

Report for: Cabinet 12 November 2019

Title: Update on the Haringey Community Benefit Society

Report authorised by: Dan Hawthorn, Director of Housing, Regeneration and Planning

Lead Officer: Alan Benson, Interim Assistant Director Housing

Ward(s) affected: All

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

1. Describe the issue under consideration

- 1.1 On 17 July 2018, Cabinet approved the creation of the Haringey Community Benefit Society (CBS) to provide housing to homeless households nominated to it by the Council.
- 1.2 The report also approved the CBS structure and governance arrangements and agreed a budget for the Council to purchase properties using the General Fund and lease them to the CBS for ten years.
- 1.3 Through the CBS, the Council will be able to purchase more local and better-quality homes and pay for these through the income generated by leasing them to the CBS. The CBS in turn will meet these costs by charging rents at the Government set Local Housing Allowance rate to households. At the end of the lease, these properties will return to the Council and it is anticipated that most of these homes will then be let as Council tenancies.
- 1.4 This report provides an update on progress on the CBS and notes the amendment to its funding arrangements from being a General Fund supported activity to a Housing Revenue Account supported activity. In addition, the report proposes a change to the agreed leasing arrangements so that properties are leased to CBS for periods of up to seven years instead of up to ten years.

2. Cabinet Member Introduction

- 2.1 This administration was elected on a manifesto that made it clear that we would act decisively to reduce homelessness and take action to improve the too often poor quality and precarious temporary accommodation in which nearly 3,000 homeless households in Haringey live. We argued: *“Poor housing has knock-on effects everywhere; from education to health to crime. And the regular churn of families and children moving from one temporary tenancy to another makes it difficult to build strong local communities.”* We promised that we would do housing differently.
- 2.2 In July 2018, Cabinet approved the establishment of the Haringey Community Benefit Society, with its sole aim being to improve the housing available to

Haringey's homeless households. Many of these households often end up in private rented accommodation, which is expensive, insecure and often not of the quality we would like. Much is a long way away from Haringey. The recommendations in this report are the final steps in putting in place the CBS, which will help us ensure homeless families can have a home which is better, more stable and with lower rents than that provided by the market. Meanwhile the Council will make substantial savings in its annual temporary accommodation budget and, ultimately, re-municipalise stock that was lost under Right to Buy.

3. Recommendations

It is recommended that Cabinet:

- 3.1 Approves the new lease arrangements set out in paras 6.15 to 6.16, with each lease lasting up to seven years and comprising a portfolio of properties.
- 3.2 Notes that 52 residential units have already been acquired for transfer to the Community Benefit Society on its registration pursuant to the authority given on 17 July 2018 and:
 - 3.2.1. Agrees to the acquisition of a further 17 residential units up to the end of financial year 2019/2020: and
 - 3.2.2. Agrees to the acquisition of a further 65 residential units per year from financial year 2020/21; and
 - 3.2.3. Agrees that this authority replaces that given on 17 July 2018
- 3.3 Notes:
 - 3.3.1 That properties bought and leased to the CBS should be accounted for in the Housing Revenue Account, rather than the General Fund as set out at 8.15 below.
 - 3.3.2 That the detail of this change is set out in a report titled '*Approval of additional Housing Revenue Account budget for new build properties and acquisitions of existing properties to house homeless households*' to be presented to Cabinet on 12 November 2018.
- 3.4 Gives delegated authority to the Director of Housing, Regeneration and Planning, after consultation with the Assistant Director of Corporate Governance and Cabinet Member for Housing and Estate Renewal to make any changes that may be required by the Financial Conduct Authority to the Rules for the CBS so the CBS can be registered.

4. Reasons for decision

- 4.1 The decision being made is essential to the operation of the CBS.

- 4.2 The approval of seven-year leases and the “batching” of a number of properties into each lease will negate the need to seek approval for the leasing of each individual property from the Secretary of State. Seeking approvals in that way would inevitably significantly increase void times, delay the benefits to the households who would be offered the home and reduce the financial savings to the Council. The change to the purchasing of properties to be leased to the CBS being undertaken in the HRA rather than in the General Fund (proposed in a separate report and noted here) is necessary to comply with statute.
- 4.3 The Cabinet of July 2018 approved the acquisition of the first 100 homes with a further report to be presented to Cabinet for authority to acquire the additional 300 properties. With 52 homes already purchased for the CBS, and a further 17 expected before March 2020, it is anticipated that this target will be reached in the summer of 2020. To avoid a further report in the spring of 2020, or delays in continuing the programme, authority is sought as set out at 3.2.1-3.2.3
- 4.4 The July 2018 report set out expectations that the CBS would have two Council nominated Directors and that the Council would hold two of the CBS’s five shares. These rules were approved by the Director for Housing, Regeneration and Planning as delegated by the Cabinet and submitted to the FCA. However, the FCA had concerns about any shareholder having more than one share. These rules have thus been amended and resubmitted and the CBS is currently awaiting a response on whether these are acceptable to the FCA. A delegated authority is therefore required to deal with any further changes that the FCA may require before the CBS can be registered.

5. Alternative options considered

- 5.1 **To keep the lease at 10 years:** This option was rejected because leases of more than seven years on properties purchased through the HRA would require the specific consent of the Secretary of State. That process could be expected to take up to 6 months and may not result in an approval, which will add to void times and undermine the viability of the CBS model.
- 5.2 **To return to Cabinet to seek approval any purchased over the first 100 as set out in the July 2018 report:** This option was rejected because the sale process can take up to 6 months and with the limit expected to be reached in summer of 2020, this would require a second CBS report in early 2020.

6. Background information

Haringey Community Benefit Society (CBS)

- 6.1 Haringey currently has approximately 2,800 households in temporary accommodation. The high cost of this has led to a significant burden on the Council’s General Fund, whilst housing vulnerable families in homes that are sometimes out of the borough, and of lower quality than those that could be available through additional funding.

- 6.2 Because there is a limited supply of Council housing available, the Council has embarked on a programme to build new Council homes, starting with its target of 1,000 by 2022. However, this programme will take time to complete and will still not provide enough homes to be able to accommodate all the existing homeless households or those approaching the Council. The CBS will help to meet these shortfalls.
- 6.3 To date, the Council has purchased 57 homes of which 52 will, in due course, be leased to the CBS, with a further 17 properties expected to be purchased by the end of 2019/20. The purchase programme will then continue with a target of 65 additional homes to be purchased every year, replacing the previously reported initial programme of 100 properties. In addition, there will be the potential to acquire portfolios of properties, subject to the available budget and business cases.
- 6.4 The Council is likely to need to continue to use the private rented sector to house homeless households for many years. However, by setting up the CBS, the Council is creating an independent organisation that can reduce the reliance on the private rented sector and provide better quality and more cost-effective housing options for households referred to it by the Council. The tenancies provided through the CBS will be both affordable to those receiving Housing Benefit and provide longer-term security than their current or any available alternative arrangements.
- 6.5 As set out in section 1.9 of the Cabinet report on the CBS of July 2018, these properties will be used either to provide continued temporary accommodation or as an offer of a 'settled home', with the balance between these options decided at an operational level.
- 6.6 Where the 'settled home' option is selected, the Council will instruct the CBS to issue families with a two-year tenancy which will then become a periodic tenancy continuing until at least the end of the lease. Rents will initially be set at the Local Housing Allowance (LHA) so they should be affordable to those on Housing Benefit and will only increase when the LHA increases. This contrasts with conventional Private Sector offers which usually only provide tenancies at affordable rents for two years.

CBS governance and relationship with the Council

- 6.7 Although an independent organisation, the CBS has a close relationship with the Council as the sole source of both its properties and its tenants. The CBS's Rules are still to be approved by the Financial Conduct Authority but, as submitted, they give the Council the right to nominate two of its five Directors, who will be the Assistant Director of Housing (currently Alan Benson) and the Executive Director of Housing Demand at Homes for Haringey (currently Denise Gandy). They also permit the Council to withdraw these Directors as required and to nominate their replacements.
- 6.8 The Rules were originally submitted to the FCA with the CBS having five shareholders and the Council having two of these shares. However, the FCA had concerns about any shareholder having more than one share. As a result,

the Rules were revised and have been re-submitted for approval and registration with the CBS. There will now be four shareholders instead of five as set out in the July 2018 Cabinet Report, with the Council holding one of the four CBS shares. The remaining three shares are held by the independent Directors. The initial appointments to these roles are to be Mark Baigent (Chair of Tower Hamlets CBS and Capital Letters – the Pan-London Temporary Accommodation procurement organisation), Meera Bedi (a local resident and Head of Development at Barnet Homes) and Steve Beard (Director of Beacon Ltd who provided expert advice in the setting up of the CBS). A delegated authority is therefore required to deal with any further changes that the FCA may require before the CBS can be registered.

- 6.9 As delegated by the July 2018 report, the initial Independent Directors were nominated by the Director of Housing, Regeneration and Planning, in consultation with the Cabinet Member for Housing and Estate Renewal. It is intended that the initial three independent Directors will step down over 12-18 months from the establishment of the CBS to be replaced through an open recruitment process with future appointments made by the Directors remaining in office including the two Council appointees.

CBS rules and aims

- 6.10 The CBS's Objects are to: -

“undertake the ownership and letting of social housing and closely associated activities to households in housing need by reason of youth, age, ill-health, disability, financial or other disadvantage, solely for the benefit of households nominated by Haringey Council; and

Such other charitable object beneficial to the community consistent with the objectives above as the Board shall in its absolute discretion determine”.

- 6.11 These aims commit the CBS to use all of the properties to accommodate households nominated to it by Haringey Council. This commitment will be formalised in a Put Option and a Nominations Agreement.
- 6.12 In addition to the lease arrangements above, the CBS may also be able to secure other properties. However, the Nomination Agreement would require any such additional properties to be used solely to accommodate households nominated to it by the Council. The source of these additional properties could include, for example, taking over leases that had been with the Council under its Private Sector Leasing scheme (which would reduce the need for Council subsidy), or purchasing properties directly, using funding made available by the Council. The latter option would be subject to Cabinet approval.
- 6.13 As stated above, at the time of this report, the CBS is completing the registration process with the Financial Conduct Authority. This is necessary for it to become a legal entity and therefore be able to enter into contracts, take out insurance and set up its own bank account. Once this has been completed, the CBS Board will meet to approve the various documents needed to establish its relationship with the Council and Homes for Haringey. These documents

include the Put Option and Nomination Agreement and other key documents which have already been drawn up and completed.

- 6.14 The Put Option will oblige the CBS to take properties offered to it subject to meeting the agreed property standards. The properties will be leased in batches using the standard lease agreed. The lease sets out the rent and other terms and conditions. The Nominations Agreement will require the CBS to accept households nominated to all properties by the Council. The CBS will let each property under an Assured Shorthold tenancy. These documents will be approved by the Director of Housing, Regeneration and Planning, on approval of this report, as delegated in the July 2018 Cabinet report,

Changes from the July 2018 report

- 6.15 In the CBS report to Cabinet of 17 July 2018, the standard lease length was set at ten years. The Council is required to obtain Secretary of State's consent when disposing of properties held for housing purposes. Specific consent of the Secretary of State is required for leases longer than seven years. Because this could take up to six months it would add to void costs and the loss of a home for this period. The application process will also increase administration time and costs and this together with the uncertainty of approval will restrict the Council's ability to respond quickly to opportunities.
- 6.16 It is therefore proposed that the standard lease length be changed to a maximum of seven-year as this would allow the Council to rely on the General Housing Consent issued by the Secretary of State. Each lease will be granted for a portfolio of properties in accordance with the General Housing Consent although the Council can only grant five leases per financial year.
- 6.17 A separate report 'Approval of additional Housing Revenue Account budget for new build properties and acquisitions of existing properties to house homeless households' is also being presented to Cabinet on 12 November 2019. This explains that properties purchased for the purpose of leasing to the CBS should properly be accounted for through the Housing Revenue Account, not the General Fund as envisaged in July 2018.
- 6.18 The Cabinet of 17 July 2018 approved the first 100 purchases to be used for the CBS with a further report to approve additional homes. With the progress in purchasing properties, and the anticipated completion of a further 17 units before March 2020, it is likely that this limit will be reached in the summer of 2020 which would require a further CBS report in early 2020 to avoid the programme being suspended while awaiting approval to continue. It is therefore proposed that Cabinet agree to extend the programme at this stage as set out in recommendations 3.2.1-3.2.3

Options at the end of the seven-year lease

- 6.19 The General Consent provides that on expiry of a seven-year lease, no further lease of that property can be granted within a year of termination of that lease without specific Secretary of State permission. This means that at the end of each lease, the Council will need to decide on the future of the properties within

the portfolio. This will have an impact on both the Council's finances and the households living there.

- 6.20 The expected option is for the properties to be re-let as Council tenancies if this is financially viable. This is expected to be the case for most, if not all, of the initial properties already purchased. However, with the creation of the CBS and the additional income generated, the Council's future purchases may include more expensive (and better quality) properties. These properties may not always be financially viable at social rents and so other options may need to be considered. These could include selling the property at full market value either to the Arms' Length Management Organisation or to the Council's Wholly Owned Company (WOC) when this is established.

7. Contribution to strategic outcomes

- 7.1 The CBS will support the delivery of the second of the three outcomes for the Housing Priority in the Borough Plan, namely that *"We will work together to prevent people from becoming homeless, and to reduce existing homelessness"*. It will deliver the objective that *"where temporary accommodation can't be avoided, improve the experience of homeless families and minimise costs by reducing the Council's reliance on providers of nightly paid emergency accommodation"*.
- 7.2 Creating the CBS will also assist in the delivery of the Council's statutory Homelessness Strategy 2018 by improving the suitability, affordability and location of both temporary accommodation and private tenancies.

8. Statutory Officers comments

Finance

- 8.1 The report is making a recommendation to change the length of the lease that can be granted to the CBS from 10 years to seven.
- 8.2 The report is also informing Members of the change to the accounting arrangements that are required, so the houses purchased are accounted for in the Housing Revenue Account (HRA) rather than the general fund as previously budgeted.
- 8.3 The current general fund Temporary Accommodation Acquisition Programme budget of £41.442m is composed of an original budget of £25.0m to which was added £14.027m as part of the agreed brought forwards by Cabinet in June 2019. In addition, Cabinet agreed at its meeting of the 10th September 2019 to vire £2.416m from the TA Property Acquisitions Scheme budget to the Temporary Accommodation Acquisition Programme budget. The use of the CBS to house homeless people will generate savings in the General Fund.
- 8.4 The General Fund capital programme will need to be varied downwards by £41.442m to reflect the fact that the properties being acquired for lease to the CBS will now be funded through the HRA. The revision to the General Fund

budget will not impact either adversely or positively on the General Fund revenue budget as the Temporary Accommodation Acquisition Programme budget was included in the General Fund approved capital programme on the basis that it was self-financing. In addition, expenditure to date of £6.886m will need to be transferred from the General Fund to the HRA.

- 8.5 Once transferred into the HRA the net effect of these properties is beneficial in that on average they make a positive contribution of c£2,200 per unit during the period of the lease to the CBS. This is because the lease rental being charged to the CBS is greater than the costs incurred by the HRA in financing the cost of acquisition.
- 8.6 Using the CBS to house homeless people will generate around £0.146m per annum savings to the General Fund Temporary Accommodation budget in year 1, then a further £0.146m in year 2 and building through to year 7, on the basis of around 65 property acquisitions per annum.
- 8.7 At the end of the lease period the properties will come back to the Council for its use. Prior to the expiry of the lease there will need to be a timely review of the options open to the Council to ensure that the houses returned to the Council will be used in a financially efficient manner.

Procurement

- 8.8 Strategic Procurement note the recommendations within section 2 of this report. However, comments are not required for this report.

Legal

- 8.9 The Assistant Director of Corporate Governance has been consulted in the drafting of this report.
- 8.10 The Council has duties to secure accommodation both for applicants during the application process (“interim accommodation”) and for those applicants to whom it accepts a full duty (“temporary accommodation”). It can, by procuring the making of a suitable offer of accommodation from the private sector, end (or “discharge”) that duty.
- 8.11 The effect of the Welfare Reform and Work Act 2016 (to 31 March 2020) and the Rent Standard set by the Regulator of Social Housing (subsequently), is that the Council is limited, in the rent it can charge for property it lets directly, to social rents. That limit does not apply to rents charged by the CBS, which is not controlled by the Council.
- 8.12 Before disposing of housing land s32 of the Housing Act 1985 requires the Council to have the consent of the Secretary of State. The Secretary of State has issued the General Housing Consents 2013 setting out circumstances in which consent is given without specific application; any disposal outside the terms of that Consent requires specific consent from the secretary of State.
- 8.13 The General Housing Consent permits the Council to grant up to 5 leases of its housing land for up to seven years to bodies in which it has an interest; which

description includes the CBS by virtue of the Council's ownership of a share in it. Each such lease can include a portfolio – a batch - of properties.

- 8.14 A further paragraph of the General Housing Consents permits disposals at full market value (albeit this is also subject to a restriction of 5 disposals a year where the Council has an interest in the body to which the disposal is made), making this an option after expiry of the seven year leases.
- 8.15 By statute, the Council must account for its housing land through its HRA unless an exception applies; no such exception applies to the properties intended to be acquired and leased to the CBS. Further legal comments appear above in the body of the report.
- 8.16 The CBS is at present being registered with the FCA and once registered the CBS will be able to operate as a legal entity. As set out in this report it will enter into a suite of documents which will control the relationship between the Council and the CBS. These documents are:
- 1 Put Option: This is an agreement for lease which allows the Council to put forward residential properties (as and when they become available) that meet the required standard and obliges the CBS to lease them from the Council for a term of up to 7 years. The lease contains provisions dealing with rent, rent review and repairs and provides for the CBS to give up the properties with vacant possession at the end of the term.
 - 2 Nomination Agreement: This agreement allows the Council to nominate tenants for the properties leased to the CBS under the Option Agreement for either temporary accommodation or settled accommodation. The CBS must grant each tenant an Assured Shorthold Tenancy based on a standard agreement at a rent equivalent to the LHA rate. The length of each AST will be agreed between the Council and the CBS but cannot exceed the lease term of 7 years in any event.
- 8.17 The properties will be managed by Homes for Haringey under a separate management agreement between Homes for Haringey and the CBS.

Equality

- 8.18 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 between people who share those protected characteristics and people who do not.
 - Foster good relations between people who share those characteristics and people who do not.

- 8.19 The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status apply to the first part of the duty.
- 8.20 Approval of these formal agreements will allow the CBS to provide better quality accommodation for homeless applicants and to ensure a regular supply of high quality, well-managed, sub-market homes. The decision will therefore primarily affect individuals and households living in temporary accommodation and those who are most at risk of homelessness. A full Equalities Impact Assessment on the CBS was attached as an Appendix to the original Cabinet report. There are no expected negative impacts of the proposals in this report.

9. Use of Appendices

None

10. Local Government (Access to Information) Act 1985

Cabinet report "*Setting up a Community Benefit Society and a Purchase, Repair and Management Partnership to deliver Temporary Accommodation solutions*".
<http://www.minutes.haringey.gov.uk/documents/g8824/Public%20reports%20pack%2017th-Jul-2018%2018.30%20Cabinet.pdf?T=10>

Minutes of Cabinet meeting of 17 July 2018 approving the creation of the CBS
<http://www.minutes.haringey.gov.uk/documents/g8824/Printed%20minutes%2017th-Jul-2018%2018.30%20Cabinet.pdf?T=1>