

Report for: **Cabinet 18 January 2022**

Title: **Financial arrangements for the next stage of the Council's Housing Delivery Programme**

Report
Authorised by: **David Joyce, Director of Housing, Regeneration and Planning**

Lead Officer: **Robbie Erbmman, Assistant Director of Housing**

Ward(s) affected: **All**

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

1. Describe the issue under consideration

- 1.1. The Council is on track to deliver the first stage in a new era of Council house building: by the end of March 2022, more than a thousand Council homes at Council rent will be complete or on site. This report makes recommendations that will underpin the next stage: accepting grant through the Mayor of London's 2021-26 Affordable Housing Programme, redirecting half the Council's Right to Buy receipts to the Housing Delivery Programme and, in light of cost increases for construction materials and labour, agreeing additional contingency sums for a small number of housing delivery schemes.
- 1.2. Cabinet is also asked to remove three sites from the Housing Delivery Programme on the basis that they are unsuitable for housing development.

2. Cabinet Member Introduction

- 2.1. By March 2022 we will have started or completed more than one thousand new Council homes for letting at social rent. The impact of these homes on the people who will at last have a stable and genuinely affordable home cannot be overestimated.
- 2.2. But the first thousand homes are just the start – our communities need us to keep building. That is why I support the recommendations in this report. They will help lay the foundations for completing 3,000 Council homes by 2031 and consolidating house building as a core Council activity beyond that.
- 2.3. We are currently in a period of extraordinary price volatility. We are working closely with our contractors to manage the impact of this successfully. We have identified a small number of schemes where the additional cost of construction materials may require us to reprofile budgets quickly – or risk delays and the additional costs for the Council that those delays would cause. This is why I believe the additional contingency sums proposed here for specific schemes are necessary.

3. Recommendations

3.1. It is recommended that Cabinet:

- 3.1.1. In accordance with Contract Standing Order 17.1, approve the acceptance of capital grant under the Mayor of London's 2021-26 Affordable Homes Programme, the terms of which are summarised below at 6.14 – 6.15 and available in full at the GLA web site
- 3.1.2. Delegate authority to agree the final 2021-26 Affordable Homes Programme grant documentation and contract to the Director of Housing, Planning and Regeneration, after consultation with the Director of Finance and the Head of Legal and Corporate Governance (Monitoring Officer).
- 3.1.3. Agree from April 2022 to extend the use of retained Right to Buy receipts in the housing delivery programme in accordance with Government guidance of July 2021 and the Retention Agreement pursuant to section 11(6) of the Local Government Act 2003 dated 7 October 2021 and attached as Appendix 1
- 3.1.4. Approve additional contingency sums as specified in in the exempt report Appendix 2 and delegate authority to the Director of Housing, Regeneration and Planning, after consultation with the Cabinet Member for House Building, Place-Making and Development, and Director of Finance, to approve additional spending in connection with the contracts specified in Appendix 2, including through variations or cumulative variations of those contracts, to the value of those additional contingency sums.
- 3.1.5. Remove three sites listed below at 6.31 to 6.33 from the Housing Delivery Programme

4. Reasons for decisions

- 4.1. The Council is committed to a new era of Council house building in Haringey. These decisions are an essential step in achieving that aim.
- 4.2. **Accepting grant through the Mayor of London's Affordable Homes Programme 2021-26:** It is not possible to fund the building of Council homes at scale only through borrowing against future rental income. Capital grant has always formed a vital part of the funding mix. The terms of the Affordable Homes Programme 2021-26 are in a standard form and not subject to negotiation.
- 4.3. **The use of Retained Right to Buy receipts:** In July 2021, new Government guidance constrained the ability of Local Authorities to use Retained Right to Buy receipts on the acquisition of existing homes. These new terms are included in the Retention Agreement agreed with the Government on 7 October 2021. It is therefore necessary that from April 2022 the Council extends its use of Retained Right to Buy receipts to include the delivery of new homes.
- 4.4. **Delegating authority to vary the housing delivery contracts up to the value of the contingency sums specified in Appendix 2:** In the last six months, the cost of construction materials and labour has risen and continues to rise very substantially. As a result, it is likely that additional costs will arise in connection

with the contracts specified in Appendix 2. Providing additional contingency sums for those specified schemes will ensure that negotiations can be concluded as efficiently as possible, preventing further cost increases caused by contractual delays, saving the Council money, and ensuring that construction of new Council homes is not put at risk. Any decision made under this delegation would be reported back to Cabinet and taken within a robust governance and scrutiny structure.

- 4.5. **Removing sites from the Housing Delivery Programme:** The sites listed have been found to be unsuitable for housing development by the Council at this stage.

5. Alternative options considered

- 5.1. **Not to accept the offer of grant from the Affordable Housing Programme 2021-2026.** This option was rejected because it would prevent the Council from delivering new Council homes.
- 5.2. **To continue spending all retained Right to Buy receipts on acquiring existing properties.** This option was rejected because it would be in breach of the Retention Agreement and Government guidance and would therefore lead to the Council having to pay Right to Buy receipts to central Government.
- 5.3. **To redirect all retained Right to Buy receipts to support the Council's housing delivery programme.** This option was rejected because the acquisition of homes to use for homelessness prevention purposes meets key strategic and financial priorities by helping to ensure that the Council can provide high quality housing solutions for households that are homeless.
- 5.4. **Not to approve the contingency sums and not to delegate authority to vary contracts up to the values of the contingency sums specified at Appendix 2.** This option was rejected because it would lead to delays in contract negotiations for which the Council would be subject to extension of time claims at further cost, and further delays to programme delivery putting at risk achievement of the Council's core objectives.
- 5.5. **Not to remove the sites listed from the housing delivery programme.** This option was rejected because these sites are not suitable for housing development at this stage.

6. Background information

Progress establishing a new era of Council house building

- 6.1. The first priority of the Borough Plan adopted in February 2019 commits the Council to "work together to deliver the new homes Haringey needs, especially new affordable homes": "one of our very highest priorities is to start a new era of council house building in the borough, particularly using our own land".
- 6.2. Cabinet has to date approved 89 sites of Council-owned land for inclusion in the Council housing delivery programme: a mixture of land on housing estates and land not currently used for housing purposes. Together, these sites have potential to deliver 2,310 homes.

- 6.3. In addition to this, the Council has already acquired 528 homes at pre-construction phase from private developers in order to lead their delivery as Council homes for Council rent. The Council will continue to seek opportunities to deliver Council homes for Council rent in this way.
- 6.4. The Council is on track to deliver more than a thousand Council homes at Council by the end of March 2022. As of 16 December 2021:
 - 6.4.1. 746 Council homes have planning permission.
 - 6.4.2. 409 of those Council homes are on site under construction
 - 6.4.3. 171 of those homes have been completed and let
 - 6.4.4. Another 102 Council homes will start on site during January
 - 6.4.5. 1,043 Council homes will have started on site by 31 March 2022
- 6.5. Since May 2018, the Council has put in place a housing delivery team shortlisted in the 2021 UK Development Awards for the best development team in the country. The team is supported by officers across the Council whose own capacity and expertise in delivering Council homes has also been developed over the last four years.
- 6.6. The Council has put in place governance structures, systems and software that ensure the programme can be robustly monitored and managed, including in financial terms and that help to identify sites for potential development.
- 6.7. The Council's Standing Orders delegate the Director of Housing, Planning and Regeneration authority to agree contracts up to the value of £500,000. Because building Council homes has been a new activity for the Council, on 9 July 2019 and again on 21 January 2020 Cabinet noted that construction contracts of any value, including those valued at less than £500,000, would be brought to Cabinet for approval.
- 6.8. With 171 new Council homes completed and nearly 500 homes on site, Cabinet can feel assured that the Council has now developed the experience and expertise to deliver Council homes. It is therefore no longer necessary to bring the smallest construction contracts to Cabinet for approval. These will be approved in line with the Council's Standing Orders. Delegated decisions are published on the Council's website and reported to Cabinet, and as with all decisions made by either Cabinet or by officers under delegated authority, receive comments from Council officers with regard to finance, legal, procurement and equalities considerations.
- 6.9. Energy efficiency and sustainability are integral to the design and delivery of this new generation of Council homes. The Council has ambitious targets to ensure sustainability standards. New Council homes use air source heat pumps, solar panels, green roofs, and energy efficient appliances. The Council targets zero-carbon development on-site and apply Passivhaus principles wherever possible. Four of the Council's current schemes will meet zero-carbon: all others will achieve over 50% reduction in carbon over Buildings Regulations with most achieving over 70%. And the Council's new homes will always enhance biodiversity, for example through high-quality landscaping, planting, SuDs, and green roofs.

- 6.10. The Council's housing delivery programme is viable in the long term through a mixture of direct capital grant, prudential borrowing, and income derived from building and selling homes at market price. The position is reviewed during the course of the year to ensure that this continues to be the case: this is especially important at this time when market conditions are making it more challenging to keep scheme costs within affordable levels.
- 6.11. In 2018, the GLA awarded the Council £58.2m of capital grant funding under the Building Council Homes for Londoners (BCHfL) programme,
- 6.12. The BCHfL programme was extended by a year to March 2022 because of the impact of Covid on construction across London. The Council made a successful bid for an additional grant of £62m.

The Mayor of London's Affordable Homes Programme 2021-2026

- 6.13. The GLA have now awarded the Council up to £127,487,000 under the Mayor of London's 2021-2026 Affordable Homes Programme. This is the third largest award in London and will support the delivery of another 647 Council homes delivered for social rent.
- 6.14. Homes funded through the programme must start on site between 1 April 2021 and 31 March 2026. The grant is drawn from indicative allocations at defined stages: 40 per cent at land acquisition, 35 per cent at start on site and the remaining 25 per cent at completion. These payment proportions may be varied on some projects, subject to GLA agreement.
- 6.15. The GLA set out further detailed conditions for the grant on the Affordable Homes for Londoners Programme 2021-2026 page of the GLA website. Key requirements include:
 - 6.15.1. Social Rent homes delivered through the programme must be offered on lifetime tenancies
 - 6.15.2. Funding is not available for units that replace homes that have been, or will be, demolished, except in exceptional circumstances and where homes have become obsolete, and only as part of a scheme that will increase the number of homes overall.
 - 6.15.3. All purpose-built blocks of flats (including conversions) of any height, and all supported and specialist accommodation, must include Automatic Fire Suppression Systems.
 - 6.15.4. No combustible materials may be used in the external walls of all homes and buildings, regardless of their height.
 - 6.15.5. For all homes, the Council must register any in-built electrical products with the manufacturers' registration service and encourage residents to register white goods with manufacturers.
 - 6.15.6. All homes must meet six new sustainability and nine new design standards set out in the London Plan
 - 6.15.7. The Council must endeavour to ensure that consultants, contractors, and sub-contractor employees are paid the London Living Wage

- 6.15.8. The Mayor expects investment partners to have regard to the diversity of London when naming new streets, estates and wider developments funded through this programme.

The use of retained Right to Buy receipts

- 6.16. On 18 November 2014, Cabinet decided that Right to Buy (RTB) receipts retained by the Council should be used to part-fund an acquisition programme of former council owned properties that had been sold under the RTB.
- 6.17. Under this programme, 220 homes have been bought for use as Temporary Accommodation and for homeless prevention, and it is expected that another 50 homes will have been acquired for these purposes during 2021-22.
- 6.18. Since 2019, most of these homes have been leased to the Haringey Community Benefit Society (HCBS) to provide high-quality, secure, and affordable homes to families who are homeless and would otherwise be in Temporary Accommodation. After seven years, the properties leased to the HCBS can be returned to the Council for conversion into permanent Council homes at Council rent, or permission can be sought from the Secretary of State to lease them to the HCBS for another seven years.
- 6.19. In July 2021, new Government guidance set out that from April 2022 councils will be expected to deliver a proportion of homes funded through retained RTB receipts as new-builds. To achieve this, it introduces a cap on the proportion of homes funded through retained RTB receipts permitted to be acquisitions of existing homes. On 7 October 2021, the Council entered into a Retention Agreement with the Ministry of Housing, Communities and Local Government in respect of the RTB receipts within the new terms of that new guidance.
- 6.20. The cap will limit the proportion of homes that can be acquired with retained RTB receipts in phases. In 2022/23, 50% of homes funded through retained RTB receipts are permitted to be acquisitions. This proportion will then reduce to 40% in 2023/24 and to 30% from 2024/25 onwards. The first 20 homes delivered by councils each year will be excluded from this; and certain kinds of acquisition, such as where commercial buildings are acquired for redevelopment, will also be exempt.
- 6.21. Most properties bought by the Council to be leased to the HCBS use RTB receipts to part-fund the acquisition. This ensures the financial viability of this new stock to the HRA. The HCBS has provided the Council with an important and significant new supply of good quality, settled and affordable homes for homeless families in Haringey. It is important to ensure that the Council can continue to acquire properties for the HCBS to help meet that continued demand for housing in-borough. If access to RTB receipts was reduced further, it would mean significantly fewer properties could be acquired for lease to the HCBS, reduced access to good quality housing solutions for homeless families in Haringey, and an increased burden to the General Fund as more families would need to be housed in temporary accommodation at a direct cost to the Council.
- 6.22. Reprofile the Council's RTB spend will prevent the Council from having to pay receipts to central Government, safeguard the crucial acquisitions programme, and provide additional support to the viability of the housing delivery programme.

The variation of contracts specified in Appendix 2

- 6.23. The Department for Business, Energy and Industrial Strategy report that the cost of construction materials increased by 23.6% in September 2021 compared to September last year. Material costs appear set to continue to rise. A range of data also show unprecedented rises in the cost of construction labour.
- 6.24. In most cases, these additional costs can be contained within existing contracts and associated contingency sums agreed by Cabinet. However, a number of schemes have been identified where the level of price volatility remains such that housing delivery contracts may need to be renegotiated or contingency sums may need to be increased. Those schemes and their associated contracts are listed at Appendix 2, which is exempt from publication.
- 6.25. In order to prevent protracted negotiations delaying construction and leading to further costs for the Council – and in some cases longer-term damage to individual projects and the bankruptcy of construction companies – Cabinet is recommended to approve the contingency sums in Appendix 2 and to delegate authority in those specific cases to the Director of Housing, Regeneration and Planning to agree additional spending including through contract variations as necessary but not to exceed the value of the contingency sums. This matter is particularly pressing because the Council has entered an intense phase of housing delivery.
- 6.26. The Council's Standing Orders delegate authority to the Director of Housing, Regeneration and Planning to authorise an extension or variation to a contract provided the value of the extension or variation and the contract value are together less than £500,000. Cabinet is here being asked to extend that delegation to specified contracts where the extension or variation and the contract value are together more than £500,000.
- 6.27. The extension of that delegation is contingent on the Director agreeing any variations for individual schemes within those limits after consultation with the Cabinet Member for House Building, Place-Making and Development, and with advice at a monthly board meeting from other senior officers including the Head of Housing Finance and Chief Accountant, the Assistant Director of Capital Projects and Property, and the Construction Procurement Strategic Partner.
- 6.28. Any variations under this delegation would be reported to Cabinet in line with the Council's existing governance structures. In addition, quarterly update reports will be presented to Cabinet setting out for all schemes completed in the quarter information including the final account.

Removing sites from the housing delivery programme

- 6.29. Whenever Cabinet adds a site to the housing delivery programme, it is approving investigations into that site to see whether it is appropriate for housing development. Where it is appropriate, the Council will develop design proposals through a process of engagement with the local community before submitting those proposals for consideration by the Council's Planning Committee.
- 6.30. In some cases, investigations find that a site is not appropriate for housing development. Cabinet is recommended to remove four such sites from the

programme. Each of these sites has been found to be inappropriate for housing development at this stage:

- 6.31. **Canning Crescent, Woodside** – On 9 October 2018, Cabinet approved the acquisition of the freehold of the Canning Crescent Health Centre, which had been advertised for disposal by Barnet Enfield and Haringey Mental Health NHS Trust. The Council wanted to repurpose the building into a multi-use mental health hub, potentially with a housing element included. As such, in November 2018, Cabinet added the site to the housing delivery programme. It was subsequently determined that the needs of the community would best be served by redeveloping the site in partnership with the NHS as mental health services. On 11 February 2020, Cabinet approved this approach, and the site is now being developed to provide short-stay residential crisis and respite care, a recovery college, a café and an evening and weekends crisis.
- 6.32. **Scouts Hut, Wolves Lane, Woodside** – Cabinet added this site to the Council's housing delivery programme on 9 July 2019. It has subsequently been determined that since the Scouts hold a 999-year lease on the building and do not wish to move, the site is not suitable for housing development.
- 6.33. **Land Adjacent to 200 Moselle Avenue, Noel Park** - Cabinet added this site to the Council's housing delivery programme on 9 July 2019. It has subsequently been determined that the site is not suitable for housing development because part of the site had been sold to an adjacent property as part of the Right to Buy process.

7. Contribution to strategic outcomes

- 7.1. The Council's Borough Plan is very clear that "increasing the supply of council housing is one of the most important things we can do, because for many people a council home offers the only real chance of putting down roots in Haringey, in a stable good-quality home. One of our very highest priorities is to start a new era of council housebuilding in the borough". The decisions recommended in this report will help the Council to meet this objective.

8. Statutory officer comments

Finance

- 8.1. GLA grant for affordable homes is one of the sources of funding for the Council's new build schemes within the HRA.
- 8.2. The new grant allocation of up to £127m is essential for the long-term viability of the HRA and has been built into the current HRA financial plan subject to cabinet approval in February 2022.
- 8.3. The recent Use of RTB Receipt guidance constrains the Council's ability to fully maximise its Retained RTB Receipts on acquisition of existing homes. If these Retained Receipts are not utilised within 5 years of receipt, they will be returned to the government.

- 8.4. The future restriction stipulated in the guidance will also have implication on the CBS programme and this will be taken into account in the HRA Business, and Financial Plans refresh.
- 8.5. The additional cost resulting from the proposed variation of contract will be contained in the New Homes and Acquisition Budget within the HRA capital programme budget.
- 8.6. There is flexibility in the business plan to add sites and remove sites that are unsuitable for development or financially unviable. The HRA financial plan will reflect this change and updated position reported in February 2022 as part HRA budget/MTFS cabinet report.
- 8.7. Additional comments are contained in the exempt report.

Legal

- 8.8. The Council has entered a Retention Agreement with The Secretary of State for Housing, Communities and Local Government pursuant to section to section 11(6) of the Local Government Act 2003. This sets out the terms and conditions on how the RTB receipts can be spent. Any RTB receipts allocated in this report must be spent in accordance with that agreement.
- 8.9. In accordance with Contract Standing Order 17.1 Cabinet has authority to approve receipt of grant funding valued at £500,000 or more.
- 8.10. As part of its general powers Cabinet has authority to approve the removal or addition of properties from the Housing Delivery Programme.
- 8.11. The Head of Legal and Governance (Monitoring Officer) sees no legal reasons preventing Cabinet from approving the recommendations in the report.

Procurement

- 8.12. Procurement notes the content of the report, there. Procurement will work with Housing development to deliver the future programme.

Equalities

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

- 8.14. The three parts of the duty applies 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.
- 8.15. The decisions in this report are designed to put in place appropriate financial arrangements to support the delivery of the next phase of the Housing Delivery Programme. Together, these decisions will help to increase the supply of homes which are genuinely affordable to local residents by delivering new build council-rented homes.
- 8.16. These decisions are likely to have a positive impact on individuals in temporary accommodation as well as those who are vulnerable to homelessness. Data held by the council suggests that women, young people, and BAME communities are over-represented among those living in temporary accommodation. Furthermore, individuals with these protected characteristics, as well as those who identify as LGBT+ and individuals with disabilities are known to be vulnerable to homelessness. As such, it is reasonable to anticipate a positive impact on residents with these protected characteristics.
- 8.17. With regards to accepting the GLA funding, it is noted that the Greater London Authority have undertaken a full Equalities Impact Assessment for the Affordable Homes Programme 2021-2026. The council will continue to evaluate the equalities implications of the Housing Delivery programme on an ongoing basis.

9. Use of appendices

Appendix 1 –Retention of Right to Buy Receipts: Agreement pursuant to section 11(6) of the Local Government Act 2003 dated 7 October 2021

Appendix 2 – EXEMPT FROM PUBLICATION – Schemes where Cabinet is asked to delegate authority for contract variations and extension of contingency

Terms of the Homes for Londoners: Affordable Homes Programme 2021-2026:
<https://www.london.gov.uk/what-we-do/housing-and-land/homes-londoners-affordable-homes-programmes/homes-londoners-affordable-homes-programme-2021-2026>

Reports referenced:

18 November 2014 - Preferred Partner Agreement and Use of Right to Buy Receipts:
[https://www.minutes.haringey.gov.uk/documents/s56094/Preferred Partner and Use of RTB - whole report.pdf](https://www.minutes.haringey.gov.uk/documents/s56094/Preferred%20Partner%20and%20Use%20of%20RTB%20-%20whole%20report.pdf)

9 July 2019 - Update on the Council housing delivery programme:
<http://minutes.harinet.haringey.gov.uk/documents/s110214/Council%20housing%20delivery%20programme%20Cabinet%20report%20v7.2%2018.15.pdf>

21 January 2020 – Report on the Council's Housing Delivery Programme:
<http://minutes.harinet.haringey.gov.uk/documents/s113761/Cabinet%20report%20-%20New%20sites%20for%20housing%20development%20-%20January%20Cabinet%20v2.8.pdf>

10. Local Government (Access to Information) Act 1985

Appendix 2 is not for publication 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).