- Ambitions for a new skills and employment centre and thousands of new jobs and training opportunities, directly benefiting local residents, as regeneration is delivered.
- How social and economic opportunities will be delivered, including how residents will benefit from better prospects, healthier lives, a strong sense of community pride and a clean and safe environment, as well as the delivery of new schools and a health centre.
- Plans for the creation of exciting, distinctive and safe public spaces, parks and streets that connect the community and provide opportunities for interaction, inclusion and leisure.
- That its contents neither suggest nor impose any obligation on the Council in respect of any proposed redevelopment of Northumberland Park, with the legal position being governed by the Development Framework Agreement.

### **Wood Green Business Plan**

6.110 The Wood Green Business Plan sets out:

- Proposals for the redevelopment of three sites, the Civic Centre site, the Station Road Offices site and the Wood Green Library site as catalysts for the wider regeneration of Wood Green.
- The opportunity for approximately 1300 new homes including the delivery of high quality new affordable homes and mixed tenure homes to buy and rent for all income levels.

- A commitment to deliver a new mixed use thriving town centre with pedestrian and cycle-friendly streets with green spaces that complement a lively and vibrant public realm day and night.
- An approach to how the sites could deliver a range of new flexible office space that can meet the needs of existing businesses and attract new businesses to the area.
- A commitment to work with communities to strengthen the town centre as a whole, projects include a Business Engagement Officer, support for the Wood Green Business Forum and a series of social investment initiatives.
- A commitment to work with existing communities and adjoining landowners and ensure that all stakeholders are involved in the brief, design and delivery strategy including a design competition for the Civic Centre site.
- The option for the HDV to be the delivery partner for a new consolidated Haringey Council office headquarters and Civic Centre, which will have a key place-making role in the regeneration of Wood Green.

### **Cranwood Business Plan**

6.111 The Cranwood Business Plan sets out:

- How Cranwood could be the HDV's first development and an opportunity to deliver on the Council's ambitions to create sustainable, balanced communities.
- A development design masterplan indicating 92 high-quality mixed-tenure dwellings. These homes will be Secure by Design compliant, designed to be tenure-blind, and will re-vitalise the streetscape and enhance local connectivity.
- An indicative dwelling mix comprising 33% 1 beds; 41% 2 beds; 23% 3 beds; and 3% 4 beds , providing a balanced housing provision, including places for families
- A design masterplan including an enhanced level of affordable housing compared to emerging policy (50% by habitable room) of which at least 60% will be for low cost affordable rent. Among other things, this offers a rehousing opportunity at social rent levels to help facilitate delivery of the regeneration scheme at Northumberland Park, and will increase low cost rented provision in the west of the borough in line with the Council's Housing Strategy.
- How Cranwood will aspire to be one of the first zero carbon projects of its size and scale in London, setting an exemplar benchmark for the HDV.

- That its contents neither suggest nor impose any obligation on the Council in respect of any proposed redevelopment of Cranwood, with the legal position being governed by the Development Framework Agreement.

### **Commercial Portfolio Business Plan**

6.112 The Commercial Portfolio Business Plan sets out:

- The opportunity to increase the annual income and overall value of the portfolio, while also delivering social and economic improvements that deliver positive outcomes for the borough.
- A strategy for enhancing value and the returns from the commercial portfolio that is based upon a combination of short, medium and long term objectives:
  - Short term: reposition the portfolio through the acquisition and disposal of assets, creating clusters around hubs in key target areas, such as near the HDV's other development sites to maximise impact
  - Medium term: attract inward investment through the commercial portfolio to enable further regeneration
  - Long term: redevelop the estates within the portfolio to implement change in other parts of the borough
- How the properties in the portfolio are categorised into the following six groups in order to achieve these objectives:
  - Cluster for Regeneration
  - Long term redevelopment
  - Hold for Income Stream
  - Dispose of Properties
  - Short Term Redevelopment
  - Group for Employment
- How delivery of the strategy will be guided by an Asset Management Strategy and Property Management Plan, the latter of which will be implemented by the property manager under contract to the HDV.
- A clear social outcome focus and strategy.

6.113 The Commercial Portfolio Business Plan also reflects the agreed process – described above, in the section on the Agreement for Sale – whereby the portfolio will transfer from the Council to the HDV in phases.

### **Social & Economic Business Plan**

6.114 The Social & Economic Business Plan supports the ambition set out in the Council's Corporate Plan and Tottenham Strategic Regeneration Framework (SRF) that *'by the age of twenty a child born in Tottenham today (2014) will have a quality of life and access to the same level of opportunity that is at least as equal to the best in London'*. The Council's aim is to ensure that the benefits of regeneration and economic growth flow through to all of our residents, with better access to jobs, skills training, new homes, education and health facilities

improved transport links, safe and healthy environments, vibrant streets and active open spaces.

6.115 The Social and Economic Business Plan sets out:

- The planned infrastructure activity and programme activity across the HDV that contribute towards improving socio economic outcomes for Haringey Residents.
- A high level socio-economic outcome framework which will inform and shape all delivery under the Social and Economic Business Plan. This framework aligns with the Council's Corporate Plan and SRF and includes four impact themes: Better Prospects, Healthy Lives, Community Pride and Clean and Safe. A more detailed outcome and performance framework will be agreed which will set out the programme and project level outcomes, key performance indicators and targets. This more detailed framework will be used to measure the impact of the activity under the business plan.

6.116 The Business Plan describes proposals for an £8m HDV-funded social and economic programme allocated over the life of the 'Category 1' projects (Northumberland Park, Wood Green and Cranwood). The programme is proposed to commence in year one with an initial focus on three areas:

- A Skills and Employment Hub in Northumberland Park delivering skills and employment training. The Hub will offer skilling and employment programmes initially focused on construction. There will be an emphasis on those furthest from employment.
- Improving young people's engagement and attainment in STEM to support the implementation of Haringey's STEM commission. The programme will work with stakeholders, partners and supply chain to provide opportunities for young people their families and teachers to engage in STEM activities
- Improving mental health and wellbeing. The HDV will work with the Council and partners to develop a community-based mental health programme aimed at raising awareness, reducing stigma and increasing support for those experiencing mental ill-health.

These three programmes will be further developed during the first 100 days of HDV operation. All programmes will be designed to complement existing provision in the area. Further programmes will be developed through stakeholder engagement and the HDV business planning and governance processes.

6.117 The Business Plan sets out proposals for a Social Impact Vehicle (SIV), through which Lendlease (rather than the HDV) will provide up to £20m in investment loans and will use this to leverage substantial additional funding. The intention is for this investment to generate a return to be re-invested in the SIV, with the £20m remaining as a legacy for the vehicle. The SIV will follow a social investment model, with investments made based on their contribution to social outcomes, as well as their financial viability. The SIV offers a rare opportunity

to bring together a broad range of partners and funding bodies to design and deliver innovative approaches that tackle major long-term social challenges in the borough. Focusing on those with complex and multiple need or at risk of long-term negative outcomes with little access to support, the SIV's activities will complement existing statutory provision and support a wider shift in local service provision towards prevention and early help interventions.

- 6.118 The SIV will be established as a ring-fenced subsidiary of the HDV with a SIV Board. The SIV will work closely with the HDV and the Council to support delivery of the HDV's social and economic aims which are aligned with the Council's corporate objectives and SRF.
- 6.119 There will be an initial investment from Lendlease into the SIV (the precise sum of which is noted in the exempt part of this report) with the remainder of the £20m being invested over the life of the HDV which is linked to the development of the various sites. The initial investment will be paid on set up of the vehicle and the rest of the monies paid on practical completion for each phase of developments.
- 6.120 The SIV will take a portfolio of investment approaches, each emphasising the social, not just financial, return. The portfolio might include:
- Social Impact Bonds
  - Collective Impact Bonds
  - Investment in housing and / or community infrastructure
  - Business and VCS loans

The overall portfolio will balance lower and higher risk initiatives, delivering maximum sustained social impact while preserving the SIV's capital base over the lifetime of the SIV for continued reinvestment. The SIV aims to become a national centre of excellence for social investment.

- 6.121 To deliver this ambition the SIV will have four distinct roles:
- Designing and agreeing social investment contracts. Securing funding from additional public, private and charitable sources
  - Developing and managing long term partnerships with investors, outcomes payers and delivery partners
  - Managing performance and delivery of contracts, including managing outcomes payment/ loan repayments and reporting on progress towards the overarching outcomes.

### **Future business plans and changes to existing business plans**

- 6.122 Any new business plan for a site not covered by an existing business plan must be agreed by the Council and Lendlease as partners in the HDV, based on a recommendation from the HDV Board.
- 6.123 Any amendment to a business plan that has already been agreed by the partners will have to be agreed by the HDV. If that amendment is considered a 'Material Variation', the Members' Agreement requires that the partners will

have to agree that amendment. The Members' Agreement defines a 'Material Variation' as:

- Any item specifically identified within a Business Plan itself as being material;
- Any item specifically identified as requiring Member approval within the Delegations Policy or the Members Agreement (which will include a schedule listing areas which have been agreed will always constitute a Material Variation); or
- Any matter which the HDV Board determines as sufficiently material to require a referral to Members.

6.124 It must be noted that there remains further extensive work still to be done in particular in respect of the business plans for Northumberland Park, Wood Green and Cranwood proposed for approval here. Not least these will need to reflect the outcome of consultation, including statutory consultation with tenants at Northumberland Park and Cranwood, which will be undertaken before the Council decides whether all or part of these sites is in fact to be disposed of to the HDV, under the terms of the Development Framework Agreement. The results of this consultation will inform further work on phasing and design. Once this work has been done, revised business plans for Northumberland Park, Cranwood and Wood Green are expected to come back to the Council (and Lendlease) for approval, as the changes will almost certainly meet the definition of a 'Material Variation'.

6.125 It is envisaged that the revised plans for Northumberland Park and Cranwood will be placed before Cabinet as and when it is asked to consider the potential disposal of these sites.

## **Decision-making, assurance and risk in the Council**

### Governance and assurance within the Council

6.126 All formal decisions made by the Council in respect of the HDV are subject to the Council's normal decision making process as set out in the Council Constitution. This decision-making is currently supported within the Council by a governance structure which has been put in place to facilitate the conclusion of the procurement process but which will – for the short-term at least – be kept in place during the early part of the HDV's mobilisation. This comprises: a Strategic Board, chaired by the Chief Executive and with other Directors and Assistant Directors whose work is core to the HDV programme; a wider Steering Group of Directors and Assistant Directors from a range of disciplines who advise the Strategic Board; and a group of project sponsors, each one of which is responsible for leading the Council's work to support the HDV in the development and delivery of a specific business plan.

6.127 These structures are supported by a small dedicated relationship management function in the Council, under the supervision of the Director of Housing & Growth. Its role is to facilitate and monitor the work of the HDV, to support internal governance and to work with officers across the Council, including project sponsors – and with wider partners across the borough – to ensure the

necessary collaboration with the HDV in order to achieve the HDV's, and the Council's, objectives.

6.128 These arrangements – for governance, and for officer support – will be kept under close review, especially during the early months of the HDV's mobilisation, to ensure they are fit for purpose and give the Council the capacity and assurance it needs to appropriately manage risk and drive the best possible outcomes from the HDV.

### Risk

6.129 As set out above, the joint venture development vehicle model was favoured by the Council partly because it offers a balanced profile of risk and reward compared to the other options for bringing forward development on Council land. It is accepted that – in order to secure the benefits of this model and the outcomes it is expected to achieve – the Council remains exposed to a number of risks.

6.130 Broadly, these risks can be considered in two categories:

- Those risks arising from the work of the HDV itself, to which the Council is exposed because of its equity stake in the HDV, but the monitoring, management and mitigation of which is principally the responsibility of the HDV Board. Notwithstanding the primary role of the HDV Board, given the Council's exposure to these risks it needs considerable assurance relating to the HDV Board's management of these risks as part of its overall assurance of the HDV's work.
- Other risks which relate either to work done in the Council, or which are external to both the Council and the HDV, and/or where the Council's interests are not necessarily aligned with those of HDV and/or Lendlease, and where the Council therefore takes a direct role in monitoring and (where possible) management and mitigation.

6.131 The approach to risk management can be summarised as follows:

- The Council maintains an HDV risk register, owned by the Strategic Board in line with the governance arrangements set out above. This is the tool which allows the Strategic Board to gain assurance on, and where necessary actively manage, those risks which 'belong' in the Council.
- While the Council register has a risk associated with HDV performance, risks wholly contained with the HDV programme will be the responsibility of the HDV Board and subject to a separate risk management system owned by that board. Given the Council's exposure to these risks, the Council's Strategic Board will need mechanisms in place to gain assurance about that HDV risk management system as part of its wider assurance of the HDV Board's performance. This task will be the responsibility of the Council's relationship management function.

- Just as risk ownership follows programme ownership, audit arrangements etc will be split between Council and HDV according to who takes responsibility for different elements of work. However, as part of the transparency and accountability commitments of the Council and Lendlease, it is to be expected that Cabinet and the Council's scrutiny function would take an interest in both.

6.132 Section 10 of this report sets out where further information on the Council's approach to risk in respect of HDV can be found on the Council's website.

## **Next steps**

### Execution of the legal documentation

6.133 Once approved by Cabinet, the relevant delegated matters (including finalisation of the legal documentation) must be resolved and the legal documentation must be formally executed, through the signature of properly authorised representatives of the Council (in accordance with the Council's Constitution) and Lendlease.

### Reserve bidder

6.134 It will also be necessary formally to notify the reserve bidder, agreed as such by Cabinet in March 2017, that this status is terminated.

### Commencement of HDV operations

6.135 Once the HDV is incorporated, the next task will be to hold a formal Board meeting of the HDV. This first meeting will, among other things: agree a staffing plan and make any necessary appointments; adopt a number of policies and procedures; agree an initial programme and budget; and agree any delegations beyond those set out in the existing legal documentation (and described above) considered necessary for the HDV to function.

### Consultation and engagement

6.136 The Council will continue the process of engaging with and consulting residents and other interested parties in relation to the proposed developments of Northumberland Park and Cranwood. This will necessarily be undertaken in conjunction with the HDV.

## **7. Contribution to strategic outcomes**

7.1 The ambition and longevity of the Haringey Development Vehicle (HDV) means it has the potential to play a pivotal role in the transformation of Haringey that goes well beyond physical change.

7.2 The Haringey Development Vehicle – a 50/50 partnership between the council and developers Lendlease – is an innovative approach to regeneration that will deliver change local people can benefit from. It will see council land and developer funding and expertise brought together to deliver billions of pounds of



investment to Haringey – with 6,400 new homes up to 14,000 new jobs. But the new homes and improved housing estates – which it's important to be clear will come with a right to return on equal terms for all existing council tenants – do not paint the full picture of how the HDV could transform Haringey.

- 7.3 In addition to thousands of new homes, the HDV will see investment in community infrastructure for local residents including new facilities for the local schools; new health centre; new town centres with retail, office and community space; and a new library. Alongside this, funding will be made available to invest in skills support and training for local residents and there will be a construction framework that will deliver a range of benefits including a contractual obligation to pay the London Living Wage; jobs for local people; training and apprenticeships; and investment both in terms of money and time to engage with our local communities.
- 7.4 The HDV is committed to working alongside our other statutory partners such as health and the police, as well as Homes for Haringey and the dynamic voluntary and community sector we have here in the borough which all also have a critical role to play in improving outcomes for local residents. As a partnership, it is equipped to work effectively and innovatively with a range of partners to address the many challenges ahead and to enable tangible improvement in residents' lives .
- 7.5 In the Council's 2015-2018 Corporate Plan and in our other strategies such as the Strategic Regeneration Framework for Tottenham and our Growth Strategy we make specific commitments, particularly regarding increasing the number of homes and jobs in the borough that the HDV will contribute to delivering to both now and in the future. In 2015 we committed to ensuring:
- Every child and young person is able to attend a good or outstanding school or early years setting
  - To deliver £1 billion of inward investment into the borough
  - Increase average household earnings in Haringey to align with the London average by 2030 and to have made clear progress towards that goal by 2018
  - Ensure that people are able to have as much social contact as they like, reducing the number of people who feel isolated to less than 12% which is the current national average
  - Increase the number of people satisfied with the area as a place to live to more than 80% compared with the current national average of 75%
- 7.6 The HDV will contribute to achieving these and ambitions and, in particular the outcomes set out in Corporate Plan Priorities 4 and 5. The HDV is instrumental in taking forward Priority 4's objective to focus growth by prioritising new homes and jobs in Wood Green and particularly in Tottenham, where need and opportunity are greatest, and by bringing some of the borough's key community assets into more active use. It will build for sustainability, helping to achieve Haringey's 40:20 goal and will improve key infrastructure, including building a new secondary school and health facilities. It will bring about a step change in the number of new homes being built, taking forward the first objective of Priority 5.

- 7.7 Haringey Council's Strategic Regeneration Framework for Tottenham (2014) sets the ambition that:

*'By the age of 20, a child born in Tottenham will have a quality of life and access to the same level of opportunity that is at least equal to the best in London.'*

HDV will contribute to achieving this ambitious vision and to the specific aims of the Strategic Regeneration Framework for Tottenham, particularly within Northumberland Park, whilst recognising the scale of the challenge this involves. For this reason, opportunity pathways created by HDV in education, jobs and health will be prioritised within the East of the Borough, with a focus on changing outcomes for young people and where the concentration of disadvantage is most acute.

- 7.8 HDV will work towards an agreed set of socio-economic outcomes, grouped under the four impact themes below. This outcomes framework aligns with and complements the priorities set out in the Council's Corporate Plan (2015-2018) and its successor (the Borough Plan, to be agreed in Summer 2018). The success of HDV will be judged by the improvements its contributions make to these long term socio-economic outcomes, as well as by the physical transformation within the Borough.

**Better Prospects: Enabling education, training and employment**

- Children and young people excel at school, making the most of their potential, with fewer young people not in employment, education or training (NEET)
- Residents have the training, skills and support necessary to find and keep good quality employment
- Local business can thrive and grow

**Healthy Lives: Empowering people to improve their own health**

- Haringey is a healthy place to live where health and wellbeing is designed in
- More people have good mental health
- Residents will be healthy for as long as possible
- Residents live healthy and fulfilling lives

**Community Pride: Creating homes and neighbourhoods where people can thrive**

- Residents are confident participating and connecting in their community
- Residents can participate in design and delivery of their neighbourhood
- Social capital is built through places and programmes
- More people can access affordable housing, secure tenancies and properties in a good condition.

**Clean and safe: Creating a safer environment where people are proud to live, work and visit.**

- Streets, parks and estates are clean, well-maintained and safe
- Crime and the fear of crime is reduced through application of best practice design, working with stakeholders and local communities

- Incidents of serious crime, including youth crime, gang activity and VAWG are reduced by actively working with partners

7.9 HDV will contribute to these outcomes through its core business of planning, design and construction of new homes, neighbourhoods and public spaces and through building high quality new community infrastructure, including and in addition to CIL and S106 funding. It will catalyse new and higher quality jobs, particularly within the technology and creative sectors, through better management of the commercial portfolio and the creation of new workspaces. HDV will engage the community in co-designing places and programmes, to make sure that they reflect the needs and preferences of the different groups living and working in the Borough.

7.10 Some of Haringey's residents (including young people and those furthest from the employment market) will require additional support, in order to be able to take advantage of the new opportunities on offer. HDV is therefore designing and funding a range of targeted socio-economic programmes (£8m), to support more vulnerable residents to develop their skills, improve their mental health and reduce barriers to success. Through the Social Impact Vehicle, it will bring in new sources of social investment, innovation and expertise to tackle complex issues through new partnerships and delivery models, with a Lendlease investment of up to £20m.

7.11 HDV is making a 20 year commitment to improving the Borough and the lives of its people. This is a unique opportunity to form a long term strategic partnership between the Council and Lendlease, to form a new organisation which builds on the different strengths and expertise of each partner to maximise impact. The work programme brings together place-shaping, community engagement, targeted programmes, social investment and wider contributions into a coherent strategy for long term change. This ability to create a shared, long term strategy and vision of success is a key benefit of the HDV model. In addition, Lendlease, separate to the HDV, has signed up to the Tottenham Regeneration Charter, meaning that Haringey will see wider benefits from this corporate partnership including increased work experience, apprenticeships and volunteering (eg through Code Clubs and school governor roles).

## **8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)**

### **Finance**

#### Summary of Financial Returns and Related Benefits

- 8.1 The financial model for the HDV states a number of high level financial benefits which can be described as:
- LBH's share of development profits is forecast at an estimated £275m.
  - LBH will receive a Land Value transfer return of an estimated £18m.
  - LBH will also expect to receive returns from the Investment Management portfolio (the transfer to the HDV of the Commercial Portfolio) and guaranteed income from the portfolio. This figure cannot easily be

estimated, especially given the uncertainty over costs associated with the management of the commercial portfolio.

Decisions on how these profits will be spent is a matter for the Council to decide through its normal budget setting processes when the profits become attributable.

8.2 Further benefits will accrue to the Council as a result of the direct impact of the activities of the HDV.

- Increase in Council Tax estimated at circa £8m per annum by 2032
- Increase in Business Rates estimated at circa £5m per annum by 2032
- Increase in CIL (Community Infrastructure Levy) payments estimated at circa £18.8M in total over the programme of delivery
- Increase in S106 receipts estimated at circa £18.9M in total over the programme of delivery.

8.3 In summary, whilst the financial mechanisms contained in the commercial arrangements for the HDV are complex, there are no items that fall outside of the budgetary framework for 2017/18. The financial implications arising from future business plans for each phase of the HDV, will form part of the Medium Term Financial Strategy (MTFS) planning in future years, and will be approved as part of the Council's normal budget setting processes.

8.4 In terms of the overall financial model that is proposed in the documentation contained in the appendices of this report, a significant amount of due diligence has been completed by our HDV financial advisors, GVA, our HDV Tax advisors, Grant Thornton, our HDV Legal advisors, Pinsent Masons LLP and our own finance team. There has also been a significant amount of referencing of the commercial and legal documentation with our nominated QC. As a result of this due diligence, we are comfortable that the figures in the model reflect the legal representation of the HDV deal contained within the detail of this report. We also accept the figures are modelled on the high level/initial plans contained in the legal documentation and will be updated as more detailed business plans are further developed and approved by the Council. These financial comments are therefore being considered based on the model as it is contained in the documentation at the date of this Cabinet report. We are satisfied however, in overall terms, that the setting up of the HDV is affordable with appropriate controls, checks and balances in place for the Council to prevent any scheme going ahead that may put the Council's overall financial position in jeopardy.

8.5 The financial arrangements contained in the HDV commercial documents can be split into seven different themes which will help structure the complexity of the deal and therefore the financial implications of the deal and there are separate financial implications detailed for each theme. The themes are:

- a) The financial mechanisms used to ensure the integrity of the 50/50 equity nature of the Company structure.
- b) The financial implications of transferring the Council's Commercial Portfolio from the Council to the HDV.
- c) The financial implications of transferring the Council's land into the HDV

- d) Tax issues
- e) The payment of costs owed to the Council incurred on behalf of the HDV
- f) The overall implications to the Council's General Fund and the Housing Revenue Account of the business plans contained within the legal documents
- g) Pension Related Implications

#### Ensuring 50/50 Equity

- 8.6 The key principle of the JV is underpinned by a 50:50 equity relationship and is a model that is legally constructed to ensure that the integrity of the 50:50 equity split is maintained throughout the life of the HDV. However, this may mean at times that in order to ensure that any cash surplus accruing to either party in this model is used equitably and efficiently (i.e. that interest is not lost to either side in cash transactions), that a series of standard financial mechanisms (loan notes) are used to keep track of the cash flows and allows each party to be rewarded for the period where their equity is in surplus.
- 8.7 The use of loan notes in a JV of this nature is a standard financial mechanism and, having completed our due diligence, we are comfortable that these mechanisms offer the best way for the HDV and the Council to manage the cash flows between the Council and the HDV. The detail of the use of the Loan notes are contained within the Strategic Finance and Commercial Business Plan as an appendix to the exempt part of this report.
- 8.8 The financial model for the HDV includes a high level programme of the cash flows required over the life of the HDV, which allows the Council to model the cash flow requirements. However, this is merely an indication and it is not until each individual detailed business plan is approved through Cabinet that the detailed cash flow requirements will be fully set out. At which point, the implications will be planned and modelled through the Council's normal annual capital and revenue budget setting process.

#### Transfer of the Council's Commercial Portfolio (CP) to the HDV

- 8.9 The total value agreed to be paid by the HDV for the Council's Commercial Property (CP) Portfolio is £45m. Officers have carried out due diligence on this figure and are comfortable that this is a reasonable estimate of the value of this asset. This £45m becomes the Council's initial equity to the HDV and passes into the sub company within the HDV structure known as the Investment LP. Each CP asset will transfer at an agreed value, and the Investment LP will issue "B" loan notes to the Council for the corresponding amount. These "B" loan notes will be converted to "A" loan notes as Lendlease match these with cash.
- 8.10 Interest from "B" loan notes will be paid to the Council annually before any distribution of profits from the Investment LP. No interest income has been included within the Council's 2017/18 budget or current MTFS and will need to be reflected in future years MTFS.
- 8.11 Under the terms of the agreement for the transfer of the Council's Commercial Portfolio, the Council shall also continue to receive a guaranteed £3m of income from the commercial portfolio for the first 5 years of the agreement. This will ensure no loss of income to the Council for the next five years.

Transfer of the Council's land to the HDV

- 8.12 A second subsidiary "Development LLP" is being separately established within the HDV to carry out the development of each phase of the proposed regeneration area.
- 8.13 For Council freehold assets transferred, a pre-determined value based on a market norm Residual Land Valuation-RLV process, into the HDV, "C" Loan notes will be issued to the Council based on the pre-determined value, until converted to "A" Loan notes once match funded with cash by Lendlease.
- 8.14 The Council's share of uplift in residual land value will be available to be distributed to the Council as a deferred capital receipt, but only if the sitewide infrastructure costs allocation to the phases completed to that date have been recovered by the HDV. The remainder will be converted to "A" loan notes i.e. not distributed. Any capital receipts will be treated in the normal way and used to fund the Council's overall capital programme and to reduce the borrowing need in the financial year of receipt. These profit considerations will need to be built into future years Capital Strategy arrangements approved as part of the Council's MTFS.

Tax Issues

- 8.15 Grant Thornton, acting as our tax advisors, have reviewed the HDV documentation and have confirmed to us that the structures within the HDV are sound. Their advice goes on to suggest that there may be areas of complexity around the payment of Stamp Duty Land Tax (SDLT) on future transactions which will need to be identified for each of the detailed business plans with decisions about treatment at each stage.
- 8.16 It is important to note that in each scheme the Council is indemnified by the HDV for any SDLT costs so as to ensure that there are no cost implications for the Council. In terms of VAT, implications for the Council relate to the land transactions and the potential impact on the Council's VAT partial exemption (PE) threshold. It will be very important in future to ensure that the VAT implications on HDV transactions are captured and fed into the work on the PE threshold.
- 8.17 There is an implication for leaseholders in the Commercial Portfolio as they transfer to the HDV which is that as the properties within the Commercial Portfolio transfer to the HDV, leaseholders will be charged VAT on top of their lease rental charge. This will clearly have an impact on leaseholders who will be required to pay 20% in addition to what they have been used to. Whilst this will not be so much of an issue for larger leaseholders as they will have a bigger turnover with which to offset the VAT, it may impact the smaller leaseholders. This issue has been raised in the EQIA document attached to the Commercial Portfolio Business Plan and a mitigation plan has been developed and is articulated in the Commercial Portfolio Business Plan.

Payment of costs owed to the Council incurred on behalf of the HDV

- 8.18 Estimated costs that the Council may incur on behalf of the HDV for total acquisitions across the lifetime of the vehicle are set out in the exempt part of this report. The Council may agree to fund these upfront costs using the most appropriate form of funding at the time of the request.
- 8.19 For Council freehold land on a long leasehold that the Council purchases for transfer to HDV, at the point of land draw down the Council will invoice the HDV for the costs of obtaining the leasehold interest. The Council and HDV may agree that HDV shall assist the Council with its borrowing costs (net of any income actually received by the Council) from the date of acquisition by the Council until the date of land drawdown by the HDV. After drawdown, the invoice will accrue interest at the agreed rate described in the exempt part of this report until paid by HDV 3 months post completion.
- 8.20 The invoice treatment protects the Council's interest because creditors (and this would constitute a definition of creditor) would rank higher in terms of debt repayment. In addition, the Council will have security (ranking behind any security granted to a third party funder). The accounting treatment arising from these transactions will be subject to External Audit review through the audit of financial statements process.
- 8.21 LBH can agree to provide funding to the HDV for freehold properties owned by a third party which are purchased by HDV. In this case LBH funding will receive 'D' Loan Notes from the HDV (these are interest bearing with interest payable to LBH at a rate described in the exempt part of this report). Where LBH acquires such interests direct, this will follow the same treatment as in paragraph 8.20 above.
- 8.22 It should be noted that under the Council's revised Minimum Revenue Provision (MRP) Policy, there will be no requirement to set aside any MRP in respect of this funding.
- 8.23 Finally, there are also what are termed as relevant expenses, such as lawyers, mediation and surveyor valuation fees, that the Council will incur in connection with procuring the above asset types. These costs are invoiced to the HDV by the Council on a quarterly basis and paid within 10 working days, so LBH's cash-flow for these expenses is recovered on a reasonable basis.

Overall implications to the General Fund and the Housing Revenue Account

- 8.24 The commercial portfolio contains both HRA and General Fund assets. The original calculations to support the £3m guaranteed net revenue income position for 5 years have been revisited and the actual annual net income of those properties transferring is £3.6m and this is split as £1.7m for the HRA and £1.9m for the General Fund. Impacts of the loss of this £3m guaranteed after year 5 should be modelled through any revised MTFs, but the aim will be that by then any potentially detrimental effects will have been managed out.
- 8.25 An independent HRA advisor was commissioned to review the treatment of the transfer of the HRA commercial property assets and has advised that these assets should be appropriated to the General Fund prior to disposal. The HRA would then be compensated for the market value of the assets transferring,

which is set out in the exempt part of this report. The HRA capital financing requirement (CFR) would be reduced by the same amount, which would in turn increase the borrowing headroom within the HRA by that amount.

- 8.26 The net effects of the revenue adjustments to the HRA and the General Fund from movements in rental income and interest charges cancel each other out. The increased borrowing headroom does allow for the Council to invest in new assets to generate additional income to replace the net loss of income within the HRA.
- 8.27 The possible transfer of the HRA assets for Northumberland Park and any others on Cranwood or Wood Green has also been reviewed at a high level by the independent advisor. The initial proposal would be to appropriate to the General Fund, as these are residential assets. If decisions to transfer are made, the impact on the HRA would need to be calculated more fully at the times of transfer of each parcel, but from the initial review of the impacts on the HRA would, as with the transfer of the CP, be to compensate the HRA in full for any value on a back to back arrangement as each parcel of land is transferred and to allocate an element of the future profits of the HDV to the HRA.

#### Pensions Related Implications

- 8.28 In the course of business of the HDV, it may be deemed appropriate or necessary on the basis of a business case that Haringey staff should transfer under TUPE regulations from the Council to the HDV, or a subsidiary or contractor thereof. Should this case arise, any staff transferring will be able maintain their Local Government Pension Scheme (LGPS) arrangements, as the relevant body whom they are TUPE transferring to, would gain admitted body status as a new employer within Haringey Pension Fund, as is standard practice in these situations.
- 8.29 A calculation of the new employer's bespoke contribution rate will be undertaken by Haringey's Fund Actuary in line with the LGPS membership demographics of the cohort of staff transferring. As is the case with any new employer to the pension fund, they would be liable for various pension related costs, including deficit amounts which may arise over the course of their being an admitted body. Any new employer would also be responsible for providing adequate indemnification to the fund, for example by provision of a bond: this essentially insures the pension fund, (and all other employers participating in the fund), against the insolvency of a new employer, and the potential for any amounts due to the fund to go unpaid.
- 8.30 Please see the Pinsent Masons Report, appendix 1a attached to this report, as well as the Legal Section of the report for further information on Loan Notes and related issues.

#### **Procurement**

- 8.31 The procurement team has been closely involved throughout the procurement process described in this report, engaging with the project team throughout the procurement.



- 8.32 The Head of Procurement has been consulted throughout the process and moderated at each selection stage of the procurement process, including the final evaluation of tender returns.
- 8.33 The Head of Procurement is satisfied that a fair, transparent and compliant process has been followed and therefore supports the recommendations of this report.

### **Legal**

- 8.34 The Council will be relying upon the General Power of Competence (“general power”) contained in Section 1 of the Localism Act 2011 in conjunction with other powers referred to in the Cabinet Report of 10 November 2015 in order to set up and participate in the HDV.
- 8.35 The general power is a very broad based power which allows local authorities to do anything that an individual generally may do. There are some limits on the exercise of the power, set out in section 2. First, if the exercise of a “pre-commencement power” (i.e. power in existence before the general power became law) is subject to restrictions, these restrictions also apply to the exercise of the general power so far as it is overlapped by the pre-commencement power. Second, the general power does not enable an authority to do anything which it is unable to do by virtue of a “pre-commencement limitation” (i.e. a prohibition, restriction or other limitation expressly imposed by another statutory provision). Third, it does not enable an authority to do anything which it is unable to do by virtue of a “post-commencement limitation” which is expressed to either apply to this general power, to all an authority’s powers, or to all an authority’s powers but with exceptions that do not include the general power.
- 8.36 Section 4 of the Localism Act 2011 provides that where, in the exercise of the general power, if an authority does things for a commercial purpose then it must do them via a company. In this instance the Council is proposing creating the HDV for the purposes set out in the Cabinet report of 10 November 2016 and now contained in the Members Agreement to be entered into. The primary purposes of these are non-commercial. In addition the objectives of the HDV are non-commercial socio-economic objectives. The HDV would be a Limited Liability Partnership (“LLP”). Pinsent Masons LLP have advised that the Council may rely on the general power as legal authority for the Council in participating in the HDV as an LLP (such advice contemplating an HDV group structure). The HDV will be the main holding vehicle and various subsidiaries will be set up. The commercial portfolio will be held in a Limited Partnership vehicle.
- 8.37 On 10 November 2015 Cabinet agreed to the commencement of a Competitive Dialogue Procedure in accordance with the Public Contracts Regulations 2015 and on 7 March 2017 (after a call in), Cabinet agreed to select Lendlease as Preferred Bidder (with Pinnacle with Starwood Capital and Catalyst Capital as the reserved bidder) for the purpose of seeking a partner that would hold 50% share of the HDV.

8.38 During the preferred bidder period of the procurement, the Council has been in discussions with Lendlease as Preferred Bidder to confirm financial commitments or other terms contained in the tender thereby finalising the terms of the contractual documentation.

8.39 It is prescribed in regulation 72 of the Public Contracts Regulations 2015 that non-material changes may be made to a contract provided such changes do not:

(a) have the effect of materially modifying essential aspects of the tender or of the public procurement process, such that it may alter the economic balance of the contract in favour of the Preferred Bidder or that it would have otherwise resulted in a different bidder being appointed as Preferred Bidder had the changes been made to the bid prior to bid evaluation; or

(b) risk distorting competition or causing discrimination.

Pinsent Masons LLP have confirmed that there is nothing they are aware of within the legal documentation which would breach regulation 72 of the Public Contracts Regulations 2015.

The procurement process is at a stage where the Council can make a decision whether or not to proceed with Lendlease.

8.40 The report seeks authority from members to select Lendlease as the successful bidder and proceed to the setting up of the HDV through the execution of the various key documents. Members should refer to the Pinsent Masons Report which sets out the purpose and some of the main terms of the various legal documents. Members should note that there will be some further refinement to the documents but that this does not materially modify the essential aspects of the tender or the procurement and does not risk distorting competition or causing discrimination. Pinsent Masons LLP have confirmed that the structure of the legal suite is appropriate for a transaction of this nature and that the documentation reflects the outcome of the various meetings and discussions that have taken place in which the Council and lead advisors have participated during the procurement process.

8.41 Members are being asked to authorise the disposal of the commercial property portfolio to the HDV subsidiary Invest LP. The Council has authority under section 123 of the Local Government Act 1972 to dispose of those commercial properties as are held within the General Fund but must obtain best consideration. Otherwise, the consent of the Secretary of State is required, which may be given generally or specifically. Where the land consists or forms part of an open space, the Council cannot dispose unless, before disposing of the land, it causes notice of its intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to it.

8.42 Some of the properties within the commercial property portfolio are held for the purposes of Part II Housing Act 1985, and are accounted for within the Housing Revenue Account. The Council has authority under section 122 of the Local

Government Act 1972 to appropriate these commercial properties for any purpose for which the Council is authorised (by the 1972 Act or any other enactment) to acquire land by agreement. This includes for General Fund purposes. This power may be exercised if the Council considers the properties in question are no longer required for the purpose for which they are held immediately before the appropriation. Where there is self-contained residential accommodation within these commercial properties e.g. self-contained flat (let along with shop premises), the consent of the Secretary of State is required for the appropriation away from housing purposes. This is by virtue of section 19(2) of the Housing Act 1985.

- 8.43 The commercial property portfolio will be transferred in phases as and when the criteria (set out in the Sale and Purchase Agreement) are satisfied. The price to be paid for the Investment Portfolio will be the Council's initial investment in the HDV and will be converted into "B" Loan Notes which will then be converted into "A" Loan Notes as the amounts are matched by Lendlease. Cabinet should note that as a result of the phased transfer the £3m income will be apportioned pro rata based on the properties transferred, with the HDV only liable for the income in respect of the properties that have been drawn down.
- 8.44 By entering into the Development Framework Agreement, the Council will be granting an option to the HDV to acquire a long leasehold interest of its Category 1A Properties (Wood Green). These properties are held for General Fund purposes and Council has the authority under section 123 of the Local Government Act 1972 to dispose of them, subject to the requirement to obtain best consideration, or the consent of the Secretary of State (as set out above). Prior to any disposal the Council would be required to vacate these premises. .
- 8.45 As Cabinet is not being asked to consider whether to dispose of any Category 1B properties (ie any properties forming parts of Northumberland Park or Cranwood), and will not be asked to do so until there has been full consultation, including statutory consultation, the legal considerations that would be material to such decisions are not further set out in this report.
- 8.46 The report mentions that some employees may be affected by the transfer of the commercial property portfolio. The Legal effect of this is governed by the "Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) ("TUPE)". Where TUPE rules apply, they protect employees' rights when the organisation or service they work for transfers to a new employer. When TUPE applies, the employees of the outgoing employer automatically become employees of the incoming employer at the point of transfer. They carry with them their continuous service from the outgoing employer, and should continue to enjoy the same terms and conditions of employment with the incoming employer. The Council must inform/consult with the employees affected through "appropriate" elected representatives who could be trade union representatives or, in the absence of a recognised trade union, formally elected employee representatives. Where there are no recognised trade unions or employee representatives in place, employers must arrange elections amongst the affected employees to elect representatives to consult about the transfer.
- 8.47 The information must be given in writing and includes:

- a) the fact that the transfer is going to take place, approximately when and why.
- b) any social, legal or economic implications for the affected employees for example a change in location or risk of redundancies.
- c) any measures that the outgoing and incoming employers expect to take in respect of their own employees (even if this is nothing).
- d) the number of agency workers employed, the departments they are working in and the type of work they are doing if agency workers are used.
- e) information about any measures which the incoming employer is considering taking in respect of affected employees.

8.48 Lendlease has agreed that employees affected would remain within the Haringey Pension Fund (this will require approval of the Pension Sub Committee and an admission agreement to be entered into). The Haringey Pension Fund would require full pension liability to be borne by the employer. The employer liability in respect of pension liabilities have been capped (as set out in paragraph 6.74 of the report) and will be borne by the HDV subsidiary holding the Commercial Properties (InvLP), however, if TUPE applies, this liability or part of it may be passed on directly to the Council where the Commercial Properties are being transferred in phases and are retained within Council ownership. These properties will be the subject of a property management agreement to be agreed.

### **Equality**

8.49 The Council has a public sector equality duty under the Equality Act 2010 to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity for those with 'protected characteristics' and those without them
- Foster good relations between those with 'protected characteristics' and those without them.

The protected characteristics are: age, disability, gender reassignment pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

8.50 The duty is owed by the decision-maker, i.e. the Council acting through the Cabinet. Cabinet members will therefore need to consider carefully and evaluate the points made in this section and in the Equality Impact Assessments (EqIAs) annexed, when considering this report and the recommendations made.

8.51 As set out in the Strategic Business Plan, the establishment of the HDV will allow the Council to tackle a range of inequalities which impact on the protected groups, including:

- Better prospects in education, employment and training

- Healthy lives
- Community pride and housing
- Clean and safe environments

It would not be possible to address these inequalities to the same extent if Council adopted an alternative option, as outlined in sections 4, 5 and 6 of this report.

8.52 Each project business plan that is submitted to Cabinet for the HDV will be accompanied by an EqlA. With this decision there are EqlAs for the following Business Plans:

- Commercial Portfolio
- Cranwood
- Northumberland Park
- Social and Economic
- Wood Green

Within these, the Council has identified positive and negative impacts of individual Business Plans, and how negative impacts may be mitigated. To the extent that it is not possible for negative impacts on the protected groups to be mitigated, members must weigh the negative impacts against the positive ones, and must weigh in the overall balance those impacts which are negative against the positive, countervailing factors, sought to be obtained from proceeding with the HDV. Subject to the decision being rational and lawful overall, it is for Cabinet members to decide what weight should be given to the countervailing factors.

8.53 Cabinet should note that every time the Council submits a Business Plan for the HDV, an EqlA will be undertaken, which will be used as a working document for any subsequent decision resulting from the Business Plan, or, when relevant, a further EqlA will be undertaken by the Council. The governance of the HDV will ensure that actions identified will be monitored and that due regard is paid to the Public Sector Equality Duty.

8.54 In addition, as expressly noted in the EqlAs for both Northumberland Park and Cranwood, the decisions that Cabinet is being asked to take do not include decisions to dispose of either site. As, when and if Cabinet is asked to consider such decisions, further detailed EqlAs will necessarily be prepared for Cabinet to take into account in making any such decisions.

8.55 Engagement processes for each business plan will make sure that all sections of the local community impacted by the business plan will be proactively engaged with through the consultation process. In addition, engagement processes will ensure that barriers to consultation for different protected groups are removed, including offering reasonable adjustments for disabled people and translation and interpretation services when appropriate.

8.56 In the operation of the HDV, consideration will be needed to take steps to prevent discrimination, harassment or victimisation based upon relative protected characteristics occurring through adopting appropriate equalities

policies. In addition, any organisation commissioned by the HDV to deliver a service will be required to prevent discrimination, harassment and victimisation based upon the protected characteristics towards employees, service users or residents through appropriate mechanisms.

- 8.57 The creation of the HDV may have TUPE implications for employees regarding the Commercial Portfolio.

## 9. Use of Appendices

### 1. Legal Agreements

<b>Appendix 1a</b>	Summary of legal documentation for approval (the 'Pinsent Masons Report')	<i>Public (no exempt information)</i>
<b>Appendix 1b</b>	Members' Agreement	<i>Redacted</i>
<b>Appendix 1c</b>	Agreement for Sale of the Investment Portfolio	<i>Redacted</i>
<b>Appendix 1d</b>	Development Framework Agreement	<i>Redacted</i>
<b>Appendix 1e</b>	Private Sector Partner Guarantees	<i>Public (no exempt information)</i>
<b>Appendix 1f</b>	Development Management Agreement	<i>Redacted</i>
<b>Appendix 1g</b>	Strategic Asset Management Agreement	<i>Redacted</i>
<b>Appendix 1h</b>	Land Assembly Agreement	<i>Redacted</i>
<b>Appendix 1i</b>	Contractor Framework Agreement	<i>Redacted</i>
<b>Appendix 1j</b>	Limited Partnership Agreement	<i>Public (no exempt information)</i>

### 2. Strategic Business Plan

<b>Appendix 2a</b>	Strategic Business Plan (Place)	<i>Redacted</i>
<b>Appendix 2b</b>	Strategic Business Plan (Delivery)	<i>Redacted</i>
<b>Appendix 2b(i)</b>	HDV risk register (appendix to the Strategic Business Plan)	<i>Public (no exempt information)</i>
<b>Appendix 2b(ii)</b>	CPO report	<i>In exempt report only</i>
<b>Appendix 2b(iii)</b>	Category 2 property overview	<i>Public (no exempt information)</i>
<b>Appendix 2b(iv)</b>	Indicative Category 2 and 3 property programme	<i>Public (no exempt information)</i>
<b>Appendix 2c</b>	Strategic Business Plan (Commercial & Finance)	<i>In exempt report only</i>
<b>Appendix 2c(i)</b>	Finance & Commercial – Northumberland Park	<i>In exempt report only</i>
<b>Appendix 2c(ii)</b>	Finance & Commercial – Wood Green	<i>In exempt report only</i>
<b>Appendix 2c(iii)</b>	Finance & Commercial – Cranwood	<i>In exempt report only</i>
<b>Appendix 2c(iv):</b>	Finance & Commercial – Commercial portfolio	<i>In exempt report only</i>

## 3. Northumberland Park Business Plan

<b>Appendix 3a</b>	Northumberland Park Business Plan (Executive Summary)	<i>Redacted</i>
	Northumberland Park Business Plan (Place)	<i>Public (no exempt information)</i>
	Northumberland Park Business Plan (Delivery)	<i>Redacted</i>
<b>Appendix 3a(i)</b>	Initial indicative programme	<i>In exempt report only</i>
<b>Appendix 3a(ii)</b>	Procurement	<i>In exempt report only</i>
<b>Appendix 3a(iii)</b>	Risk management	<i>Public (no exempt information)</i>
<b>Appendix 3a(iv)</b>	Technical risk and opportunity schedule	<i>Public (no exempt information)</i>
<b>Appendix 3a(v)</b>	Local land ownerships	<i>Public (no exempt information)</i>
<b>Appendix 3a(vi)</b>	Market context	<i>Public (no exempt information)</i>
<b>Appendix 3a(vii)</b>	Social and economic context	<i>Public (no exempt information)</i>
<b>Appendix 3a(viii)</b>	Community and stakeholder engagement plan	<i>Public (no exempt information)</i>
<b>Appendix 3a(ix)</b>	Construction	<i>In exempt report only</i>
<b>Appendix 3a(x)</b>	Land assembly	<i>Public (no exempt information)</i>
<b>Appendix 3a(xii)</b>	Mayor of London – summary/checklist of key requirements	<i>Public (no exempt information)</i>
<b>Appendix 3a(xiii)</b>	Indicative masterplan drawing	<i>Public (no exempt information)</i>
<b>Appendix 3a(xiv)</b>	Indicative masterplan for regeneration	<i>Public (no exempt information)</i>
<b>Appendix 3a(xv)</b>	Options for early delivery of new school	<i>Redacted</i>
<b>Appendix 3a(xvi)</b>	CPO schedule	<i>In exempt report only</i>
<b>Appendix 3a(xvii)</b>	Service charge commentary	<i>Redacted</i>
<b>Appendix 3a(xviii)</b>	Service charge summary	<i>In exempt report only</i>
<b>Appendix 3a(xix)</b>	Pricing strategy	<i>In exempt report only</i>
<b>Appendix 3b</b>	Northumberland Park Business Plan – Equality Impact Assessment	<i>Public (no exempt information)</i>



## 4. Wood Green Business Plan

<b>Appendix 4a</b>	Wood Green Business Plan (Executive Summary)	<i>Redacted</i>
	Wood Green Business Plan (Place)	<i>Public (no exempt information)</i>
	Wood Green Business Plan (Delivery)	<i>Redacted</i>
<b>Appendix 4a(i)</b>	Programme	<i>In exempt report only</i>
<b>Appendix 4a(ii)</b>	Programme options analysis	<i>Redacted</i>
<b>Appendix 4a(iii)</b>	Procurement	<i>Redacted</i>
<b>Appendix 4a(iv)</b>	Risk management	<i>Public (no exempt information)</i>
<b>Appendix 4a(v)</b>	Technical risk and opportunity schedule	<i>Public (no exempt information)</i>
<b>Appendix 4a(vi)</b>	Market context	<i>Public (no exempt information)</i>
<b>Appendix 4a(vii)</b>	Social and economic context	<i>Public (no exempt information)</i>
<b>Appendix 4a(viii)</b>	Community and stakeholder engagement plan	<i>Public (no exempt information)</i>
<b>Appendix 4a(x)</b>	Indicative masterplan	<i>Public (no exempt information)</i>
<b>Appendix 4a(xi)</b>	Estate housing and asset management strategy	<i>Public (no exempt information)</i>
<b>Appendix 4a(xii)</b>	Service charge summary	<i>In exempt report only</i>
<b>Appendix 4a(xiii)</b>	Pricing Strategy	<i>In exempt report only</i>
<b>Appendix 4a(xiv)</b>	Land assembly	<i>In exempt report only</i>
<b>Appendix 4a(xv)</b>	Wood Green Library boundary analysis	<i>In exempt report only</i>
<b>Appendix 4a(xvi)</b>	New Council facilities – options papers	<i>In exempt report only</i>
<b>Appendix 4b</b>	Wood Green Business Plan - Equality Impact Assessment	<i>Public (no exempt information)</i>

## 5. Cranwood Business Plan

<b>Appendix 5a</b>	Cranwood Business Plan (Executive Summary)	<i>Public (no exempt information)</i>
	Cranwood Business Plan (Place)	<i>Public (no exempt information)</i>
	Cranwood Business Plan (Delivery)	<i>Redacted</i>
<b>Appendix 5a(i)</b>	Programme	<i>In exempt report only</i>
<b>Appendix 5a(ii)</b>	Procurement	<i>In exempt report only</i>
<b>Appendix 5a(iii)</b>	Key risks	<i>Public (no exempt information)</i>

<b>Appendix 5a(iv)</b>	Technical risk and opportunity schedule	<i>Public (no exempt information)</i>
<b>Appendix 5a(v)</b>	Service charge summary	<i>Redacted</i>
<b>Appendix 5a(vii)</b>	Market context	<i>Public (no exempt information)</i>
<b>Appendix 5a(viii)</b>	Community and stakeholder engagement plan	<i>Public (no exempt information)</i>
<b>Appendix 5a(x)</b>	Indicative masterplan	<i>Public (no exempt information)</i>
<b>Appendix 5a(xi)</b>	Pricing Strategy	<i>In exempt report only</i>
<b>Appendix 5a(xii)</b>	Proposed new homes	<i>Public (no exempt information)</i>
<b>Appendix 5b</b>	Cranwood Business Plan - Equality Impact Assessment	<i>Public (no exempt information)</i>

#### 6. Commercial Portfolio Business Plan

<b>Appendix 6a</b>	Commercial Portfolio Business Plan	<i>Redacted</i>
<b>Appendix 6b</b>	Commercial Portfolio Business Plan - Equality Impact Assessment	<i>Public (no exempt information)</i>
<b>Appendix 6c</b>	List of Commercial Portfolio properties for disposal to HDV (Housing Revenue Account)	<i>Public (no exempt information)</i>
<b>Appendix 6d</b>	List of Commercial Portfolio properties for disposal to HDV (General Fund)	<i>Public (no exempt information)</i>

#### 7. Social and Economic Business Plan

<b>Appendix 7a</b>	Social & Economic Business Plan	<i>Redacted</i>
<b>Appendix 7b</b>	Social & Economic Business Plan - Equality Impact Assessment	<i>Public (no exempt information)</i>

#### 8. State aid and commercial opinion

<b>Appendix 8</b>	State aid advice from Pinsent Masons LLP (Appendix 8i) supported by commercial opinion from GVA (Appendix 8ii)	<i>In exempt report only</i>
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## 10. Local Government (Access to Information) Act 1985

### Relevant documents

10.1 The following Cabinet decisions are referred to in this report, and are central to its recommendations:

- February 2015: Development vehicle feasibility study and business case (item 822)

<http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=118&MId=6977&Ver=4>

- September 2015: Report of the Steering Group on the Future Housing Review (item 68)  
<http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=118&MId=7299&Ver=4>
- November 2015: Haringey Development Vehicle (item 112)  
<http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=118&MId=7301&Ver=4>
- October 2016: Office Accommodation Strategy (item 98)  
<http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=118&MId=7846&Ver=4>
- March 2017: Matters referred to Cabinet by the Overview and Scrutiny Committee – Decision of the Overview and Scrutiny Committee on the 2<sup>nd</sup> of March 2017 regarding Minute 184 Approval of Preferred Bidder for the Haringey Development Vehicle  
<http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=118&MId=8170&Ver=4>
- June 2017: Leaseholder policy on Estate Renewal Schemes (Revised Re-housing and Payments Policy)  
<http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=118&MId=8287&Ver=4>

10.2 A large amount of information about the Haringey Development Vehicle proposals – including answers to a number of frequently asked questions – is available on a dedicated page of the Council website at [www.haringey.gov.uk/hdv](http://www.haringey.gov.uk/hdv).

10.3 The information available on this site includes a regularly updated version of the Council's risk register relating to the HDV, along with a description of the overall approach to risk.

### **Reasons for exemption**

10.4 Part B of this report is not for publication by virtue of paragraphs 3 and 5 of Part 1 of Schedule 12A of the Local Government Act 1972 as it contains information classified as exempt under Schedule 12A of the Local Government Act 1972 in that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

10.5 In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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**Report for:** Cabinet 3<sup>rd</sup> July 2017

**Item number:**

**Title:** **Community Building Review: Community Asset Transfer Policy 2017**

**Report**

**authorised by :** Lyn Garner, Director of Regeneration, Planning & Development

**Lead Officer:** Laura Bridges, Head of Strategic Property  
Charlotte Pomery, AD Commissioning

**Ward(s) affected:** All

**Report for Key/ Non Key  
Non Key Decision:**

**1. Describe the issue under consideration**

- 1.1. The purpose of the report is to seek Cabinet approval of a Community Asset Transfer Policy (CAT) for the council's community building portfolio.
- 1.2. The Policy is a progression of previous Cabinet decisions on 18 December 2012 as well as 14 July 2015 to rationalise the management of the community building portfolio as well as consider the implications of the Localism Act 2011. The previous recommendations of the community building review sit within the Community Strategy.
- 1.3. The Policy sets out the circumstances in which, where organisations wish it, the transfer of long leases to incumbent community organisations that are part of the council's community building portfolio can take place. The aims of such a transfer are to enable organisations to self-manage their property assets, to make longer term decisions on their accommodation and to raise funds against the collateral of a long lease. The process is about giving local people and community groups greater control in the future of their area and their community.
- 1.4. Cabinet will need to agree separately to the transfer of any individual asset within the policy.

**2. Cabinet Member Introduction**

- 2.1. The establishment of a policy that enables the transfer of assets to incumbent community groups will provide a valuable opportunity for organisations to gain greater control in the way they use the buildings they occupy to maximise the benefits they offer to their local community.
- 2.2. This policy provides a clear framework for assessing and progressing opportunities to transfer assets with the final decision returning to cabinet for ratification.

### **3. Recommendations**

- 3.1. It is recommended that members agree:
  - 3.1.1. To approve of the Community Asset Transfer 2017 policy document attached at Appendix A of this report.
  - 3.1.2. To note the key terms of the policy as are set out at paragraph 6.5.

### **4. Reasons for decision**

- 4.1. The Cabinet report of 14th July 2015 sought to set out the overarching principles and recommendations of the Community Buildings Review and it was resolved to agree to establish criteria around asset transfer and lease monitoring and evaluation. The creation of a Community Asset Transfer is therefore delivering on these previously agreed recommendations.
- 4.2. The policy is required to establish a significant change in emphasis in the way that community organisations manage their assets. Community Asset Transfer is recommended as good practice by the Localities Team as part of DCLG and has been tested as compliant with legislation arising from the Localism Act 2011 (the Act).
- 4.3. Devolution of powers to manage assets is anticipated to enable more efficient and effective management and utilisation of built assets as well as securing savings in officer time in the maintenance of multiple forms of lease.
- 4.4. The process is about giving local people and community groups greater control in the future of their area and their community. If local organisations own long term interests or manage community buildings, such as community centres, it can help promote a sense of belonging in the community and bring people from different backgrounds together to work towards a shared goal, creating lasting change in local neighbourhoods.

### **5. Alternative options considered**

- 5.1. An analysis has been undertaken of 4 of the 14 pathfinder authorities, all city councils that agreed to introduce community asset transfer and right to bid policies as arising from the Localism Act 2011 to determine the appropriate set of principles to include in a Community Asset Transfer policy. Policies of Lambeth and Calderdale Councils have also been examined as they were recommended by the Localities Team as being good practice.

#### Freehold vs Leasehold Transfer

- 5.2. Consideration has been given to the terms upon which an asset would be transferred and key to this is whether a long lease or the freehold would be transferred. The following points have guided the decision that a 125 year FRI lease would be offered.
- 5.3. The council intends to ensure that the community asset it transfers is safeguarded for community use and does not provide any opportunity for development of the asset for alternative use.
- 5.4. This full safeguarding of community use can only be achieved through terms and conditions set out in a lease. Under the terms of the lease both the freeholder and leaseholder will remain committed to delivering community space and benefit for that particular location but with significant levels of autonomy over how this is delivered.

- 5.5. The alternative model of a freehold sale with covenants around planning use class was considered in depth and offers much weaker protection. Precedent shows that covenants can be overturned, allowing development for commercial gain or reduction/loss of community space and transfer to an alternative use.
- 5.6. For most groups an 125 year lease allows ample security and is considered as effectively equivalent to a freehold transfer. This length of term would allow any community organisation to borrow in order to invest in the property. Organisations will also benefit financially from taking the building on a leasehold basis, as there would be a big difference in the value of the transfer (consideration payment) with the cost becoming more affordable in reflection of the D1 only use.
- 5.7. The policy will provide the opportunity for freehold transfer to be considered only in exceptional circumstances where a business case can demonstrate a justified need. For example where other opportunities for investment in the building can only be secured with benefit to the community realised through this route. However, organisations should be aware that covenants would still be imposed to protect its use and they would expect to pay a significantly higher consideration payment than a leasehold value.

## **6. Background information**

- 6.1. Community Asset Transfer (CAT) is the transfer of the management and/or ownership of property of land from its owner (often a local authority) to a community organisation to achieve a local social, economic and/or environmental benefit. The process is about giving local people and community groups greater control in the future of their area and their community. If local groups own long term interests or manage community buildings, such as community centres, it can help promote a sense of belonging in the community and bring people from different backgrounds together to work towards a shared goal, creating lasting change in local neighbourhoods.

### Policy & Decision Making context

- 6.2. The Council has considered its portfolio of community buildings, and the proposed strategy for asset transfer arises from Cabinet decisions on three reports as referred below in Appendices 3, 4 and 5 of the policy document. In **December 18<sup>th</sup> 2012 Cabinet Agenda item 22** (recommendations accepted by Cabinet) summarised the review of the Council's community buildings and suggested there was scope to "consolidate" community assets and to release some assets for regeneration and other priorities, :
  - 6.2.1 A separate report to cabinet of **18th December 2012** outlined the requirement of the Localism Act 2011 for the Council to publish a list of Assets of Community Value (Right to Bid). The community asset transfer proposal sits alongside this initiative and it should be noted that many councils have a single policy that addresses both CAT and Right to Bid. Under the latter approach, assets are sold only at market value and without the safeguards on the future use of assets which the CAT is designed to establish.

- 6.3. The Cabinet at its meeting of **14th July 2015** agreed the overarching principles and recommendations of the Community Buildings Review as follows in summary:
- to agree to adopt the strategic framework;
  - to agree the recommendations as set out in Appendix B, and made in the context of robust assessments of building condition, lease and contracts, organisational capacity perspectives together with demand for education, health or housing and/or other regeneration needs
  - to agree the further recommendations to guide future decisions on buildings in the portfolio – to free up assets for regeneration where education, health or housing overriding need arises
  - to agree to the new Community Model lease;
  - to agree to the end of circular funding (in a phased way and to move towards payment of an agreed market rent over a period of 2-3 years);
  - **to agree to the recommendations to establish criteria around asset transfer and lease monitoring and evaluation;**
  - to agree that the authority is to work with organisations to effect the recommendations of Section 7; and
  - to note the Equalities Impact Assessment and agree that individual assessments will be undertaken as appropriate.

#### Key Principles of the Policy

- 6.4. An analysis has been undertaken of 4 of the 14 pathfinder authorities plus 2 other examples of good practice, that agreed to introduce community asset transfer and right to bid policies as arising from the Localism Act 2011 to determine the appropriate set of principles to include in a Community Asset Transfer policy.
- 6.5. Accordingly, the key principles of the CAT policy can be summarised as follows:
- CAT would involve the transfer of built assets to community groups that are already incumbent in those assets.
  - The purpose is to enable community groups to achieve a long term commitment to the building that promotes better management of the asset and to enable long term funding of capital projects and planned maintenance.
  - Community organisations with the benefit of long term 'ownership' of their buildings are likely to be more successful and attract external grant and other funding.
  - Organisations who want to apply for CAT will need to meet set criteria including:- being an appropriately constituted voluntary and community sector organisation, being able to demonstrate good governance, sustainability/viability and the proposed use must ensure extensive reach into the community and be open to all.
  - The default position would be to offer a 125 year Full Repairing Insuring Lease (FRI) utilising the model community lease approved by Cabinet on 14th July 2015.
  - The provisions of the long lease places restrictions on Organisations making windfall profits on sale or assignment for development of the land for uses other than Community Use class D1.



- A consideration payment will be required against the valuation of the asset which will reflect the lease terms and prescribed D1 planning use. Leases will be contracted out of the Landlord & Tenant Act 1954
  - A covenant would restrict use to the planning class use D1 community use that reflects the nature of the services offered by the applying organisation.
  - A formal service level agreement (SLA) will be required with appropriate key performance indicators in place that are regularly reviewed with mechanisms in place to ultimately determine the lease upon failure to deliver the agreed services.
  - That it is the intention to fully transfer responsibilities for the built asset and to take a light touch approach to monitoring of services through a SLA with 5 yearly reviews of alignment of services (or more frequently where there is evidence of default) to ensure a match with the needs of the community and the Council's corporate objectives.
  - The Council will have a right to monitor and assess the activities of the organisation and the organisation will have a duty to demonstrate that their business plan is on track and where it does not meet the defined objectives to produce an agreed remedial business plan that will ensure the sustainability of the organisation and its agreed outcome.
  - Cabinet will still need to agree separately to the transfer of any individual asset within the policy.
- 6.6. There are a number of fundamental pre-qualifying conditions which will determine whether an organisation can move forward in obtaining a decision to transfer an asset. Organisations must be:
- Occupying premises in Haringey and offering services to Haringey residents, with evidence of reach to Haringey residents
  - Not subject to investigation by the relevant regulator, which may include the Charity Commission, Ofsted or the Care Quality Commission
  - Able to evidence that the organisation is viable and that accounts are up to date and filed with the appropriate national body
  - Set up as an organisation operating in the voluntary and community sector – they must be structured to reinvest their profits back into social causes. This for example would include registered charities, community amateur sports clubs, not for profit companies, community interest companies and social enterprises.
  - Demonstrate that they are operating in a transparent manner – local residents should be able to publically access information on the services or facilities that the organisation provides
  - Able to demonstrate that they deliver social benefit within the local community to include impact and outcomes across at least one of the following domains:-
    - Prevention and Early help;
    - Local employment;
    - Equity and social inclusion;
    - Building strong communities;
    - Healthy life expectancy; and
    - Sustainable environment.
- 6.7. The full policy document is available at Appendix A.

Decision Making Process

6.8. The process to determine whether an asset is to be put forward to Cabinet and approved for transfer can be summarised as follows:

**Stage 1:**

- Community group or council trigger review of the asset for transfer. Where a community group has triggered the review they will be advised of the pre qualifying criteria they need to meet and information on documentation such as a Business Plan that they will need to prepare. A template process document will be issued to them for completion.
- A valuation will be commissioned to determine the consideration payment that would be due.
- The council's commissioning team in conjunction with Priority 2 and in consultation with members advise whether pre qualifying criteria can be met and if asset transfer should be considered further. If yes, proceed to Stage 2.

**Stage 2:**

- Community group are asked to prepare a business plan
- Business plan reviewed and if approved proceed to Stage 3

**Stage 3:**

- Community group asked to prepare SLA
- Council initiate cabinet approval process via ratification by SLT & CAB
- If cabinet approved, obtain statutory consent if required and then proceed to Stage 4

**Stage 4:**

- Legal instructed to prepare lease
- Lease transfer completed.

6.9. A Process flow diagram setting out the step by step process of decision making for the Transfer of Community Assets is set out as part of the policy document. The process is likely to take a minimum of 6- 9 months to obtain a cabinet approval.

**7. Contribution to strategic outcomes**

- 7.1. Corporate Plan, *Building a Stronger Haringey Together 2015-18***:- Approval of the CAT policy set out in the report confirm a new approach to the management of some of the community buildings portfolio by the Council and addressing corporate ambitions in particular relation to Priority Two: *Empower all adults to live healthy, long and fulfilling lives.*
- 7.2. Community Strategy, *Working Together with Communities***:- The proposals set out in the report are in line with the strategic objectives of the Community Strategy.
- 7.3. Corporate Asset Management Plan**:- The proposed approach is also consistent with the principles of the Corporate Asset Management Plan (AMP) currently being refreshed. The refreshed AMP will focus on delivering better services for the people of Haringey by demonstrating good use of resources for the Council.

- 7.4. **Localism Act 2011 – Community Rights to Bid and Challenge:-** The policy document is aligned with the Localism Act 2011 and the mandate to shift power from central government into the hands of individuals, communities and councils.

**Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)**

**8. Finance**

- 8.1. This report seeks Cabinet approval of a Community Asset Transfer Policy (CAT) for the Council's community building portfolio.
- 8.2. The Policy proposes the transfer of a 125 year Full Repairing Insuring Lease (FRI) utilising the model community lease approved by Cabinet on 14th July 2015. These long leases will be offered to incumbent community organisations that are part of the council's community building portfolio.
- 8.3. A consideration payment will be required against the valuation of the asset which will reflect the lease terms, prescribed D1 planning use and condition of the building;
- 8.4. The successful community organisations will pay monies in exchange for these long leases and hence generate income for the Council. Also, the Council will lose some of its repair and maintenance obligations, and hence have reduced expenditure for the Council. This cannot be quantified at this stage until lease valuation has taken place.
- 8.5. All costs associated with implementing the policy will be met from existing budgets.

**9. Legal**

- 9.1. The CAT policy would allow the Council to transfer properties owned by the Council to certain community groups should the conditions set out in the policy be satisfied. The council must when disposing of a property asset comply with the statutory provisions governing the disposal of that property, therefore separate legal advice must be obtained at the time a decision is made to dispose.

**10. Equality**

- 10.1. The Council has a public sector equality duty (PSED) under the Equality Act (2010) to have due regard to the need to:
- a) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
  - b) Advance equality of opportunity between people who share relevant protected characteristics and people who do not

- c) Foster good relations between people who share relevant characteristics and people who do not.
- 10.2. This duty covers the following protected characteristics: age (including children and young people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It is not anticipated that the adoption of this policy will have negative impacts on these characteristics. Further, each future Transfer of Community Assets will be considered individually by Cabinet. Officers will be required to demonstrate how each transfer meets the Council's PSED set out here and our local commitment to fostering social inclusion.
- 10.3. The Community Asset Transfer Policy commits the Council to ensuring that Haringey's community buildings, as established in the Community Buildings Review, are safeguarded for long-term community use. Establishing a standard 125 year lease will ensure both freeholder (the Council) and leaseholder enter a long-term commitment to delivering community space and community benefit. This consistent approach will: ensure good management of the built asset; ensure organisations seeking a Transfer of Community Assets clearly and continuously demonstrate the benefits to Haringey's communities; and enable those community organisations to invest in Haringey for the long-term.
- 10.4. In addition any organisation applying for a Transfer of Community Assets will be required to demonstrate that:
- The organisation's purpose and activities deliver social value for all Haringey residents, including requirements set out in Social Value Act 2013;
  - Their services will be accessible and inclusive for all residents;
  - Their activities support the Council's priorities, as set out in Section 7 of the Cabinet report and Appendix 7 of the policy.
- 10.5. The Council will ensure that these criteria are applied to all Transfer of Community Asset considerations, with full assessment of the impact on Haringey residents from the beginning of the process. This process is set out both in the policy (attached as Appendix A) and in Section 6.9 of this Cabinet report.

## **11. Appendices**

- 11.1. Appendix A Community Asset Transfer Policy 2017

## **12. Local Government (Access to Information) Act 1985**

- 12.1. None.

# **Haringey Council**

## **Community Asset Transfer Policy 2017**

## 1 Document Control

Document Details	
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V1.02	Internal draft final for SLT to review	4 April 2017

### Approval History

V1.01	Assistant Director for Commissioning	
V1.02	SLT – approval in principle	

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## Introduction

Community Asset Transfer is the term used to describe the process of transferring the management and/or ownership of public land and buildings from its owner to another organisation. Asset transfer can help to secure community use of buildings to deliver social value and provide an opportunity for local community and voluntary organisations to develop their business model and financing to deliver better services to the people they serve.

Management of assets would normally take place through a long full repairing insuring (FRI) 125 year lease that enables the community organisation to borrow against the value of that lease.

The policy will support delivery of the Council's Corporate Plan (and successor plans) and Community Strategy and will complement the Council's Asset Management Plan, the Community Buildings Review and the emerging Disposals and Acquisitions Policy. The aim is to ensure that the Council's land and property assets are fit for purpose, deliver value for money and enhance service delivery by:

- ensuring a coherent organisational approach to the management of the Council's land and property assets;
- optimising the estate to meet current and future service requirements;
- taking a more holistic approach to managing the estate, through appropriate delivery arrangements; and
- enabling communities to design and deliver services that meet local need and aspirations.

This policy of Community Asset Transfer is a separate process to the Right to Bid for assets of community value nominations or other Localism Act 2011 provisions.

The application of the Community Asset Transfer Policy will be balanced against other Council priorities and ensure that the resource required is proportionate compared to the benefits received. It is also a discretionary policy and will be secondary to the Council's Asset Management Plan and Corporate Plan.

## What is Community Asset Transfer?

Community Asset Transfer (CAT) is the transfer of the management and/or ownership of property of land from its owner (often a local authority) to a community organisation to achieve a local social, economic and/or environmental benefit. The process is about giving local people and community groups greater control in the future of their area and their community. If local groups own long term interests or manage community buildings, such as community centres, it can help promote a sense of belonging in the community and bring people from different backgrounds together to work towards a shared goal, creating lasting change in local neighbourhoods.

Community ownership can also play a part in raising people's aspirations, improving the skills of the people involved and encourage a stronger community spirit by enhancing the local environment, reducing inequalities and helping to alleviate deprivation via the delivery of local social, economic and environmental benefits.

## The National Picture

The Quirk Review in 2007 recommended that local authorities and other public bodies consider community asset transfer as a viable option for achieving local benefit.



The Localism Act received Royal Assent on 15 November 2011. This legislation requires local authorities to draw up, hold and publish a list of assets of community value. Communities will have the opportunity to nominate for possible inclusion the assets that are most important to them. More recently due to relatively poor take up of this opportunity and a tendency to retain control centrally, the Government has introduced The Cities & Local Government Devolution Act 2016 to encourage devolvement of decision making from the centre. The principle of below market value transfer of assets where the class of use is reflected by lower valuations and other scenarios was established some time ago by the General Disposal Consent (England) 2003<sup>1</sup>.

The “Community Right to Bid” measure in the Localism Act gives local people a legal right to nominate vital buildings on a “most wanted” council list. If one of these assets is put up for sale, a 'community countdown' will be triggered, giving local people time to prepare a business plan and raise funds to bid for the asset. This has to date been implemented by the Council on a case by case basis for its own assets but the rule applies to privately owned assets that fall within the categories of buildings and land as found below<sup>2</sup>. Whilst this policy has similar aims to community right to bid measures, it concerns community asset transfer and has been developed to ensure a transparent and consistent approach to community asset transfer. Whilst Community Asset Transfer can deliver considerable benefits it can also carry risk and a group considering asset transfer needs to do a lot of work before deciding it is appropriate for their organisation and devoting resources to pursuing it.

**The Locality Agency** cites a number of benefits of an effective Community Asset Transfer (CAT) policy:

- more efficient use of staff time;
- clearer understanding among officers and members;
- clearer expectations for community groups;
- improved communication / relationships with community and local organisations; and
- more consistent and effective approach to decision making.

Consideration needs to be made for a programme of multiple asset transfers as may be the case with the transfer of community buildings. The Locality Agency provides advice on such programmes:

- securing community engagement;
- community empowerment lies at the heart of the process;
- any transfer must be financially viable and sustainable in the long term;
- services to local people should be enhanced;
- transfer should result from genuine partnership working;
- this model considers the use of a Special Purpose Vehicle (SPV) or other groups that come together for reasons of economies of scale and other efficiencies;
- the multiple asset transfer may lend itself to ‘counterweight assets’ where assets with strong earning potential may counterbalance buildings which will struggle to earn sufficient income to be viable if transferred in isolation; and
- the Locality Teams Asset Transfer Unit (ATU) has worked with existing voluntary organisations, a temporary SPV (ideally an existing community organisation or possibly an RSL) and a permanent SPV.

However it is clear that transfer of assets is about transfer of assets and not transfer of liabilities.

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<sup>1</sup> Appendix 6

<sup>2</sup> Appendix 2

## The Local Agenda

Haringey is a place of opportunities and growth with a very diverse population and vibrant communities. As a Borough, there are huge amounts of talent, resources and assets in local communities and neighbourhoods. We understand that many of the solutions to issues and problems do not lie with the Council but in local communities and that the future is less about the Council supplying or commissioning services for local residents and more about us coming together to solve local challenges and to support one another, building capacity through innovative and sustainable approaches.

We see the diversity of Haringey's local populations as a strength on which we can build and the Council's overarching vision is to Work Together with Our Communities: making Haringey an even better place to live.

Community Transfer of Assets is now being considered to transfer Council owned built assets to community groups that are already incumbent in those assets. The purpose is to enable community groups to achieve a long term commitment to the building that promotes better management of the asset and to enable long term funding of capital projects and planned maintenance. Community organisations with the benefit of long term 'ownership' of their buildings are likely to be more successful and attract external grant and other funding.

## Policy & Decision Making Context

The Council has considered its portfolio of community buildings, and the proposed strategy for asset transfer arises from Cabinet decisions on three reports as referred below in Appendices 3, 4 and 5. In **December 18<sup>th</sup> 2012 Cabinet Agenda item 22** (recommendations accepted by Cabinet) summarised the review of the Council's community buildings as highlighting:

- a disconnect between the use and allocation of community buildings and the Council's Voluntary Sector Strategy/Commissioning and Funding Framework and actual outcomes;
- a mix of historic lease arrangements, relating to lease length, security of tenure and landlord/tenant obligations;
- inequality and non-transparency in terms of the allocation of rent subsidy (Circular Funding), which is currently benefiting a small number of tenants and remains at historic levels;
- the sustainability of portfolio is at risk due to the overall poor condition of the stock and lack of funding for maintaining buildings;
- notwithstanding tenant's repairing liabilities, the Council retains an increasing financial exposure for property repairs; and
- historic barriers to access, adding to building under utilisation and resulting in a poor use of assets.

The same report suggested there was scope to "consolidate" community assets and to release some assets for regeneration and other priorities:

- scope for releasing a number of buildings/sites to:
  - generate new homes/jobs by implementing Council led developments
  - contribute to priority regeneration plans through land assembly
  - generate funds to re-invest and improve sustainability of stock and invest in Council priorities.
- consolidated new state of art community facilities;
- widening access to community spaces for many smaller/newer community organisations;

- better utilisation, shared use, flexibility and management of community buildings;
- a reduction in Council financial exposure through consolidation of the portfolio;
- tackling inequality and negative perceptions by introducing greater transparency and objectivity in the decision making process for retaining and renting community leases; and
- better use of Council investment (rent subsidy) through reform of Circular Funding based on Council priorities and outcomes.

**The Cabinet report of 14th July 2015** sought to set out the overarching principles and recommendations of the Community Buildings Review and it was resolved to agree (summarised):

- to agree to adopt the strategic framework;
- to agree the recommendations as set out in Appendix B, and made in the context of robust assessments of building condition, lease and contracts, organisational capacity perspectives together with demand for education, health or housing and/or other regeneration needs
- to agree the further recommendations to guide future decisions on buildings in the portfolio – to free up assets for regeneration where education, health or housing overriding need arises
- to agree to the new Community Model lease;
- to agree to the end of circular funding (in a phased way and to move towards payment of an agreed market rent over a period of 2-3 years);
- to agree to the recommendations to establish criteria around asset transfer and lease monitoring and evaluation;
- to agree that the authority is to work with organisations to effect the recommendations of Section 7; and
- to note the Equalities Impact Assessment and agree that individual assessments will be undertaken as appropriate.

## Community Organisation Expectations

Organisations who want to apply for Community Asset Transfer will need to meet set criteria<sup>3</sup>, including:

- be an appropriately constituted voluntary and community sector organisation or social enterprise;
- be able to demonstrate good governance;
- be able to demonstrate sustainability/viability;
- the proposed use must ensure extensive reach into the community and will be open to all - organisations that serve a particular interest group or area will be expected to demonstrate how they will be inclusive, have the skills and capacity to effectively deliver services and manage the asset to be transferred and /or have access to the necessary skills and capacity; and
- be aware of any need to build capacity within their organisation and demonstrate how they intend to do this.

The Council would offer a 125 year Full Repairing Insuring Lease (FRI) utilising the model community lease approved by Cabinet on 14<sup>th</sup> July 2015 agenda item 22 'Community Building Review Outcome and Recommendation' Appendix 5. The lease would require that the key outcomes and focus of activity of the organisation are maintained continuously,

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<sup>3</sup> Appendix 7

although sub-letting to other community organisations would be permitted in part (or whole with prior consent of the Council) where this would also deliver the agreed outcomes. Assignment of the lease may be permitted with prior consent of the Council.

A draft Heads of Terms is included below and at Appendix 8<sup>4</sup>;

A covenant would restrict use to the planning class use D1 community use that reflects the nature of the services offered by the applying organisation.

A formal service level agreement (SLA) will be required that defines the quality and volume of services with appropriate key performance indicators in place that are regularly reviewed with mechanisms in place to ultimately determine the lease upon failure to deliver the agreed services.

The Council will have a right to monitor and assess the activities of the organisation and the organisation will have a duty to demonstrate that their business plan is on track and where it does not meet the defined objectives to produce an agreed remedial business plan that will ensure the sustainability of the organisation and its agreed outcome. The monitoring would be limited to ensuring that the outputs of the SLA are being delivered with a 5 yearly review in some depth to assist the organisation in matching the service delivery requirements to the needs of the community and the Council's objectives. The Council would not become involved in the monitoring of management of the built asset and related property matters.

Community Organisations are required to reflect in their business case that demonstrates capacity to comply with the pre-qualifying conditions are exemplified, but not fully described, as below, although it is in the interests of such organisations to seek appropriate advice and apply due diligence to any property transaction of this nature:

- ensure that the business case for acquisition of a 125 year lease is prepared that reflects upon the need to provide a long term business plan for the activities of the Organisation and that where necessary contingency plans are prepared which accommodate anticipated changes in future service demands;
- ensure that a medium to long term building maintenance plan is available to identify planned preventative maintenance that is required and to include those costs within their business case;
- ensure that adequate insurances are affordable and maintained continuously in accordance with the terms of the lease and necessary to protect the Organisation and individuals within from anticipated claims against itself/themselves;
- ensure that the building is fit for purpose and that any alterations required to deliver the services of the organisation are incorporated into the business case along with the costs of any statutory approvals and licences to undertake those alterations;
- ensure that a business case is prepared to an appropriate methodology that provides adequate information for the Council to determine the transfer is compliant with its pre-qualifying conditions and sustainable after commencement of a lease, if agreed.
- ensure that the business case is clear about expectations for funding requirements from loan, grant (awarded or expected), subsidy, discount, income or other source;
- Ensure that the valuation of the lease represents value for money against its planning class use and any potential liabilities;
- ensure that the energy costs are affordable and that a costed plan to improve energy consumption where viable is incorporated into the business case; and

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<sup>4</sup> Appendix 8

- ensure that the management capacity and governance of the Organisation is robust and sustainable and that sufficient information is supplied in the business case to demonstrate this capacity to the Council.

**The key issues** that need consideration by all parties in the process to determine the transfer include:

- the organisation needs to demonstrate its social and community value along the lines of the right to bid process;
- the agreement of a lease with a duration of a 125 year FRI term;
- the 125 year lease and business case will need to coincide on the liabilities of a full repairing insuring FRI lease;
- the valuation of the asset will reflect the prescribed D1 planning use and social value of the organisation;
- leases will be contracted out of the Landlord & Tenant Act 1954;
- to determine the impact of existing building condition liabilities and future maintenance liabilities on the value;
- to determine the nature of the organisation's Service Level Agreements to deliver local services;
- the lease and covenant mechanisms that will prevent potential windfall profits from future sub-lets or sales unless a development agreement is reached that replaces the model community 125 year lease;
- assets are to remain in Council control (short CML agreements) where they are in or adjacent regeneration areas; and
- the community group will be required to demonstrate that they will have undertaken their own due diligence prior to a transfer to mitigate their transferred risks associated with full responsibility of the asset.

The rationale for transfer hinges on the ability of the community group to be able to better manage the long term maintenance and improvement of assets and to maximise delivery of local social, economic and environmental benefits. The Council has to operate within budget constraints that are not necessarily able to deliver overall long term value for money for the individual asset.

The proposed Asset Transfer Policy Framework is being built upon current experience and best practice and aims to provide a clear policy framework for responding to any requests for asset transfer.

## **The Process**

**Improved Process-** The process will be fair and robust with clear timescales for the submission of information at different stages. Information will be available from the outset to allow Community Groups to understand the level of responsibility being taken on. The Council welcomes applications from all community groups and organisations that are able to proactively take the lead in the application and management process and are not for profit.

**Appropriate support-** Throughout the process groups can access support from organisations such as Locality, or any other organisation offering advice to the third sector. The Council's Commissioning team can offer honest, experienced, knowledgeable advice. Meetings will be held with groups to allow them the opportunity to discuss their proposal with Council officers.

**Clear, robust and proportionate assessments-**The Council will engage Adult Services Commissioning, Strategic Property, Facilities Management, Legal and Finance, who will

assess applications and if satisfied, make a recommendation to Cabinet to accept a proposal. Organisations will be notified in writing if their applications have been successful and informed of the next stage of the process if applicable.

## **Pre-qualifying conditions:**

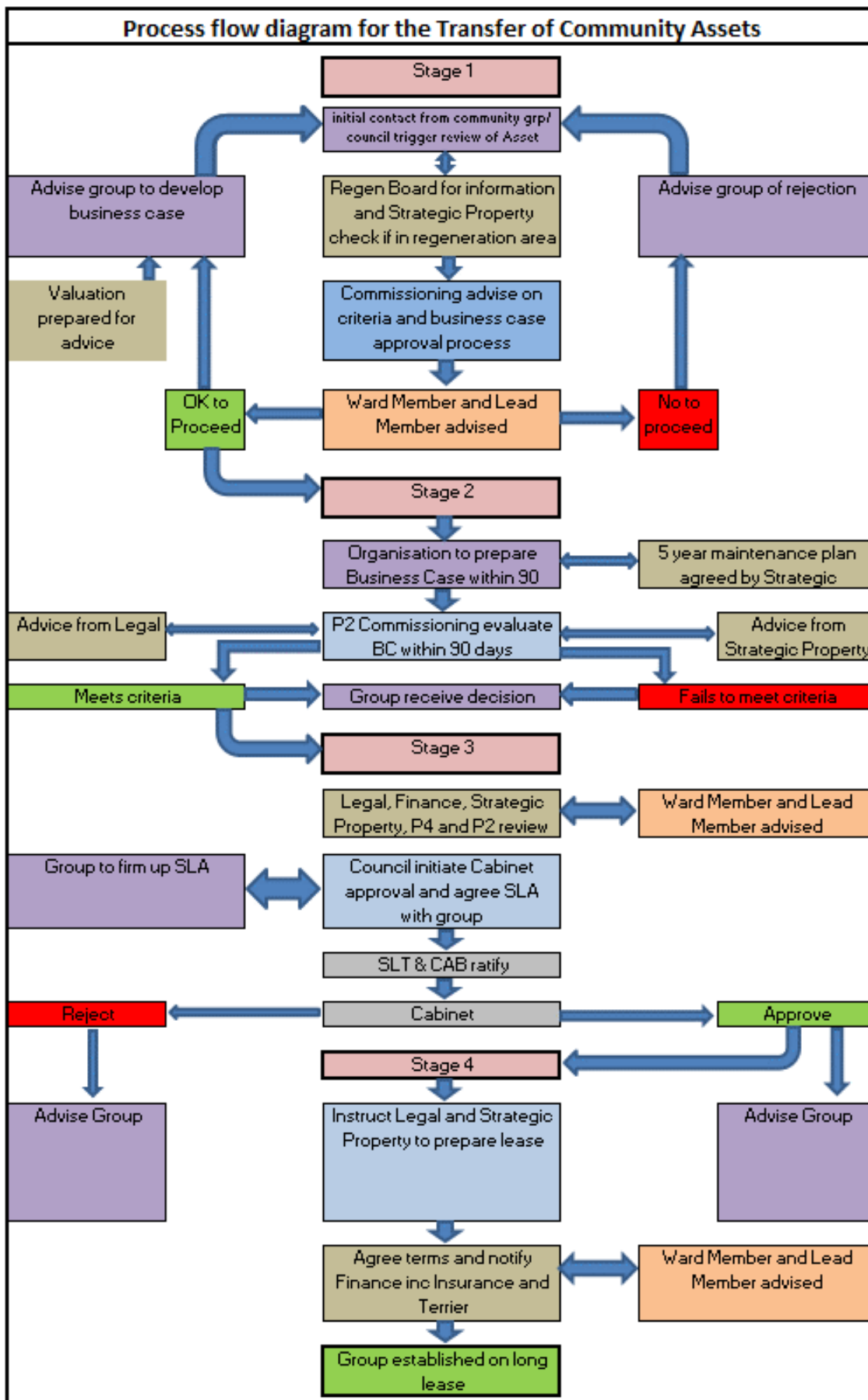
There are a small number of pre-qualifying conditions which will determine whether an organisation can move forward to the next stage in obtaining a decision to transfer an asset.

Organisations must be:

1. Occupying premises in Haringey and offering services to Haringey residents, with evidence of reach to Haringey residents
2. Not subject to investigation by the relevant regulator, which may include the Charity Commission, Ofsted or the Care Quality Commission
3. Able to evidence that the organisation is viable and that accounts are up to date and filed with the appropriate national body
4. Set up as an organisation operating in the voluntary and community sector – they must be structured to reinvest their profits back into social causes. This for example would include registered charities, community amateur sports clubs, not for profit companies, community interest companies and social enterprises.
5. Demonstrate that they are operating in a transparent manner – local residents should be able to publically access information on the services or facilities that the organisation provides
6. Not receiving more public-funded aid than EU State Aid de Minimis rules permit (an organisation must not have received public-funded aid to support commercial activities exceeding a total of 200,000 Euros over a 3 year period – this includes all reliefs, grants, subsidies and guarantees received from public bodies)
7. Able to demonstrate that they deliver social benefit within the local community to include impact and outcomes across at least one of the following domains:-
  - Prevention and Early help;
  - Local employment;
  - Equity and social inclusion;
  - Building strong communities;
  - Healthy life expectancy; and
  - Sustainable environment.

A fuller extent of these requirements is included at Appendix 7.

A Process flow diagram setting out the step by step process of decision making for the Transfer of Community Assets is set out overleaf.



## Appendix 1

### National comparisons

14 Pathfinder City Council authorities have established Community Asset Transfer (CAT) Policies – 4 of the policies are summarised as below:

#### Norwich City Council:

- 15 community centres;
- assets with their commercial portfolio and leased with a grant in kind;
- recreational facilities;
- their policy refers to community assets returned to the Council as no longer viable for the current user;
- their policy therefore is relevant only to any consideration of the 'right to bid' process; and
- their evaluation processes may none the less be relevant to transfers to incumbent organisations when it comes to evaluation of their social and community value.

#### Bristol

- its CAT policy is not specific about the asset transfer applying to right to bid or to incumbent organisations and is therefore valid for both models;
- the policy clearly identifies the criteria for organisations that will be considered for CAT;
- transfers may be either at reduced cost or free of charge – the level of subsidy being determined by the social, economic or environmental benefits;
- transfers are considered for a phased transfer depending on the third sector organisation's (TSO) resources and strength of business plan;
- leases are offered for up to 35 years or more in exceptional cases;
- a key reason for the transfer is to enhance the prospect of the TSO being able to secure loans or grant / lottery funds from other sources by holding an asset with bankable value;
- organisations are given longer leases with an 'asset lock' that prevents the lease being assigned or sold for unintended financial gain; and
- the policy includes a detailed assessment process for evaluation of applications for CAT.

#### Leicester

- their policy was established to offer community groups who had been stable, long term tenants in council properties the opportunity to buy their premises at market value less a 20% discount;
- it is equally valid for Right to Bid scenarios;
- the council pro-actively seeks to transfer assets to community groups in order to promote the widest public value that can be achieved in relation to, for example:
  - Facilitate forward investment
  - Community empowerment and greater control over services
  - Area wide benefits
  - Building the capacity of the community and encouraging sustainable community organisations by building partnerships
  - Economic development and social enterprise
  - Improvement to local services
  - Value for Money
- a service level agreement (SLA) may be applied to the contract;



- the policy defines risks and expectations for the council and community organisations;
- the policy includes a comprehensive flow chart of the process for evaluating and a summary of assessment criteria; and
- the policy includes a copy of the ATU's legal process "map" which outlines risk to the council and the TSO.

### **Portsmouth**

- Portsmouth has published a CAT policy (undated) and a comprehensive review into making community ownership work for Portsmouth under the Economic Development, Culture & leisure Scrutiny Panel dated April 2013;
- the policy refers to policy documents of Derby, Sheffield, Devon and Leicester Councils
- the council has some 80 properties that are used by a variety of voluntary and other organisations;
- the purpose of their strategy is to set a transparent and positive framework to enable asset transfer to a TSO. The policy is to additionally supports council and wider community objectives;
- the policy refers to the need to revise their Acquisition and Disposals policy;
- the operation of the policy has regard to:
  - Sustainable Community Plan
  - Council Plan
  - Local Development Framework
  - Empowerment and Engagement framework
  - Corporate Asset Management plan
  - Vision for Portsmouth
  - Capital Strategy
- the policy defines the eligibility of organisations that will be considered; and
- the policy includes risk management and asset transfer process.

## **More recent examples of good practice**

### **Calderdale Council**

- their policy is specifically addressed at community asset transfers to incumbent organisations;
- the Locality team has recommended their policy and process as exemplar;
- they have a separate policy and process map for Right to Bid so the distinction is clear and transparent; and
- the policy is fully supported by process and procedure documentation published on their website

### **Lambeth Council**

- policy developed in conjunction with Locality team;
- multi purpose policy to include CAT, Right to Bid and Community Hubs Strategy and acquisition of buildings for community use; and
- the Council publishes a list of assets of community value that are privately owned with a progress tracker (not up to date). They appear not to address the risk of private owners seeking compensation for loss of value and expenses in connection with the listing.

## Appendix 2

### Extract from Government Policy paper '2010 to 2015 government policy: localism'

The Community Right to Bid gives community groups a fairer chance to save assets that are important to them. This could include their:

- village shop
- pub
- community centre
- children's centre
- allotment
- library
- cinema
- recreation ground

The right covers private as well as public assets.

Local authorities are required to keep a list of all of these 'assets of community value'. If an owner of a listed asset wants to sell it they have to notify the local authority. The local authority then, in turn, has to notify any interested parties.

If community groups are interested in buying an asset they can use the Community Right to Bid to 'pause' the sale, giving them 6 months to prepare a bid to buy it before the asset can be sold.

The Community Right to Bid came into effect on 21 September 2012 and over 3,500 people have used the right to date (April 2014). You can see some examples on the [Community Rights Pinterest board](#).

The Department for Communities and Local Government has put in place a support and advice service run by Locality and the Social Investment Business. They provide free advice and practical help, including grant funding.

Note that the Council has complied with its requirements to publish a list (on its website) of community buildings along with its non-housing list of land and building assets under its transparency agenda. However it has not yet published a list of privately owned assets of community value such as community buildings as promoted by the Localism Act 2011.

## Appendix 3

### Cabinet Report Agenda item 22 of 18<sup>th</sup> December 2012

“Property Review – Council Community Buildings”

[Minutes of Cabinet of 18th December 2012 - see agenda item 22](#)

## Appendix 4

### Cabinet Report Agenda item 20 of 18<sup>th</sup> December 2012

“Assets of Community Value (Right to Bid)”

[Minutes of Cabinet of 18th December 2012 - see agenda item 20](#)

## Appendix 5

### Cabinet Report Agenda item 20 of 14<sup>th</sup> July 2015

“Community Buildings Review: Outcome and Recommendation”

[Minutes of Cabinet of 14th July 2015 - see agenda item 20](#)

Including appendices A,B, C, E and F. Appendix D is the report as above Appendix 3

## Appendix 6

Extract of **Circular 06/03: Local Government Act 1972** general disposal consent (England) 2003 disposal of land for less than the best consideration that can reasonably be obtained

“2. *The specified circumstances are:*

- a) *the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;*
  - i) *the promotion or improvement of economic well-being;*
  - ii) *the promotion or improvement of social well-being;*
  - iii) *the promotion or improvement of environmental well-being; and*
- b) *the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).”*

## Appendix 7

Organisations will be asked to demonstrate in writing how they meet at least one of the domains by submitting information to the stated level. The bulleted lists are designed to be guides to the sorts of activity which can contribute to delivery of the outcomes – where other activities are being carried out but are not laid out in the bulleted lists below and are considered to contribute these should be described.

### Prevention and early help

*People have access to early support to prevent problems or escalation of issues with community knowledge and capacity to support an early help approach.*

Organisations using this domain will be required to demonstrate that they are working in ways which:

- avert/reduce risk of crisis and support recovery and/or
- address underlying issues e.g. family breakdown, drug & alcohol abuse, debt and/or
- support parenting/family life/needs of carers/home learning environment and/or
- signpost/connect with debt/financial education/housing/welfare support and/or
- reduce avoidable admissions to hospital/delayed discharge and/or
- engage communities in wellbeing and resilience and/or
- strengthen awareness of and links to sources of community support

### Local employment

*People have opportunities for training, skills and support to find and keep good quality employment, with increased employment of people with mental health problems.*

Organisations using this domain will be required to demonstrate that they are working in ways which:

- provide training/skills/volunteering/employment for local people including where possible those facing the greatest barriers (people with mental health problems, disabilities, ex-offenders) and/or
- open up opportunities for young people and/or
- provide pathway activities e.g. volunteering, education, arts and creativity and/or
- demonstrate work-life balance/carers e.g. flexible working and/or
- offer opportunities for individual placement support in workplaces and/or
- use local businesses/social enterprises in the local supply chain and/or

### Healthy life expectancy

*People have knowledge, information, opportunities and support to improve their health and wellbeing and to influence factors that affect their health.*

Organisations using this domain will be required to demonstrate that they are working in ways which:

- promote health and wellbeing opportunities for those most excluded and/or
- offer opportunities for physical activity/improved access and/or

- deliver opportunities for healthy eating/affordable healthy food/cooking skills and/or
- provide opportunities/training for communities to deliver themselves where this might increase uptake and/or
- bring people together to reduce social isolation and/or
- increase basic skills (literacy & numeracy)

### **Equity & social inclusion**

*People with mental health problems experience better health, quality of life & independence and fewer barriers to achieving their goals.*

Organisations using this domain will be required to demonstrate that they are working in ways which:

- develop the assets/aspirations of disadvantaged groups and/or
- increase the engagement, participation, empowerment & influence of disadvantaged groups as well as those who use the service and/or
- provide additional opportunities/added value for individuals or groups facing greater social or economic barriers and/or
- increase access of the most disadvantaged & excluded e.g. financial inclusion, access to services, access to leisure, culture, sport, training, learning and/or
- reduce stigma and isolation e.g. supported self-help; befriending and/or
- utilise peer support & mentoring to connect people/groups/services/sectors and/or

### **Building strong communities**

*People feel connected, involved, rich in networks and able to contribute in their communities, with increased participation among those who have been least represented in the past, delivered through:*

Organisations using this domain will be required to demonstrate that they are working in ways which:

- promote asset based community development approaches and/or
- increase the skills, capacity, leadership of VCSE e.g. business support/facilities for community use and/or
- build capacity for co-production and/or
- reduce crime/anti-social behaviour and/or
- inspire and involves young people and/or
- channel profits/resources into philanthropy/community trust/sponsor awards/ contributes 'in kind' e.g. to time bank and/or
- add value to the local community e.g. staff volunteering, sharing facilities, complementary services delivered to community

### **Sustainable environment**

*People enjoy, take pride in and contribute to keeping their neighbourhood safe and improving their environment.*

Organisations using this domain will be required to demonstrate that they are working in ways which:

- improve opportunities to make the most of Haringey's green/open spaces and/or
- promote recycling and/or
- deliver environmental education

### **For those organisations in a community building wishing to explore Community Asset Transfer**

The proposal is that for those organisations occupying Council buildings, meeting the pre-qualifying conditions and able to demonstrate the social value they create using the criteria set out above, an initial meeting with Council officers will be offered. This will tease out the viability of a Community Asset Transfer in the particular circumstances of the organisation.

Community Asset Transfer can take a number of forms. In Haringey, 125 year leasehold transfer to an organisation will only take place where that organisation can demonstrate that it has the capacity and capability now and in the future to deliver to the terms on which the transfer takes place.

Haringey will only transfer 125 year leasehold interest in community buildings to those organisations which can demonstrate that they can meet specific requirements as to:

- Current and future access to and use of the site and building
- Governance arrangements for such use which have clear lines of accountability to the terms of the transfer
- Evidence of social value being delivered for the residents of Haringey through the activities carried out at the site and building and under the auspices of the organisation entrusted with the premises

No organisation which is located in or adjacent to a regeneration area will be permitted to put itself forward for a Community Asset Transfer.

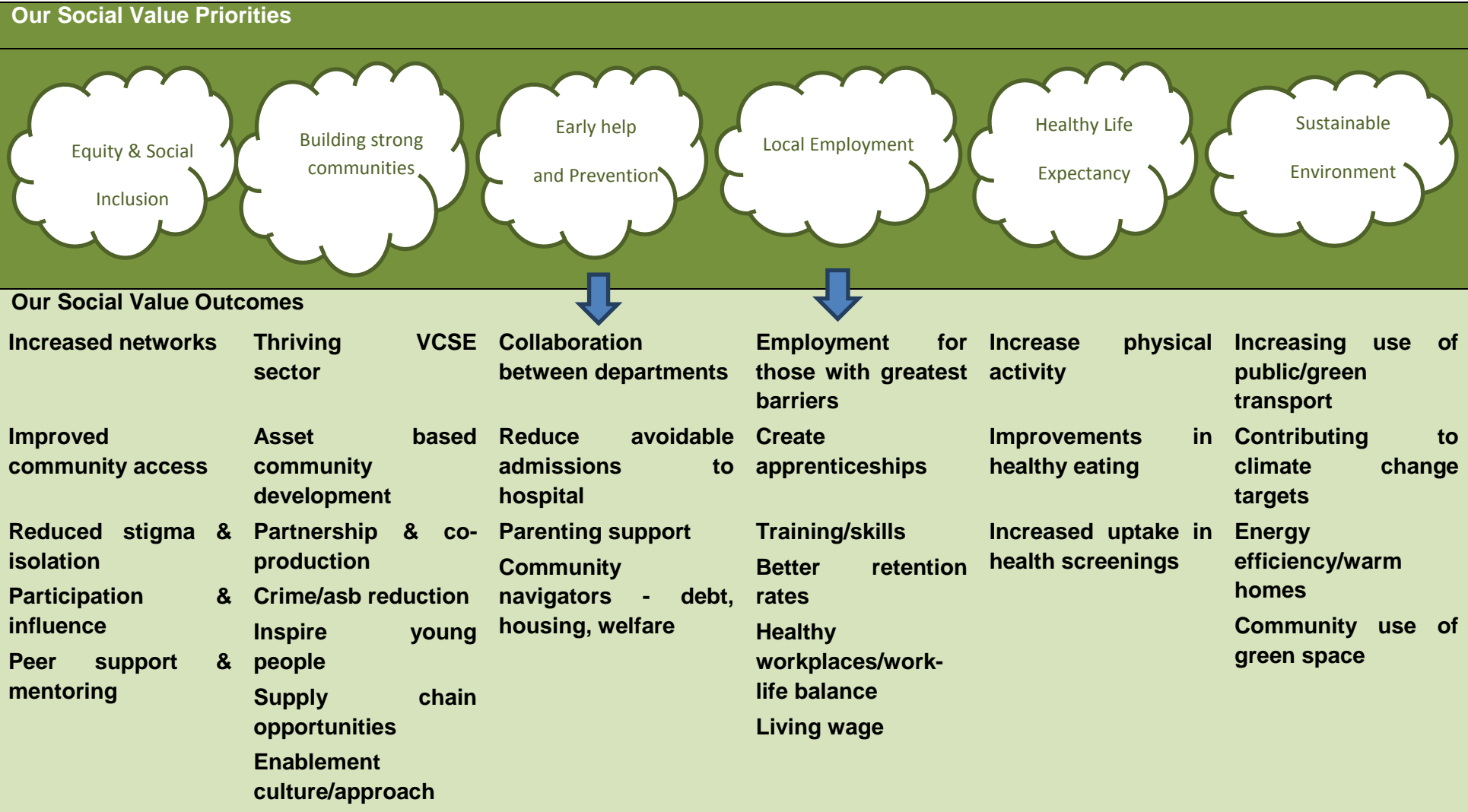
Written within the terms of any transfer of freehold or leasehold interest, will be a set of conditions, which will at a minimum include:

- A covenant on no redevelopment of the site and building unless agreed as a development agreement that would determine the existing community model lease.
- A second covenant restricting use of the site and building to community use only
- A requirement that the Council would have first right of refusal on the site and building if the organisation is no longer able to manage the site and building or is no longer functioning as a community organisation in the borough.

Where appropriate, Haringey will require the organisation to set up a specific Trust or Community Interest Company which can take the leasehold interest in the premises, the terms of which will specifically relate to the organisation's key activities and benefits. These key benefits will need to be agreed by the Council before any transfer can take place.

Any decision to transfer the leasehold interest in a building is reserved to the Cabinet and would need to be agreed at a Cabinet meeting, held in public.

# Draft Haringey Social Value Framework



'Fair Society, Healthy Lives' (Marmot 2010) brought together the evidence on health inequalities. This highlighted that health inequalities arise from social inequalities in the conditions in which people are born, grow, live, work and age and that action to address health inequalities will require action across all social determinants of health by central and local government, the NHS, the third and private sectors and community groups.

**The Marmot Priorities**



<b>Best start in life</b>	<b>All people can maximise their potential/capabilities</b>	<b>Prevention of ill health</b>	<b>Fair employment/good work</b>	<b>Ensure healthy standard of living</b>	<b>Healthy and sustainable places and communities</b>
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The Public Services (Social Value) Act 2013 requires all public bodies to consider how services they commission and procure can improve the economic, social and environmental wellbeing of an area. In Haringey, we take this to mean that all potential providers services will be asked to detail and demonstrate how they can achieve the above `social value outcomes and benefits, based on local evidence, as part of the main contract.



## Appendix 8

### Draft Heads of Terms

## COMMUNITY ASSET TRANSFER

## MODEL HEADS OF TERMS FOR NEW LEASE

### SUBJECT TO CONTRACT

1. LANDLORD: London Borough of Haringey, Civic Centre, Wood Green, London, N22 4LE.

Registered office: As above

Correspondence address: Strategic Property Unit, River Park House, 6<sup>th</sup> Floor, 255 high rd Wood Green N22
  
2. TENANT: Trustees of ----- Community Centre- Names of current Trustees– **to be provided.**

Registered office and Number: **to be provided.**

Registered Address: **to be provided.**

Trustee changes need to be advised to the Council in writing by the organisation not less than one calendar month after such changes have taken place.
  
3. PREMISES All that land and buildings known as Alexandra House Community centre, 10 Station Rd, Wood Green N22 (as shown on the attached plan edged in red).

4. TERM: 125 years from date of completion. The surrender of the existing lease will take place on the completion of the new lease.
5. SUB-LETTING AND ASSIGNMENT: The tenant will not be allowed to assign the whole or part. The tenant will not be permitted to under let part or whole of the lease without obtaining formal consent of the landlord.
6. HIRING OF PREMISES: The tenant will be permitted to hire the premises of the whole or any part of the demised land and premises. The hiring must be done a daily basis for bona fide community activities so that no relationship of Landlord and Tenant is created between Tenant and occupier and such occupier complies with the use as set out in item 13 subsequently.
- The tenant shall keep a schedule with full details of all such hiring's and sub-lettings and provide the Landlord annually with an updated schedule.
- The landlord reserves the right to demand the immediate discontinuance of any activity or proposed activity which it does not approve, providing that such right is reasonably exercised.
7. RENT: **£1 (if demanded)** - exclusive of VAT, business rates and other outgoings.
8. DEPOSIT: N/A.
9. RENT REVIEWS: N/A.

10. INSURANCE: The Tenant to insure the premises in the joint names of Landlord and Tenant and provide the Landlord a copy of the Insurance documents annually. The tenant must also insure the fixtures and fittings including any plate glass.
  
11. REPAIRS: The tenant is to be responsible for all external and internal repairs. The tenant is solely responsible for all property maintenance, gas, electricity, water, telecommunication and plant and machinery i.e. Boiler.
  
12. DECORATIONS: The tenant is to paint (where applicable) the premises externally and internally every five years of the term and advise the Landlord in writing when works are completed. The tenant must also keep a five year maintenance plan for internal and external works.
  
13. SCHEDULE OF CONDITION: A schedule of condition to be agreed and attached to the Lease.
  
14. SERVICE CHARGE: A provision to be contained within the lease to re-charge any cost the Landlord incurs as a result of tenants failure to comply with tenants repairing and decoration obligations.
  
15. OTHER OUTGOINGS: The Tenant to be responsible for the payment of all other outgoing that may be payable from time to time for the premises such as, business rates, electricity, gas, water, etc.
  
16. USE: The demised premises and land are only to be used as a **community centre** to provide facilities for social, educational, leisure and welfare activities for the benefit of the local community, always in accordance with:

- 1 The tenants Memorandum and Articles of Association. (or Constitution) or the aims and objectives of the charity
- 2 The aims and objects of the tenant as registered Charity number (if applicable) The Landlord's Equal Opportunities Statement.
- 3 To occupy the Community premises and keep it open for the Permitted Use (hours of operation to be inserted) and not to use the Community premises outside these hours.
- 4 Except one hour preparation time before opening and half an hour clearing up time after closing.
- 5 Not to do anything in the demised premises that may be a nuisance or annoyance or cause damage or inconvenience to the Landlord its tenants or any adjoining owner occupier or to the general public.

Under no circumstances will it be permitted for the prime function to become that of just letting out the whole or part of the accommodation if this occurs it will be considered a fundamental breach of the terms and conditions of the lease.

17. OPTION TO BREAK:

The tenant will have an option to break, at any time by giving 6 months notice to terminate provided they have complied with all the terms and conditions of this agreement especially as to repairs and maintenance of the building.

18. LANDLORD BREAK CLAUSE:

The Landlord can determine the lease by not less than six months notice in the following circumstances:-

1. If the tenant deviates from or fails to implement the provisions of the Tenant's Articles of Association.
2. If there is a material change to community demand for the services and the premises are substantially underutilised to the extent that the premises are only open to the community base

that they serve at less than 75% of the permitted/agreed opening hours.

3. If the tenant shall make any material change or alteration or amendment to the Tenant's Articles of Association which inhibits the Tenant carrying out its primary objects unless this has been approved by the Landlord.

4. If the Tenant fails to meet the objectives/KPIs set in the SLA and/or is unable to demonstrate that their business plan remains valid to deliver the agreed outcomes.

5. If the Tenant fails to comply with any notice/s served by the Council under the Tenants' repairing and maintenance obligations.

6. If there should be any financial or administrative mismanagement of the demised premises.

7. If the Council requires the site for redevelopment then notice to be served will not be less than 12 months.

19. OTHER TERMS: The Lease to be in the Council's standard form of the approved community model lease, as produced by the Landlord's Solicitor.
20. ALTERATIONS: The tenant is not permitted to alter or extend the premises without the consent of the Landlord. Major alteration works are to be documented by way of a Licence for Alterations.
21. LEGAL COSTS: The tenant is to be responsible for the Council's legal and property costs for the new lease in the sum of £1,700.
22. OTHER COSTS: The tenant will be responsible for the payment of Landlord's legal and professional costs for obtaining Landlord's consents under the terms of the lease.

23. RIGHTS: The Landlord (or its Agent/s) will have rights to enter the premises in case of health and safety matters, emergency access, substantial damage has occurred to the property or breach of lease terms by giving no less than 24 hrs notice.
24. STATUTORY REQUIREMENTS: The tenant will comply with all Statutory Requirements and obtain full insurance cover for the use of the premises so as to indemnify the Council against any claims that may arise from the Tenants' use and occupation of the premises for at least £2 Million.
25. SECURITY OF TENURE: The Lease will be excluded from the security of tenure provisions of Part 11 of the Landlord and Tenant Act 1954
26. DELEGATED APPROVAL/CABINET APPROVAL: The grant of the Lease is subject to approval under Cabinet and delegated authority of the Head of Strategic Property.
27. ACCOUNTS: A copy of the audited accounts of the organisation to be provided annually.
28. LANDLORDS SOLICITORS: Haringey Legal Services  
Principle Property Lawyer – Team Leader  
7<sup>th</sup> Floor, Alexandra House, 10 Station Rd Wood Green N22  
DX 156930 Wood Green 5

## Appendix 9

### Glossary

**Community and Social Enterprises** – formally constituted not-for-private-profit vehicles - including Charities, Community Organisations, Charitable Companies, Community Interest Companies Limited by Shares (CICs), and Industrial and Provident Societies for the Benefit of Communities (IPs).

**Meanwhile Use of Assets** – a short-term leasehold arrangement entered into by the Council with a Community and Social Enterprises to stimulate interim usage of disused or under-utilised land and buildings, in keeping with the provisions outlined within Circular 06/03: Local Government Act (1972) General Disposal Consent (2003) and the Public Services (Social Value) Act (2012).

**Community Asset Transfer** – a long-term leasehold or freehold transfer arrangement entered into by the Council with a Community and Social Enterprise at market or below market value to stimulate the social, economic and environmental well-being of people living and working in the London Borough of Haringey, in keeping with the provisions outlined within circular 06/03: Local Government Act (1972) General Disposal Consent (2003).

**Community Right to Bid** – an asset nomination, registration and auction process entered into by the Council with a Community and Social Enterprises, to stimulate social well-being, in keeping with the provisions outlined within the Localism Act (2011).

**Community Right to Reclaim Land** – a request, response and sale entered into by the Council with a Community or social enterprise, to stimulate the development and use of disused or under-utilised land and buildings owned by public bodies, in keeping with the provisions outlined within the Local Government, Planning and Land Act 1980.

**Compulsory Purchase for Communities** – a request, support and back-to-back transfer process entered into by the Council with a Community and Social Enterprise, to stimulate regeneration through the acquisition of disused or under-utilised assets owned by private individuals or entities, in keeping with the provisions outlined within Circular 06/04: Compulsory Purchase and the Crichel Down Rules - Appendix KA (2011).

**Social Value** - *What we mean by social value is that we will consider and take into account wider 'value added' impacts and softer outcomes when considering requests under this policy rather than simply narrow financial returns.*

## Appendix 10

## List of Community Buildings

No	Community Building	Community Tenant	Ward	Lease Info
1	Jackson's Lane Community Centre, Archway Road N6	Jacksons Lane Community Association	Highgate	28 years Expired 2013
2	Markfield Road N15	Markfield Project	Seven Sisters	25 years Expired 2009
3	Irish Community and Cultural Centre, Pretoria Road N17	Haringey Irish Cultural and Community Centre Ltd	Northumberland Park	20 yrs Due to expire 2027  Receive circular funded rent
4	Portacabins r/o 33 Winkfield Road N22	The Haringey Phoenix Group	Woodside	TAW
5	Tottenham Community Sports Centre, 701 – 703 High Road N17	Tottenham Community Sports Centre Ltd	Northumberland Park	60 years Due to Expire 2052
6	Whitehall & Tenterden Community Centre, Whitehall Street N17	GRACE Organisation	Northumberland Park	10 years Expired 2006
7	628-630 Green Lanes N8	Turkish Cypriot Community Association	Harringay	20 years Due to expire 2022
8	Selby Centre, Selby Road N17	The Selby Trust	White Hart Lane	25 years Due to expire 2022.  Receive Circular Funded rent
9	Stationers Community Centre, Mayfield Road N8	Hornsey Vale Community Centre	Stroud Green	20 years Expired 2016 Receives Circular Funded Rent
11	Park Lane Community Centre, 46 Park Lane N17	Trustee of Cherubim and Seraphim Church	Northumberland Park	20 years Expired 2012.
12	8 – 10 Bedford Road N22	JAN Trust	Alexandra	10 yrs Expired 2012
13	The Old School House 136 Tottenham Lane N8	Hornsey Historical Society	Hornsey	10 years Expired 2009
14	Milton Road Community Centre N15	Kori Arts	Tottenham Hale	1 yr Expired 2012.
15	Cypriot Community Centre, Earlham Grove N22	Association of Cypriot Organisations	Woodside	21 years Due to expire 2033.
16	Fairfax Hall, Portland Gardens N4	Kurdish Community Centre	St Ann's	25 year lease due to expire 2026.  Receive circular funded rent.



17	6 Caxton Road N22	UK Islamic Cultural Centre	Noel Park	CML
18	8 Caxton Road N22	Council of Asian People	Noel Park	20 years Expired 2010.
19	10 Caxton Road N22	UK Islamic Cultural Centre	Noel Park	99 years Due to expire 2077.
20	Mitalee Centre, Stanley Road N15	The Bangladeshi Women's Association in Haringey Ltd	St Ann's	50 years. Due to expire 2040.
21	294 High Road N22	I Can Care Ltd	Woodside	20 years Due to expire 2021
22	West Indian Cultural Centre, 9 Clarendon Road N8	African Caribbean Leadership Council	Noel Park	125 years Due to Expire 2115
23	Northumberland Park Women and Children's Centre, Somford Grove N17	Ilse Amlot Centre for Women and Children	Northumberland Park	19 years Due to expire 2017
24	Chestnuts Community Centre, 280 St Ann's Road N15	Chestnuts Community and Arts Centre Ltd	St Ann's	25 Years Due to expire 2026
25	Lord Morrison Hall, Scales Road N17	Afro International Theatre Productions	Tottenham Hale	20 years Expired 2012
26	Haringey Grove Community Centre Denmark Road N8	Greek Cypriot Women's Association	Haringay	20 years. Expired 2012
27	1 Eastfield Road N8	Kurdish Advice Centre		Recently relocated from Birkbeck Road

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**Report for:** Cabinet 3 July 2017

**Item number:** 12

**Title:** Planned admission number (PAN) for the borough's community secondary schools

**Report authorised by:** Jon Abbey, Director of Children's Services

**Lead Officer:** Eveleen Riordan, Joint Assistant Director, Schools and Learning  
[eveleen.riordan@haringey.gov.uk](mailto:eveleen.riordan@haringey.gov.uk)

**Ward(s) affected:** All

**Report for Key/  
Non Key Decision:** key

## 1. Describe the issue under consideration

1.1. This report:

- Sets the context of an emerging national funding formula and its impact on schools' finances;
- Provides an outline of the representations we received in autumn 2016 when we consulted on proposed adjustments to the published admission numbers (PANs)<sup>1</sup> of our secondary community schools;
- Provides latest data on:
  - a. year 7 numbers (including for the incoming September 2017 cohort); and
  - b. school roll projections (2017) and their implications for year 7 demand now and in the future;
- Sets out how we expect to meet demand for year 7 places over the coming years;
- Sets out the proposed condition survey work we will carry out in our community secondary schools in summer 2017 to allow us to plan for any necessary capital works to facilitate:
  - a. any increase in pupil numbers within our community secondary school(s); and
  - b. head teachers and governors being able to adjust their class sizes from 27 to 30 if they wish to do so.

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<sup>1</sup> Planned admission number (PAN) - the maximum number of pupils to be admitted into a particular year group at a school.

## 2. Cabinet Member Introduction

- 2.1. Following consultation across the borough, we have considered the views of stakeholders, in particular head teachers. We have decided not to implement any increases to the secondary published admission numbers for now, for a variety of reasons. We want to carry out further work into both the projected numbers of year 7 students and condition surveys of schools to assess their capacity for an increased number of pupils where necessary. Further, following the general election of 8 June 2017, we have little indication of either the continuing intention or timing of the implementation of any new national funding formula by the Department for Education. When the Department for Education provides greater clarity on the future of school funding this will inform our place planning work going forward.
- 2.2. The approach proposed in this report therefore places the Council in the most flexible position with respect to both local population changes and future changes to the school funding system nationally.

## 3. Recommendations

### 3.1. That :

- i. The Council retains the current PANs at our five community secondary schools until such time as:
  - a. condition surveys have been completed for our community secondary schools to assess how increased numbers in each school might impact on teaching, learning and recreation;
  - b. further year 7 secondary transfer applications (2018 and beyond) have taken place and school roll projections have been obtained to inform decision making in year 7 place numbers;
- ii. The Council uses bulge<sup>2</sup> classes as required if/when pupil numbers take us from a position of surplus to one of deficit between now and 2021 (2019 being the year when we project that we will need additional places);
- iii. Officers bring a further report to Cabinet if either demand or projections mean that we need additional year 7 capacity **before** 2019 at a level that cannot be met through the use of bulge classes alone.

## 4. Reasons for decision

- 4.1. The recommendations set out in this Cabinet report seek to ensure that we are able to continue to meet our statutory duty of ensuring enough school places but at the same time guards against an early oversupply of places which would place one or more schools in financial difficulty as a result of reduced pupil to funding ratio, as they wouldn't be able to fill rolls, which

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<sup>2</sup> Bulge classes are one off additional classes in any given cohort that are used to increase the supply of school places. They are most frequently used for an unexpected spike in the demand for places that can't be met locally. They are sometimes used to accommodate increasing demand where projections mean that we aren't certain that a permanent expansion is the most effective way forward as the expansion may not be sustainable.

would have a detrimental impact on their ability to successfully manage their budget.

## 5. Alternative options considered

5.1. There are two alternative options that have been considered:

- i. Do nothing to increase year 7 places which carries the high risk of running out of sufficiency of school places by 2019 or before; or
- ii. Increase places now which would seem premature given the downward amendment to the year 7 projections based on 2017 projections i.e. we know we are likely to need more year 7 places but that need has a) been pushed back to 2019, and b) is to some extent alleviated by capacity additions by APS and Fortismere schools in September 2016.

5.2. We are therefore proposing a cautious but pragmatic approach around increasing year 7 capacity, but one that ensures we can react in a timely and appropriate way to both the expected (projected) and any unexpected increasing (or decreasing) demand based on 2017 and future projections.

## 6. Background information

6.1. A national funding formula (NFF) for schools is expected to be introduced later this year. This formula would remove the local discretion that currently allows Haringey to provide more generous funding for secondary schools when compared to the average primary/secondary school ratio. Historically Haringey secondary schools have suffered no financial disadvantage in running with PANs that are multiples of 27 rather than 30. However, the emerging National Schools Funding Formula (NFF) will be based on secondary school intakes of classes of 30 and the funding ratio between primary and secondary schools will reflect this average. A snap election was held in 8 June 2017 and at the time of the writing of this report the current government had made no announcement about any adjustment to how a formula might be applied or whether there would be any rethink on how schools are funded nationally. On that basis we must assume that a NFF will be introduced in 2017 or 2018.

6.2. As a result of this emerging NFF schools will need to look very carefully at how they manage their budgets and their class sizes to reflect the expected 10% cut in funding to Haringey schools. This work has already begun at pace with many schools looking at restructuring and redundancy(s) to save costs within their school. Some schools will also inevitably want to look at a reorganisation of class size from the current 27 to 30 to lessen the impact of the funding cuts. The matter of the internal organisation of the school, including class size, is one for the Head teacher and his/her governors but a change to PANs wholly divisible by 30 does support this move and would align Haringey with the vast majority of the rest of London and England where class sizes of 30 and not 27 are the accepted norm. Further, such a move would echo some academies in the borough who have already increased PANs or adjusted class sizes to maximise financial spend e.g. Fortismere, Woodside and Alexandra Park View. Harris Academy Tottenham open three years ago with classes of 30 and earlier this year Heartlands consulted on

moving its PAN from 2016 to 240 to allow for class sizes of 30 from September 2017.

6.3. In addition to the pressure that a NFF will put on to our schools, we know that we will begin to run out of year 7 places if we don't increase capacity. Adjusting the PAN of our secondary schools allows us to increase capacity without the need for costly capital works at any one or more schools, with most schools requiring extension(s) to accommodate additional numbers.

6.4. **PAN Autumn consultation**

In autumn 2016 we consulted on proposed adjustments to the planned admission numbers (PANs) of our five secondary community schools (Gladesmore Community School, Highgate Wood School, Hornsey School for Girls, Northumberland Park Community School and Park View School). Adjustment to the PANs would allow us to increase the number of year 7 places to respond to larger cohorts moving out of the primary phase and into the secondary phase. Our 2016 school roll projections set out that we expected to run out of year 7 places by 2018 if we didn't increase the numbers.

6.5. In changing the PAN for each school it would also allow head teachers and governors to arrange class sizes into multiples of 30 (currently broadly arranged in multiples of 27) *if* they wished to do so.

6.6. We consulted with stakeholders and also visited the Head teacher of each community secondary school to hear their views on our consultation. From Head teachers there was an overall broad acceptance that numbers in year 7 are likely to increase, albeit there was scepticism from some schools about the overall accuracy of the projections with concerns expressed that the projections were too high in expected demand for places in the next ten years. This scepticism remained despite a clear evidence base that previous years' projections had shown a margin of error of between 0.2 and 4% i.e. they were very accurate. In recent years a recession and changes to migration have had the biggest impact on being able to project as accurately as possible, although there are always other variables that impact on our projections (e.g. parental preference and cross borough boundary movement).

6.7. Despite the broad overall tentative support there were mixed views on *if and how* PANs might be adjusted across the five schools. All schools broadly agreed that bulges (one off additional year 7 classes across the different schools) *might* be an effective way to increase capacity in the short term and without the need to adjust the PAN of any or all of the schools. There were also some clear condition and suitability issues (of varying degrees depending on school) evident in the schools that might hamper how effectively an increase in pupil numbers could be delivered without capital works to address these issues.

6.8. A summary of the representations received on the PANs consultation is set out in Appendix 2 to this report.

6.9. **Next steps**

As a result of what we heard during our consultation we decided to pause on the implementation of any increase in PANs to allow us to:

- Carry out condition surveys for each of the five community secondary schools to clarify the impact that increased pupil numbers might have on classroom space, communal space and delivery of teaching, and to assure ourselves and schools that each school could accommodate an increase in overall pupil numbers if required or in class size **either with or without** capital work;
- Establish the **actual** number of year 7 applications for September 2017 entry as compared with the **projected** number of year 7 places as set out in the SPPR<sup>3</sup>: by comparing the two we would be able to establish any margin of error between projected and actual numbers which would provide a sense check on how accurate our projections are (and on which we base our school place planning);
- Evaluate the 2017 school roll projections (these were received in May 2017 and adjusted in June 2017 to take account of revised development data) to assess any shift from the 2016 and earlier years' projections on which we have based our projected need for additional year 7 places.

6.10. The first piece of new evidence we received post consultation was details of our on-time applications for secondary transfer and those pupils who would begin secondary school (year 7) in September 2017 (i.e. those applications that arrive before midnight on 31 October in any given year). The overall number received did show an **increase** of 95 applications in the demand for year 7 places (equivalent to just over three forms of entry) when compared with 2016 –

- 2017 on time Haringey residents: 2598
- 2016 on time Haringey residents: 2503

6.11. To underpin this increase from 2016 to 2017, the 2016 [School Place Planning Report](#) (SPPR) projected 2,475 Year 7 pupils: however, that number was actually 2,503 at the January 2017 pupil level annual school census (PLASC) meaning a slight **increase** (28 pupils or a form of entry) in the number of year 7 pupils in our schools in year 7 in 2017 when comparing it to the projections for that same year.

6.12. However, one further piece of evidence that is now available that we didn't have when we consulted in autumn 2016 is our 2017 school roll projections: while these are still showing an overall increase in demand for year 7 places over the coming ten years, they do show a slight dip in the level of that expected demand for places when compared with the 2016 projections (see para 6.13 and Appendix 1).

6.13. Our 2016 projections showed an expected shortfall of places of **-57** from 2018/19, rising to a peak of **-211** in 2022/23. The 2017 projections revise this shortfall downward so that we have sufficient capacity of places in 2018/19, with a deficit from 2019/20 of **-43** places, thereafter rising to a peak of **-185** in

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<sup>3</sup> SPPR – [School Place Planning Report](#)

2023/24. These 2016 and 2017 projections are illustrated in more detail at Appendix 1 to this report.

6.14. An explanation for the difference between the 2016 and 2017 projections include:

- An increase in total year 7 PAN from 2577 to 2604<sup>4</sup> places meaning that Haringey schools (which are popular) can accommodate more pupils);
- Year 7 is still expected to grow, peaking at 2023/24;
- House prices are literally pricing some young families out of the market e.g. in Muswell Hill and Crouch End property is now largely unaffordable to very young families and of limited affordability of those with school age children meaning demand for school places is correspondingly falling.

6.15. In light of the above and the expected sufficiency of places up until 2019 (and even then a deficit of only one and a half classes across the whole of the borough it makes sense at the current time to pause on any permanent plans to increase capacity and rely on bulge classes(s) for 2019 *if* needed, to allow for further announcements on the NFF and to assess its impact in more detail in light of those announcements, and allow for condition surveys to be completed to better assess how any additional capacity might best be provided across our secondary community school estate having regard to both actual demand and latest projections.

## 7. Contribution to strategic outcomes

7.1. Sufficiency of places contributes to Priority 1 of the Council's Corporate Plan – every child and young person to have the best start in life, with high quality education.

## 8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

8.1. The Chief Finance Officer comments that the Education Funding Agency plans to begin implementing the National Funding Formula (NFF) from April 2018. The proposals allow for some local discretion in the first two years to enable a transition from current local funding allocations to the full NFF in April 2020.

8.2. When the NFF is fully implemented actual school allocations will be subject to the Minimum Funding Guarantee (MFG) that will smooth the changes to be implemented over a number of years. The potential impact on Haringey secondary schools is affected by the schools PAN. Increasing the PAN for each school from 27 to 30 means funding could potentially be increased as it allow head teachers and governors to arrange class sizes into multiples of 30 instead of 27. The proposed changes in PAN will need to be mirrored within schools by a review of curriculum planning, pupil teacher ratios and teacher contact time which could in turn generate efficiency savings within schools.

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<sup>4</sup> This increase in places was as a result of Fortismere School and Alexandra Park School increasing their PAN above that published in our admission booklet



- 8.3. It should be noted that the smaller class sizes in Haringey secondary schools resulting in historically high funding differential between the primary and secondary phases which was to the financial disadvantage of primary schools: Primary schools in Haringey receiving proportionately less funding than would have been the case had the funding ratio been more in line with national averages.
- 8.4. All financial implications will be contained within the Schools Block of the Dedicated Schools Grant.
- 8.5. **Assistant Director of Corporate Governance**  
Under section 14 of the Education Act 1996 the Council has a duty to secure that sufficient schools for providing secondary education for children of compulsory school are available for their area. Available schools must be sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education. "Appropriate education" means education which offers such variety of instruction and training as may be desirable in view of the pupils' different ages, abilities and aptitudes and the different periods for which they may be expected to remain at school.
- 8.6. Case law has established that the section 14 duty is not an absolute duty in that even if the Council is not in a position to offer secondary school places to all pupils applying for them, the duty is not breached provided the Council was doing all it reasonably could to rectify the situation. Accordingly provided the Council is taking all reasonable measures to ensure sufficient year 7 places, the duty is not being breached.
- 8.7. As the admission authority for its community secondary schools, the Council has a statutory obligation under the School Admissions Code to consult with the governing body of each school where it proposes to increase or keep the same PAN of that school. It is apparent from the report that this obligation has been carried out by the Council.
- 8.8. **Equality**  
The Council has a statutory duty to ensure that there is sufficiency of school places in the borough. Ensuring this sufficiency across the borough contributes to our Corporate Plan's priority (Priority 1) that we enable every child and young person to have the best start in life, with high quality education
- 8.9. An Equality Impact Assessment accompanied the consultation on PANs that took place in 2016 and will be submitted as an appendix to the July 2017 Cabinet report.

## 9. Use of Appendices

- Appendix 1 - Comparison of 2016 and 2017 projections
- Appendix 2 – PAN consultation results from autumn 2016

## 10. Local Government (Access to Information) Act 1985

10.1. GLA School Roll Projection data is used to inform likely demand for year 7 places.

## Appendix 1: Comparison of 2016 and 2017 School roll projections at Year 7

### 1. Introduction

- 1.1. School roll projections produced by the GLA between 2016 and 2017 have shown a degree of variance that has been investigated and challenged by officers at a face to face meeting with the GLA on 31 May 2017. Our summary of the variances and findings from our challenge are set out below.

### 2. Findings from the latest 2017 School roll projections

- 2.1. Figure 1 shows that the 2017 projections show very slightly lower forecast numbers of Year 7 places than the 2016 projections: 2,685 vs. 2,695 (by 2020/21) and 2,731 vs. 2,757 (by 2024/25).

### 3. Reasons for these differences

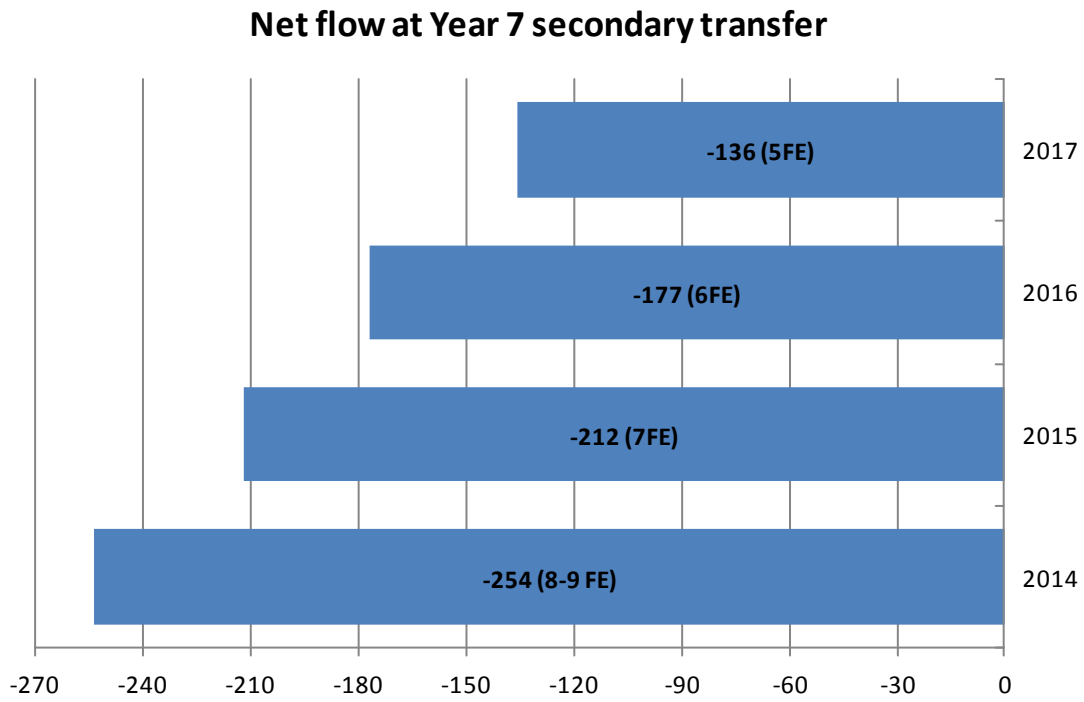
- 3.1. A meeting at the GLA confirmed the view held by Haringey place planners that house prices in western wards of the borough such as Muswell Hill were probably having an impact on the age profile of residents in this area with young families in particular unlikely to be able to afford to move there. This in turn would impact upon the demand for school places, including secondary places, in the area.
- 3.2. It was agreed at the meeting that an additional set of 2017 projections would be produced by the GLA to account for the potential impact of the Crossrail development on our borough. These additional projections will **not** form the basis of the report but will be added as an appendix to our annual School Place Planning Report (SPPR) as a scenario based outcome.
- 3.3. Despite these changes in projections we are still anticipating a deficit in **Year 7 places by 2021/22 equivalent to 6 forms of entry**. However, an increase in Year 7 capacity in our schools from 2016 entry from 2,577 to 2,604 (as a result of upward adjustments to the PAN of Fortismere and of Alexandra Park School) has provided an increase in the number of available places.
- 3.4. We also need to be mindful of the migration rates into and out of borough at Year 7 secondary transfer. Figure 2 shows data from 2014 to 2017 illustrating that Haringey continues to export more Year 7 pupils than we import. However, it should be noted that this balance has reduced from a net flow of **-254** Year 7 places (8-9 FE) in 2014 to **-136** Year 7 places (5FE) in 2017.

Figure 5 – Number of Year 7 pupils and shortfall / surplus (2017 vs 2016)

Intake year	Number of Year 7 pupils (2017)	Number of Year 7 pupils (2016)	year 7 place shortfall / surplus (2017)	year 7 place shortfall / surplus (2016)	Number of Year 7 places (2017)
2013/14	2,146	2,146	211	211	2,357
2014/15	2,348	2,348	180	180	2,528
2015/16	2,481	2,481	47	47	2,528
2016/17	2,503 (actual PLASC)	2,475 (projected)	101	102	2,604
2017/18	2,574 (projected)	2,524 (projected)	30	53	2,604
2018/19	2,549 (projected)	2,634 (projected))	55	-57	2,604
2019/20	2,647 (projected)	2,611 (projected))	-43	-34	2,604
2020/21	2,685 (projected)	2,695 (projected))	-81	-118	2,604
2021/22	2,757 (projected)	2,720 (projected))	-153	-143	2,604
2022/23	2,774 (projected)	2,788 (projected))	-170	-211	2,604
2023/24	2,789 (projected)	2,783 (projected))	-185	-206	2,604
2024/25	2,731 (projected)	2,757 (projected))	-127	-180	2,604

**Source:** 2013-2017 PLASC counts and GLA 2017 School Roll projections\*\* Note: In last year's School Place Planning report this figure was 2,577. APS and Fortismere increased their PAN from 216 to 232 and from 243 to 270 for September 2016 respectively.

Figure 2 – Haringey Year 7 migration, 2014-2017



Source: Haringey Education Services 2017

## Appendix 2 - PAN consultation autumn 2016 – results

### Total (representations received - 31)

Object: 15 (48%)

Support: 10 (32%)

Neither support nor object: 6 (19%)

### Electronic (24)

Object: 10

Support: 9

Neither support nor object: 5

### Paper (7)

Object: 5

Support: 1

Neither support nor object: 1

### Main reasons for objection

- Negative impact on learning (12)
- Insufficient space (7)
- Insufficient space for specific functions named - canteen, toilets, recreation (5)
- Increased workload for teachers (4)

### Main reasons for support

- Improve funding (5)
- Improve capacity (3)
- Improve equality (1)

### Other factors mentioned

- Objection to adjustment of PAN at HsFG (5)
- Haringey should campaign for better funding instead (4)
- Market the school better (2)
- Change the Admissions system (2)
- Is Haringey's data accurate? (4)

### Respondent type

- 26% Male / 39% Female / 35% Prefer not to say
- 58% (White/White Other) / 32% (Prefer not to say) / Two respondents (Black/African/Caribbean) / One respondent (Asian/Asian British)

## **MINUTES OF THE MEETING OF THE CABINET MEMBER SIGNING HELD ON TUESDAY, 20TH JUNE, 2017, 9.30am**

### **PRESENT:**

**Councillor Ali Demirci**

#### **17. FILMING AT MEETINGS**

NOTED.

#### **18. URGENT BUSINESS**

There was no such business.

#### **19. DECLARATIONS OF INTEREST**

None.

#### **20. AWARD OF CONTRACT FOR THE PROVISION OF SUPPORT AND MAINTENANCE SERVICES FOR LOCAL AREA NETWORKS AND WIDE AREA NETWORKS**

Councillor Demirci considered the report which sought approval for the award of a 12 month contract with a value of £657,532 to Logicalis UK Limited for the provision of the Council's Local Area Networks (LAN) and Wide Area Networks (WAN), including support and maintenance.

Councillor Demirci noted that the current contract was due to end on 30 June 2017, and there was no option to extend. It was critical that these services continue to run as they provide communication between the Council and its residents, businesses and other partners.

**RESOLVED that the contract for the provision of the Council's LAN and WAN services be award for a 12 month period, commencing on 1 July 2017, be awarded to Logicalis UK Limited at a cost of £657,532.**

#### **Reasons for decision**

The services described in this report are business critical and must be maintained. The use of Crown Commercial Services' RM1045 – Network services framework agreement provides a legally compliant mechanism for the council to source the services.

The chosen supplier (Logicalis UK Limited) has been the current incumbent provider for 11 years. Therefore, the supplier knows the infrastructure of the council's LAN and

WANs. The quality of service provided by the incumbent supplier is very good with no loss of service.

The contract will be awarded at the same cost as the previous year's service contract value. This represents value for money compared to the current framework rates. Any variation to the services would require the supplier to use their new rate card for services, incurring additional cost.

This is a temporary arrangement until the recently formed Shared Digital service can consider and implement a longer term strategy.

The report is being considered for approval through the general exception notice process due to the urgency to enter into a new contract by the end of June 2017.

### **Alternative options considered**

The services to be procured are business critical. In reviewing the options available the main focus has been on ensuring business continuity, and completing a legally compliant procurement process that would enable the council to award a contract that also represented value for money. Four options have been considered:

#### **a) Do not renew the contract – Not recommended**

The services are business critical and part of the council's civil contingency requirements. The council needs to have a contract in place for these services which includes support and maintenance.

#### **b) Provide the services from existing council resources – Not recommended**

This option is the medium term (12 to 18) months preferred option. However, the existing in-house resources lack the technical experience and capacity to deliver the service in the short term.

#### **c) Procure the services through a new supplier – Not recommended**

The technical infrastructure of the LAN and WAN are complex and will take a new supplier significant time to understand the infrastructure and continue delivery of the service.

This would also require the completion of a more complex procurement exercise, which would take between three and four months to complete, excluding approval and transition which will add at least an additional three months.

The Shared Digital service has not had sufficient time to consider the best options in respect of delivering these services long term; therefore there is a risk we would need to further transition the services in 12-18 months. This would create additional disruption to services and incur additional transition costs.

#### **d) Procure the services from the existing supplier via a framework agreement- Recommended**

The Crown Commercial Service has a range of framework agreements from which services can be called off. As a named participant on framework agreement RM1045



– Network Services, the Council can call-off services from the framework agreement as a direct award.

The incumbent supplier has been providing these services for eleven years. The supplier has intimate knowledge of the council's infrastructure, has delivered an excellent service throughout the duration of the contract.

Having considered the options available to the council, Option D meets the council's requirements to: maintain continuity of service; procure a new contract that is legally compliant with public procurement regulations and provide value for money.

The contract, in accordance with the framework agreement's regulations will be by direct award to Logicalis UK Ltd who are one of the named providers on the framework. This would provide the most expedient procurement option; whilst maintaining continuity of service.

CHAIR: COUNCILLOR ALI DEMIRCI

Signed by Chair .....

Date .....

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## **MINUTES OF THE MEETING OF THE CABINET MEMBER SIGNING HELD ON TUESDAY, 20TH JUNE, 2017, 13:00**

### **PRESENT:**

**Councillor Claire Kober (Chair)**

### **Also Present:**

**Councillor Pippa Connor**

#### **21. FILMING AT MEETINGS**

The Leader referred those present to agenda Item 1 as shown on the agenda in respect of filming at this meeting and asked that those present reviewed and noted the information contained therein.

#### **22. URGENT BUSINESS**

None.

#### **23. DECLARATIONS OF INTEREST**

None.

#### **24. OSBORNE GROVE**

The Leader noted the report, which sought approval to enter into consultation around a proposal to close Osborne Grove Nursing Home.

Councillor Connor raised concerns that the consultation was based only on one option, namely to close the nursing home. Cllr Connor enquired whether an option to implement a temporary closure could be included, with the option to retain use of the site as in-borough nursing home provision, at a later juncture if it was required. In response, it was noted that there was a common law duty on the Council to consult with stakeholders; however the Director of Adult Social Services was putting forward this course of action as part of the statutory functions of their role. The Leader acknowledged the need to set out a range of options but advised that given the severity of the situation the primary concern had to be the quality of care offered to patients. The intention would then be to comeback with a range of follow up options. The Leader also acknowledged that there were questions around nursing home capacity both within Haringey and also sub-regionally.

Officers emphasised that no decision had been made yet on the future of the facility but stated that the consultation was effectively a binary choice between closing and not closing the service. Cabinet would then have the final decision on the outcome of the proposals. The Leader advised that significant resources had been put into bolstering the

management and service delivery at Osborne Grove and that there was always an option to retain use of the facility if, for instance, a further CQC inspection reported significant improvements in care standards.

Cllr Connor sought assurances around where patients would go if the site was closed and when that information would be available to patients and their families. Officers advised that they would be speaking to patients and their families on an individual basis and would seek their input as to what type of provision they would like receive. Officers also reiterated that each patient affected would receive a further reassessment of need in the eventuality that the nursing home was closed. Officers acknowledged that there would be further conversations taking place with patients independent of the consultation outcome and advised that this was normal practice given that peoples' needs change over time.

## **RESOLVED**

- I. To approve for consultation with residents, carers and other stakeholders the proposal to close Osborne Grove Nursing Home.
- II. To agree that a report on the findings of the consultation and the proposed recommendation be brought back to Cabinet for a decision.

## **Reasons for decision**

In November 2015 a decision was taken by Cabinet to retain Osborne Grove as a nursing and residential provision and develop additional reablement and intermediate care provision on site in partnership with the NHS. The site comprises a 32-bedded nursing unit, with a day centre space and a large car-park in Stroud Green.

Since this decision was taken the home has been subject to a local authority led "Establishment concerns" process to manage through a number of essential improvements to service user safety and the quality of care. Alongside this process CQC inspected the home in December 2016, and then again in March 2017, and the home continues to be under special measures and is rated overall by the CQC as "Inadequate". An embargo is in place, and there are currently 18 residents living in the site (down from 32 at full occupancy). The issues with the home are entrenched and linked to ineffective management and significant competency and performance issues. Despite significant resource investment from the Council to bring about change, it is likely given the lack of improvements realised that the current range of issues will remain into the foreseeable future.

Given the above, including the protracted staffing issues, that are impacting adversely on the standards required to ensure compliance, the proposal is that OGNH be closed on quality of care and safety grounds. There must be a period of consultation with residents, family members and other stakeholders on the proposal and before any final decision is made. The service will continue to work to meet full compliance with the required standards of care and ensure that residents care and support needs are met.

## **Alternative options considered**

As noted above, there was an option to continue with the previous Cabinet decision to enter into partnership with the NHS to deliver the care at Osborne Grove Nursing Home. However, the on-going concerns with quality of care and resident safety on site has made this position untenable.

The Council could decide to await the outcome of the CQC re-inspection. But there are serious concerns about the sustainability of planned interventions and improvements and the wellbeing and safety of residents in the short and longer term.

## **25. MEALS ON WHEELS CONSULTATION**

The Leader noted the report, which sought approval to enter into consultation around a proposal to end the subsidy for meals on wheels.

Cllr Connor noted that the report set out that one proposal was around providing service users with kitchen appliances, frozen meals and accompanying home care, if required. Cllr Connor suggested that this could involve a significant initial outlay and enquired whether there was any expectation that that would happen. In response, officers advised that there were a number of options set out in the report and that these would be evaluated as part of the consultation process.

### **RESOLVED**

- I. To approve consultation with service users, carers and other stakeholders the proposal to end the subsidy for meals on wheels.
- II. To agree that a report on the findings of the consultation and the proposed recommendation be brought back to Cabinet for a decision.

### **Reasons for decision**

In delivering the Corporate Plan, the Council aims to enable all adults to lead healthy, long and fulfilling lives through a strong emphasis on promoting independence, personalisation and choice and control. The current arrangements for meals on wheels, in which a subsidy is paid by the Council for each meal delivered through a contract with an external supplier, are taken up by approximately 110 users each month. The proposals set out in this paper would offer greater choice to residents in need of support to access a daily hot meal, whilst enabling the Council to make savings and to build a more sustainable community offer to more residents.

There has been no increase in client contributions to the service since 2012/13 and the contribution has only increased by 20p from £3.20 to £3.40 since 2010. Costs of the meal overall have increased, however, with a standard meal now costing £7.60 and the Council pays at least £4 towards every meal, costing over £140,000 each year. In addition, the number of users accessing the service has reduced from over 300 in 2011 to only around 110 users now. The Council is keen to hear from stakeholders directly, through consultation, their views of the current service, of the proposed new offer and of the implications of removal of subsidy for them.

### **Alternative options considered**

Significant work has been undertaken to explore an alternative offer to replace the current arrangements and this is set out in more detail in Section 6. Continuing with the current arrangements has been considered but rejected as the payment of the subsidy is not sustainable and only a limited number of users benefit from a hot meal. Given that neither the Care Act nor preceding legislation require meals to be subsidised or the cost of food to be met by the Council, consideration was given to withdrawing the subsidy whilst not building community based alternatives. This, however, was rejected as the development of a strong, community offer supports independence and meets the wider Council aspirations to build a stronger community in the borough.

Over 50% of London boroughs have ended their meals on wheels services. Haringey Council is the only borough in North Central London which still offers a subsidised Meals on Wheels service. Islington, Camden and Enfield ended their direct provision of Meals on Wheels services in 2011 and Barnet in 2015.

## **26. DISABILITY RELATED EXPENDITURE CONSULTATION**

The Leader noted the report, which sought approval to enter into consultation around a proposal to decrease the disability related expenditure disregard to 40% (£22.04) by 2019/20.

Officers outlined that Haringey currently operated a 65% (£35.82) Disability Related Expenditure (DRE) disregard and this policy has remained the same since 2011. Other authorities had reduced the DRE; ranging is from a flat rate of £10.00, to a rate of 35% (£19.00). The Mid-Term Financial Strategy (MTFS) proposal for Adult Services was to operate a DRE of 40%, (£22.04 per week) by 2019/20 to deliver £328k savings.

Councillor Connor questioned whether the recommendation proposed through the Adults and Health Scrutiny Panel meeting around increasing the implementation period from 3 to 5 years had been considered. The Leader advised that a whole range of options had been considered and emphasised that even with a 40% DRE disregard rate, Haringey would be offering one of the highest rates of any London Borough. In response to a follow up question, officers advised that they had undertaken an extensive benchmarking exercise and they were not aware of any hidden benefits being offered by other boroughs to offset a lower rate.

### **RESOLVED**

- I. To approve for consultation with service users, carers and other stakeholders the proposal to decrease the disability related expenditure disregard to 40% (£22.04) by 2019/20.
- II. To agree that a report on the findings of the consultation and the proposed recommendation be brought back to Cabinet for a decision.

### **REASONS FOR DECISION**

Haringey currently operates a 65% (£35.82) disregard and this policy has remained the same since 2011. Other authorities have reduced the DRE and the range is from a flat rate of £10.00 to a rate of 35% (£19.00).

The MTFS proposal for P2 agreed by Cabinet on 14<sup>th</sup> February 2017 is *to operate a DRE of 40%, (£22.04 per week) by 2019/20*. Therefore the proposal seeks to bring the disregard for DRE more in line with other London Boroughs and will seek to deliver £328k savings.

The reduction will result in an increase in charges for service users who are currently making a contribution and have a DRE disregard included in their financial assessments. In addition, when DRE reduces to 40%, this will result in some service users of working age, who are currently assessed not to contribute, having to make a small contribution.

### **ALTERNATIVE OPTIONS CONSIDERED**

The options available to the service are limited, due to the scale of the financial reductions required, however the proposal will ensure compliance with our statutory responsibilities and we are committed to the continued delivery of high quality service provision that supports the needs of the people we support.

An additional option is not to make the budget savings agreed in the Medium Term Financial Plan; however this would result in serious financial gap of £328,000, which would jeopardise the sustainability of services in the future.

## **27. AWARD OF FRAMEWORK AGREEMENT FOR THE PROVISION OF ADAPTATION WORKS TO PROPERTIES WHERE RESIDENTS HAVE DISABILITIES**

The Leader noted the report, which sought approval to enter into framework agreements for the provision of disabled adaptations works.

Councillor Connor raised concerns with the minimal number of Occupational Therapists available at a community care level and highlighted that this could cause delays in the process. In response, officers acknowledged these concerns and advised that consideration would be given to how this could be mitigated.

### **RESOLVED**

- I. That the Cabinet Member for Adult Social Care & Culture approve the proposal to enter into framework agreements for the provision of disabled adaptations works with Keepmoat Regeneration Ltd, Richwell Construction Ltd, Effectable Construction Services and The AD Construction Group as allowed under Contract Standing Order (CSO) 16.02, for a period of two years with the option to extend the framework agreements for a further two years on an annual basis subject to satisfactory performance of the suppliers.

### **Reasons for decision**

The intention is for the proposed framework agreement to:

- Deliver value for money through a competitively procured schedule of rates, with scope for good economies of scale with the suppliers and the council working together to achieve cost reductions and continuous improvement;
- Provide four specialist adaptations suppliers to allow for a responsive service with good capacity;
- Ensure consistency and continuity over the term of the agreement;
- Allow for suppliers to be assessed on quality as well as cost to ensure a high standard of work and customer service; and
- Ensure delivery of housing adaptations in the shortest possible time.
- Ensure that through the term of the contract Value for Money is reflected in all commitments;
- Guarantee that the framework and call-offs issued under it are all fully compliant with the Public Contract Regulations 2015.

### **Alternative options considered**

The options set out below have been considered by the Head of Adaptations Service and Strategic Procurement.

The options were considered in detail against the various project objectives. It was concluded that Option D was the preferred option.

Of significance, the adaptations works are classified as works under Schedule 2 of the Public Contracts Regulations 2015. The anticipated value of spend under the framework agreement over the next four years is over the EU threshold value for works and is therefore within the scope of the Public Contract Regulations 2015 and subject to a full EU wide compliant procurement route.

### **Option A – Tender work in batches**

This would mean continuing with the current arrangement whereby the work is competitively tendered in batches which is both very time consuming and a lengthy process for already stretched internal resources.

The existing arrangement was only a short term expedient to maintain continuity in the provision of services pending the development of a more lasting solution that fully complied with the Public Contract Regulations 2015 which is necessary given the projected value of the work over the next four years which is in excess of the EU threshold for works.



**Option B - Access an existing Adaptations Framework operated by other public sector bodies.**

While this option might be efficient in terms of staff time in the procurement process there are the following disadvantages if joining an existing framework:

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- There will be a cost to the council to access the framework;
- It may not provide the wide range of services that the council and Homes for Haringey require;
- It may increase the level of sub- contracting as suppliers on a framework may not have a local presence or have the capacity or capability to meet the council's requirements;
- It may prevent the council being able to determine its own contract terms as they are already prescribed in the framework structure ;

**Option C - Measured Term Contract with a single Supplier**

This contract is suitable for a regular flow of adaptations works to be carried out by a single contractor over a specified period of time. The work is measured and valued on the basis of an agreed Schedule of Rate. The major concern about option C is reliance on a single contractor and is therefore not recommended.

**Option D - Council Framework Arrangement with one or more Suppliers**

Framework Agreements can be either sole supplier or multi supplier frameworks and are an agreement between the contracting authority and the contractor(s) detailing the terms and conditions against which the contracting authority may place orders or tasks. The contracting authority is not obliged to order, accept or pay for any of the services other than those actually ordered and / or authorised under the terms of the framework agreement.

Each order or task raised against a framework agreement is a separate legally binding contract relating only to the services covered by the particular order or task, subject to the terms and conditions stated in the framework agreement.

Under a framework agreement that there is no commitment for either party to undertake any business until the first contract is 'called off'.

It is considered that a multi supplier framework is best suited to the council's requirements for housing adaptations. The possibility of incorporating the needs of Enfield's requirements into the framework agreement was explored but did not get off the ground as Enfield decided to develop their own framework agreement tailored to their specific requirements.

**28. NEW ITEMS OF URGENT BUSINESS**

N/A

**29. EXCLUSION OF THE PRESS AND PUBLIC**

That the press and public be excluded from the reminder of the meeting as the items contained exempt information, as defined under paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

**30. AWARD OF FRAMEWORK AGREEMENT FOR THE PROVISION OF ADAPTATION WORKS TO PROPERTIES WHERE RESIDENTS HAVE DISABILITIES**

The Leader noted the exempt section of the report.

**31. NEW ITEMS OF EXEMPT URGENT BUSINESS**

N/A

CHAIR: Councillor Claire Kober

Signed by Chair .....

Date .....

By virtue of paragraph(s) 3, 5 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is exempt

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