Committee	Overview & Scrutiny Committee
Date:	17th January 2017
Title:	Interim Report Governance Arrangements for Haringey Development Vehicle
Report authorised by:	Cllr Emine Ibrahim, Chair of Housing & Regeneration Scrutiny Panel
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Ward(s) affected:	ALL

Report for Key/
Non Key Decision: N/A

Recommendation 1
A balance has to be found in any venture involving public bodies such as the council, including not only decisions of the Cabinet but also the scrutiny function, with a responsibility to the public to be thorough and prudent. On the one hand there are opportunities and strengths within the HDV proposal and on the other there are risks and weaknesses. From what the panel has learnt through the work of this review, it is clear that very significant risks with the proposed HDV remain. What the Council, and by extension its tenants and residents, gain from the proposed HDV is far less clear than what it and they stand to lose. That is the picture that has emerged from the evidence that we have seen and heard during this review, and also from the inferences that have had to be drawn from the information that simply wasn't available.

In terms of governance, there are a very significant set of issues, including:
1) A fundamental democratic deficit inherent in any such proposed structure and one of such size and scale;
2) The role of unelected officers joining a board in a voting capacity would supersede the role of elected councillors;
3) A lack of transparency with regard to meeting structures, particularly in relation to rights of attendance at HDV meetings, and whether reports and minutes would be publicly available;
4) The absence of any sufficient contingency plans to mitigate the risks of a scheme of such size and scale;
5) What, if any, role the Secretary of State for Communities & Local Government has, or ought to have, in authorising a scheme of such size and scale.

On the basis that at present there are no governance arrangements that adequately mitigate the risks of this scheme, the panel has no other option than to recommend that the HDV plans are halted and that further scrutiny work should be undertaken.

1. Describe the issue under consideration

1.1 Under its agreed terms of reference, the Housing & Regeneration Scrutiny Panel (HRSP) can assist the Council in developing or updating local policies to improve local service provision. In this context, the HRSP has produced a report on the governance arrangements for the proposed Haringey Development Vehicle (HDV); a joint venture between the Council and the private sector to support local housing and regeneration ambitions.

1.2 In developing this report, the HRSP has held a number of evidence gathering sessions and taken evidence from local stakeholders including council officers and community group representatives. This process also included a range of external contributors such as other local authorities, Investment Partners in other joint ventures and expert independent opinion via the Chartered Institute of Housing.

1.3 On the basis of the evidence received, the panel believe that there are unacceptably high risks associated with the Haringey Development Vehicle (section 6.3) and that governance arrangements cannot be set to adequately protect the Council, its residents or local service users. In this context, the panel cannot at this stage support the establishment of the Haringey Development Vehicle.

1.4 Notwithstanding this finding and in recognition that the procurement dialogue to secure an Investment Partner for the HDV is ongoing, the panel have produced a report with recommendations to guide and inform governance arrangements, should the HDV be authorised in the summer of 2017 as planned. The panel wish to make it very clear however, that this report and the recommendations within it, *should not be* taken as tacit support for the establishment of the Haringey Development Vehicle.

2. Cabinet Member Introduction

2.1 N/A

3. Recommendations

3.1 It is recommended that the Overview & Scrutiny Committee:

- Note this report; and
- Agree the recommendations as set out in section 7;
- Agree that the report and recommendations are considered by Cabinet in February 2017.

4. Alternative options considered

4.1 In view of the HRSPs current objection to the HDV, it could choose not to make any recommendations to support the governance arrangements for the HDV. If it was not to make any recommendations however, it may miss the opportunity to influence ongoing procurement discussions with the preferred bidder.

5. Background Information

Introduction

5.1 In November 2015, Cabinet approved the business case and procurement process for the establishment of a Local Asset Backed Vehicle (LABV), a new private entity to assist the council in its housing and economic regeneration objectives. The LABV would be a joint venture (50/50 partnership) between the Council and an Investment Partner (IP) in which council owned sites would be developed with the assistance of matched equity funding from the IP.

5.2 The Council is currently in a procurement process with three shortlisted IPs[1] under the Official Journal of the European Union (OJEU) Competitive Dialogue process. It is expected that the preferred bidder for the Haringey Development Vehicle (HDV) will be confirmed by Cabinet in February 2017. Final negotiations will then take place with the preferred bidder with the final decision to authorise the HDV being taken by Cabinet in the summer of 2017.

5.3 If approved by Cabinet, the establishment of the HDV will represent a new departure for the Council, and will require the council to develop new governance arrangements to underpin its relationship with this private entity. Such governance arrangements will be critical to ensure that the operation of the HDV is transparent and accountable and operates in the interest of the council and the residents it serves.

5.4 As part of its work programme for 2016/17, the Housing & Regeneration Scrutiny Panel agreed to contribute to this process by conducting a policy development exercise on governance arrangements for the HDV. This report relates the aims and objectives of the panel, the work it has carried out and the conclusions and recommendations it has reached.

Aims and Objectives

5.5 The agreed aims for this policy development exercise was to assess and review models of governance for LABVs and to indentify best practice to guide and inform local arrangements for the HDV.

5.6 Within this overarching aim the panel agreed to focus on the following areas of governance to help frame its investigation:

- The division of decision-making and delivery responsibilities between the HDV Board and the two members (Council and private partner);
- Representation on the HDV Board and arrangements for decision-making in the event of a conflict of interest, deadlock or wind-up of the HDV;
- Process for approving and monitoring business plans and other key decisions;
- Relationship of HDV with existing council bodies, such as scrutiny committee, corporate committee and audit;
- Relationship of HDV with local stakeholders including Councillors and other community representatives.

Methods

5.7 Further to the aims listed above the panel followed two key lines of enquiry:

[1] The shortlisted bidders are (i) Lendlease (ii) Morgan Sindall with Clarion Group (iii) Pinnacle with Starwood Capital and Catalyst

- To establish local policy and practice: what are the key principles and proposed functions of the HDV?
- To identify comparative policy and practice: what governance arrangements are in place for LABVs in other authorities and how can they inform local arrangements?

5.8 The panel held four evidence gathering sessions at which it received evidence from local stakeholders as well as external contributors. In addition, the panel also undertook a site visit to another local authority. A summary of all the contributors to the review process are presented below. Given the commercial sensitivity of data collection with other LABVs, these have not been identified.

Date (format)	Contributors
September 6th 2016 (Evidence gathering)	▪ AD Regeneration (LB Haringey), HDV Project Advisor (LB Haringey), Head of Procurement (LB Haringey), ▪ Principal Lawyer Property, Planning and Regeneration (LB Haringey).
November 6th 2016 (Evidence gathering)	▪ AD Regeneration (LB Haringey), HDV Project Advisor (LB Haringey), Head of Audit & Risk (LB Haringey), ▪ LABV 1 (West Midlands): Director of Development Vehicle
November 21st 2016 (Site visit)	▪ LABV 2 (South East) Cabinet Member Regeneration and Head of Commercial Property and Regeneration
November 22nd 2016 (Evidence gathering)	▪ Our Tottenham ▪ AD Regeneration (LB Haringey).
November 29th 2016 (Evidence gathering)	▪ Chartered Institute of Housing, Managing Director ▪ LABV 3 (NE England): AH of Law & Governance, Chief Operating Officer for Economy and Place, Partnerships Director of Investment Partner.

5.9 In addition to the above contributions, the panel has assessed a range of documentary evidence (e.g. Committee Reports) and other published material (research papers) to assist in its work. The following provides a summary of the key findings of the panel together with its conclusions and recommendations on the basis of the evidence received.

What is a Local Asset Backed Vehicle (LABV)?

5.10 LABVs allow local authorities to use their assets (usually land) to lever in long-term investment from the private sector to support local regeneration ambitions. The purpose of the LABV is to bring together the skills, expertise and resources of both public and private sectors partners within a legally binding framework in which both the risks and returns are balanced between the partners.

5.11 Public and private partners will bring different contributions to the LABV with the local authority generally providing land assets that it wishes to redevelop whilst the private sector may contribute finance and associated expertise. This is summarised below: [2]

[2] City solutions: Delivering Local Growth: Local Asset Backed Vehicles, Centre for Cities 2007

Public Sector contributions	Private Sector contributions
• Land Assets • Project Expertise • Local knowledge and understanding • Local stakeholder engagement and support	• Finance • Project financing and management expertise • Risk management expertise
LOCAL ASSET BACKED VEHICLE	

5.12 Given the individuality of local conditions and the specific regeneration ambitions of public authorities there is no uniform format for LABVs. Indeed, each LABV will be individually constructed to reflect the needs and capacity of local authorities and the scale of the development vehicle required.

5.13 Ultimately however, it is the objective needs of the locality that will determine the nature of the partnership and the LABV created. Research would suggest that there are a number of key drivers underpinning the creating of LABVs[3]:

- To address a human resource shortfall and bring in additional skills, expertise and capacity;
- To facilitate holistic regeneration (typically hew housing, new economic opportunities and community facilities) in urban areas;
- To facilitate development of challenging sites or where there are market imperfections or market failure;
- To bring greater commerciality to management of assets to increase revenue and add value.

5.14 Whilst the primary function of the LABV may be for development or investment purposes (or combination thereof), there a number of common features of both which would generally include:

- The cementing of the partnership through the creation of a singular private company with a common governance structure;
- A 50/50 deadlocked partnership to encourage cooperation between partners and in which both risk and potential gains are equally shared;
- A partnership of medium to long term duration (10-20 years) to reflect wide ranging regeneration goals and the need to overcome cyclical nature of development.

The proposed Haringey Development Vehicle (HDV)

5.15 In November 2015, Cabinet approved the business case for the establishment of a LABV to support the Councils local economic growth, employment and housing ambitions. In that report, it was noted that the development of the councils own land and commercial portfolio would be central to these ambitions, and the creation of a LABV would offer the best approach to ensure that there is the necessary capital, skills and expertise support this. The LABV would have the working title of Haringey Development Vehicle (HDV).

[3] Local Asset Backed Vehicles: A success story or unproven concept? Royal Institute of Chartered Surveyors, 2012

Prospective council owned land to enter the HDV

5.16 There are three categories of council owned land that could potentially be developed through the HDV:

- Category 1 sites are identified as a priority for regeneration and capable of making a significant contribution to the council's growth, employment and housing targets (all of which are included within the initial procurement dialogue);
- Category 2 sites and assets are those that may be transferred to the HDV, and whilst they offer significant potential for redevelopment though no firm view has yet been taken (also within the *scope* of the procurement);
- Category 3 sites include other sites within the HRA or General fund which have yet to be identified and which individually become suitable for development in the future.

Category	Detail of council owned land[4]	
1	Northumberland Park Regeneration Area, Wood Green Civic Centre, Wood Green Library, Wood Green River Park House & Station Road Buildings in council ownership, Cranwood, Commercial Portfolio	
2	<u>HRA</u> ▪ Broadwater Farm N17 ▪ Leabank and Lemsford N15 ▪ Park Grove N11 ▪ Tunnel Gardens N11 ▪ Turner Avenue / Brunel Walk Reynardson Court N17 ▪ Watts Close N15. ▪ Barbara Huckelsbury N22	<u>General Fund</u> ▪ Fred Morfill House N11 ▪ Rear of Muswell Hill Library N10 ▪ Land opp Crematorium Great Cambridge road (EN1) ▪ Commercial property adjacent to Clarendon Square N15 ▪ Ashley Road Depot
3	Other HRA or General Fund land yet to be identified.	

5.17 Further details of potential development sites for the HDV are provided above. The above sites will not enter the HDV upon its inception, but on a phased site by site basis and only once certain conditions have been met. Such conditions would include planning consent being obtained, the completion of a viability assessment and consultation with local stakeholders. Sites would only be transferred once vacant, and all existing housing tenants have been satisfactorily decanted to other housing options.

5.18 The Council also has a large commercial portfolio comprised of 146 individual assets (encompassing office space as well as industrial and retail units) which generate a gross annual income of £5.2 million and has a combined value in the region of £48m million.[5] It is proposed that the commercial portfolio will be transferred to the HDV upon its inception to obtain enhanced use of these assets, support the operation of the HDV and assist in delivery of wider socio-economic benefits.[6]

5.19 In the context of the above, it is likely that there will be an overarching LLP with two or more subsidiary LLPs, separating the management of development activity (identified regeneration projects) from investment activity (the councils commercial portfolio).

4 As detailed in the Haringey Development Vehicle report at Cabinet, November 2015

5 Memorandum of Information & Pre- Qualification Questionnaire, For the appointment of a Strategic Investment & Development Partner to form the Haringey Development Vehicle, LB Haringey, 2016

6 Haringey Development Vehicle, Cabinet Report November 2015 (7.54)

5.20 It is estimated that the potential gross redevelopment value (GDV) of the commercial portfolio and Category 1 sites will be in the region of £2 billion.[7]

Objectives of the proposed HDV

5.21 In redeveloping the council owned land and managing the council's commercial portfolio the HDV will be set a number of explicit objectives:

- To deliver economic growth via new housing, town centre redevelopment and enhanced use of commercial portfolio;
- Ensure the regeneration of sites known to be financially challenging through cross subsidisation with more profitable sites;
- Support estate renewal through intensification of land use and creation of mixed tenure communities;
- Ensure the Council retains a long term stake & control in development of its assets;
- Develop future income streams for the Council which can be used to support other statutory functions of the council;
- Obtain wider social and economic benefits for regeneration areas;
- Incorporate land belonging to other public and private stakeholders into development schemes to improve scope for regeneration.

The proposed structure and governance of the HDV

5.22 The HDV will establish a Limited Liability Partnership[8] with a prospective Investment Partner in which Board Members and voting rights are split 50/50 between both partners. Within this framework, to be set out formally in a Members Agreement, it is proposed that the Council will nominate 3 Board members; two officers (yet to be determined) and one Member (yet to be determined). It is proposed that the Chair of the HDV board would rotate between partners.

5.23 The Members Agreement will also define general governance issues for the HDV (e.g. board meeting frequency and quorum) plus details around the nature of business plans, the schedule of delegated decisions, how deadlock decisions will be resolved and the agreed lifetime of the HDV.

5.24 Business Plans will be central to the operation of the HDV. Individual *Development Business Plans* will be drawn up for each potential regeneration site by the HDV, and these will set out the business case for redevelopment and plans for the site (scale, mix, uses, tenures and timescales). The Development Business Plans, once agreed by respective partners, will trigger the drawn down of sites into the HDV and set out the parameters for development. It is proposed that Development Business Plans can only be amended by Cabinet and are reviewed triennially by that executive body.

5.25 The proposed HDV will also produce a *Corporate Business Plan* which will report on individual site developments, the management of the investment portfolio and progress towards key outcomes (e.g. housing mix, employment, social/economic). The Corporate Business Plan will also provide forecasts for funding, costs and returns to members.

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7 http://www.haringey.gov.uk/news/haringey-announces-shortlist-2-billion-regeneration-programme

8 In a LLP, the partners are not personally liable for debts incurred by the business and their liability is limited to the amount of money they invest in the business. Partners' responsibilities and share of the profits are set out in an LLP agreement.

5.26 Within 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:

The Council as partner	***The HDV***
• Approves Business Plans (including variations/reviews) and authorises new sites • Approves terms of development and management agreements • Makes decisions on reinvestment of dividends • Resolves Board deadlock in collaboration with private sector partner	• Decides how to deliver Business Plans' high level outcomes • Proposes further sites and initiates Business Plans for them

5.27 Where there is a *decision deadlock* between partners within the HDV Board it is proposed that there is an immediate cooling off period to enable partners to reflect. If this cannot be resolved, then the decision is escalated to senior figures in respective partner organisations. It is proposed that expert determination will be available to help resolve the matter if both members agree. Failure to resolve the matter could lead to the wind up of the LLP.

5.28 Given the regeneration and development focus of the HDV, it is proposed that the HDV agreement between partners would span a period of 15-20 years, with an option to extend thereafter.

How will the proposed DV work?

5.29 A fundamental principle of the HDV is that it will be a 50/50 partnership in which the financial and other risks of development of council-owned assets as well as the potential returns are equally shared among both partners. In this context, the Investment Partner will match the value of council owned assets that are drawn down into the HDV, and the HDV will take on those risks associated with financing development and both partners will share any sales or rental benefits that accrue from development (once costs have been netted off).

5.30 The development projects of the HDV can be described in a staged process:

(1) Business Development Plan drawn up by HDV;

(2) Subject to partner approval and certain conditions being met (e.g. planning, viability) council owned land is drawn down in to the HDV and is matched by an equivalent financial contribution from the Investment Partner;

(3) The HDV may borrow additional finance to ensure that schemes identified in the Business Development Plan can be completed (e.g. build costs, CPO);

(4)Once development completed, and any costs repaid (e.g. borrowing) the partners will share receipts from any sales and a share of any future rental returns from new development created.

5.31 The structure of the HDV is depicted in Figure 1 below:

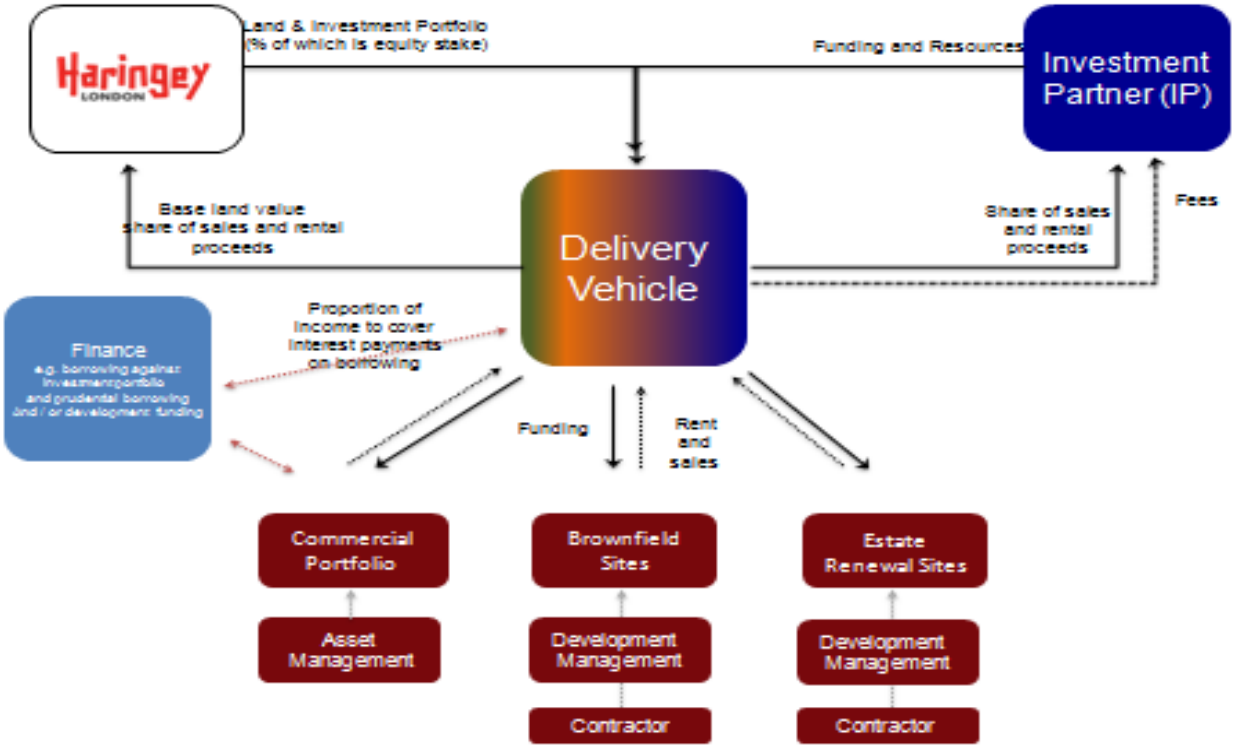

Figure 1

Procurement and authorisation timeline

5.32 A procurement process to secure an Investment Partner for the HDV was launched by the Council in January 2016.[9] Procurement is being undertaken through a competitive dialogue process under the Public Contracts Regulations (2015) for which the timeframe for different stages is outlined below.

January 2016	Launch of procurement prospectus and opening of procurement process
March 2016	Long list of 6 bidders announced • Dialogue meetings April-May 2016 • Outline Solutions received by the council June 2016
July 2016	Shortlist of three bidders announced • Further dialogue meetings August – November 2016
February 2017	Cabinet to announce preferred bidder • Final discussions with preferred bidder January to April 2017
Summer 2017	Cabinet to authorise and establish the HDV

[9] Memorandum of Information & Pre- Qualification Questionnaire, For the appointment of a Strategic Investment & Development Partner to form the Haringey Development Vehicle, LB Haringey, 2016

6. Conclusions of the panel

6.1 During the course of the review, the panel received a wide range of evidence from a number of informants. Throughout the review process, Council officers attended evidence gathering sessions, presented evidence to the panel and responded to panel questions. The panel also benefited from a contribution from the Chartered Institute of Housing, who were able to provide expert independent guidance on this issue. Crucially however, the panel obtained comparative data (albeit limited) on the operation of LABVs in other local authorities.

6.2 Analysis of these contributions alongside published research and other documentary evidence has helped the panel to identify a number of emerging themes from which it has developed a number of conclusions and recommendations. The following provides a summary of this evidence, and the conclusions reached by the panel.

Risks posed by HDV

6.3 Whilst it is recognised that there is an inherent commercial risk in the establishment of a LABV which is operated as a LLP, on the basis of the evidence received, the panel believe that at present there are unacceptably high risks associated with the establishment of the proposed HDV which warrant further investigation and assessment before authorisation. The panel have highlighted the following risks which have led to this assessment:

- 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 Unit (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.

Financial and political uncertainty

6.4 Plans for the establishment of the HDV, including an options appraisal and business case were confirmed by Cabinet in November 2015. Since this time however, the UK has voted to leave the European Union (Brexit) which has given rise to wide ranging political and financial uncertainty.

6.5 In the 2016 Autumn Statement, the annual update to Parliament on the state of the nations finances, it was noted that the EU referendum result in June 2016 had given rise to political and economic uncertainty which would negatively impact on business investment and household spending. It is estimated that the cumulative impact on of such uncertainty could reduce the national annualised growth rate by as much as 2.4%.[10]

6.6 The financial uncertainty arising from Brexit was further underscored by the Treasury Management Update provided at the Council's Corporate Committee in November 2016. This report stated that a reduction in economic activity is likely, accompanied by

[10] The Autumn Statement 2016, HM Treasury CM9362; (S1.19)

tightening of credit availability and increased levels of unemployment.[11] The same report also highlighted that inflation may also rise as a result of Brexit, as the subsequent depreciation of sterling post referendum will contribute to higher prices for goods and services imported to the UK.

6.7 The panel also noted the political uncertainty which has arisen as a result of Brexit. A new cabinet in Westminster was formed soon after the referendum and is now repositioning itself on key areas of public policy. This has already been seen to affect housing policy, where changes to the recently enacted Housing and Planning Act (2016) have been confirmed.[12] With negotiations to leave the EU yet to start and a lack of clarity as to what position the government may take, the prospect of a future general election and ongoing political uncertainty remains.

6.8 Given these substantive political and financial changes which have occurred since the decision was taken to enter into procurement for an IP for the HDV, the panel suggest that the business case and options appraisal reports which underpinned this decision should be revisited.

Effectiveness of the LABV regeneration model

6.9 Throughout the course of this review, the panel have noted how difficult it has been to obtain information about LABVs, the governance arrangements that support their operation and their effectiveness as a joint public/private investment approach to regeneration. It is suggested that the paucity of information available is in part due to three factors:

- That relatively few LABVs have been authorised, with just 20 such development vehicles to have been authorised between 2002 and 2013.[13]
- As LABVs are a private entity, the publication and subsequent access to information is more restricted than a public body;
- LABVs are by their nature long term complex development schemes for which performance and impact assessments are difficult to measure or simply not available as yet.

6.10 In reviewing the literature in this field, the panel have obtained just two evaluative studies of multiple LABVs[14],[15] and one evaluative study of a singular LABV.[16] Whilst such data is both useful and informative, the panel is of the view that the scale of such evaluative evidence does not constitute a sound evidence base through which to pursue LABVs.

[11] Haringey Council Corporate Committee, Mid Year Report - Treasury Management Update, November 29th 2016

[12] Social housing: 'pay to stay' at market rents, House of Commons Briefing Paper No.06804 22nd November 2016

[13] Greenhalgh, Paul and Purewal, Bikki (2015) Challenging the Myths: an investigation of the barriers to wider use of Local Asset Backed Vehicles in the UK. Journal of Urban Regeneration and Renewal, 8 (3). pp. 260-278.

[14] Greenhalgh, Paul and Purewal, Bikki (2015) Challenging the Myths: an investigation of the barriers to wider use of Local Asset Backed Vehicles in the UK. Journal of Urban Regeneration and Renewal, 8 (3). pp. 260-278.

[15] Local asset backed vehicles: a success story or unproved concept? Royal Institute of Chartered Surveyors, March 2012

[16] Southwark & Croydon: setting up a public private partnerships Urbed with Igloo, Southwark Council and Croydon Council, 2010

6.11 Furthermore, both studies described above are equivocal as to the overall impact of LABVs with both citing examples areas of success and areas where there remain significant challenges. But most importantly, both evaluative studies have concluded that assessments as to the merits or otherwise of the LABV model are hindered by the lack of objective performance evaluations and the evidence of the value they have created[17,18]

6.12 It would appear that the lack of evidence about the performance of LABVs is compounded by the lack of clear central government guidance or support for this approach to regeneration. One of the evaluative studies has highlighted that the absence of such national guidance and the failure to address the uncertainties that surround the LABV model will inhibit further take up of this approach to regeneration.[19]

6.13 More generally, there is also growing concern at the national level as to the degree of oversight that the Department of Communities and Local Government (DCLG) has over the increasing commercial activity within the local government sector. A recent parliamentary investigation by the House of Common Public Accounts Committee in to the financial sustainability of local authorities concluded that whilst there was growing commercial activity by local authorities to act as property developers, the DCLG:

> *'.... does not have good enough information to understand the scale and nature of authorities' commercial activities or which authorities are placing themselves at greatest risk and it does not use the information it does have to give it a cumulative picture of risks and pressures across the sector.'*[20]

6.14 Whilst there are evidently a number of LABVs in operation which appear to be running successfully (e.g. Bournemouth Development Company), the panel have also noted that there have been a number of high profile reverses for this model of regeneration:
(1) Tunbridge Wells dissolved the LABV that was entered into with John Laing 2008 to regenerate 4 Kent towns. No business plans or development were completed through the LABV, with the council citing the economic downturn as the main factor in this failure.[21]
(2) Whilst the CCURV (Croydon Council and John Laing) has had some regeneration success, problems have arisen in the development of key town centre sites. Whilst the CCURV has not been dissolved it is not in operation and it would appear that Croydon Council are now developing through its own development company with different commercial partners on a site by site basis.[22]

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[17] Greenhalgh, Paul and Purewal, Bikki (2015) Challenging the Myths: an investigation of the barriers to wider use of Local Asset Backed Vehicles in the UK. Journal of Urban Regeneration and Renewal, 8
[18] Local asset backed vehicles: a success story or unproved concept? Royal Institute of Chartered Surveyors, March 2012
[19] Greenhalgh, Paul and Purewal, Bikki (2015) Challenging the Myths: an investigation of the barriers to wider use of Local Asset Backed Vehicles in the UK. Journal of Urban Regeneration and Renewal, 8 (3). pp. 260-278.
[20] Financial sustainability of local authorities' House of Commons Committee of Public Accounts, Twenty-sixth Report of Session 2016–17
[21] http://www.tunbridgewells.gov.uk/business/enterprise-and-regeneration/regeneration/tunbridge-wells-regeneration-company
[22] http://www.partnershipsbulletin.com/news/view/90477

Opacity of information

6.15 In an evidence based approach, the analysis of the strengths and weaknesses of comparative LABV models in use at other authorities should guide and inform the development of the HDV here in Haringey. In the experience of the panel however, it has at times proved difficult to obtain such comparative data. Particular problems that have arisen in respect of:

- Difficulties in identifying and obtaining appropriate committee reports and other published documentation;
- Technical and complex nature of documentation;
- Information being exempt from publication or problematic in sharing (commercial sensitivity).

6.16 The opacity of such data has therefore made it difficult for the panel to extract comparative data for the purposes of this review. More generally the difficulty in accessing such information represents a democratic deficit in which Councils and others that may be considering an LABV are unable to fully draw upon the experience and outcomes of others which will inhibit informed evidence-based decision making. This is particularly important given that this is a relatively new approach to financing development and regeneration in local government.

Scale of proposed HDV

6.17 The panel understood that the estimated Gross Development Value (GDV) of the commercial portfolio and Category 1 sites within the HDV would be approximately £2 billion. From evidence gathered by the panel, the scale of the regeneration proposed through the HDV far exceeds that of any other LABV authorised to date. In a study undertaken by Northumbria University which looked LABVs authorised from 2002-2013; 14 had a GDV of less than £500m; three had a GDV in excess of £500; the largest being a GDV of £1 billion (Slough Regeneration Vehicle).[23] A similar study undertaken by the Royal Institute of Chartered Surveyors (RICS) also revealed similar findings, where it was noted that no LABV with a GDV of greater than £500 million had been authorised up until 2011.[24]

6.18 Furthermore, the panel were unable to locate a LABV which had adopted the same all-encompassing approach as the proposed within the HDV, in which council-owned (HRA) sites for estate regeneration were also included alongside town centre regeneration sites and the management of the Council's commercial portfolio. Given the size and scope of the proposed HDV and the lack of comparable data, the panel were of the view that this presented a substantive risk to the council.

Private sector relationship

6.19 The panel recognise that the formation of the HDV will bring together a diverse range of highly skilled public and private partners, who may have different objectives and bring competing cultures to the newly formed entity. The panel were concerned that a lack of understanding of one another's priorities and ethos could endanger the partnership relationship that underpins the HDV.

[23] Greenhalgh, Paul and Purewal, Bikki (2015) Challenging the Myths: an investigation of the barriers to wider use of Local Asset Backed Vehicles in the UK. Journal of Urban Regeneration and Renewal, 8 (3). pp. 260-278.

[24] Local asset backed vehicles: a success story or unproved concept? Royal Institute of Chartered Surveyors, March 2012

6.20 Further still, the panel were concerned that the relationship between the Council and the prospective Investment Partner would not be partnership of equals. For although this HDV would be a 50/50 deadlocked decision making entity, it was likely that the IP would be a large multi-national company and would be able to draw on a much wider range of economic, business and legal support which could potentially disadvantage the Council.

6.21To some degree, this perception was confirmed on a site visit to a local authority in south east England, where the panel held discussions with the lead officer and Cabinet member on the effectiveness of the LABV in operation there. From the evidence presented, it was apparent that the IP there did not consider the Council as informed as itself on business-related matters and in this sense not 'an equal partner.' In this context, the panel felt that this perceived view of the public sector could undermine the development vehicle relationship and present a significant risk to the council.

Paucity of consultation

6.22 The panel noted the importance of engaging and involving key stakeholders in the regeneration of council owed sites as critical to the success of the HDV. It was therefore of concern to the panel to note that there has been little consultation undertaken by the council to date with two key stakeholders in this process: tenants within the commercial portfolio of the council and tenants on those estates being put forward for regeneration within the HDV.

6.23 Whilst it was noted that the tenants within the commercial portfolio had been notified of the prospective change of landlord, this was not a formal consultation as there is no statutory obligation to do so with business tenants. Given that the commercial portfolio will transfer to the HDV upon its inception however, it was the view of the panel that some form of consultation should be undertaken with tenants ahead of any decision to authorise the HDV.

6.24 Evidence presented by Our Tottenham to the panel highlighted that the only public consultation on the concept of the HDV had been through the consultation on the wider Housing Strategy which concluded earlier this year (2016). It was suggested that whilst the principle of the proposed HDV was consulted upon, the nature and scope of the development vehicle had not. The panel noted therefore that residents within those estates identified for regeneration through the HDV were left confused as to when estates would be transferred, decanting arrangements and with whom their tenancy agreement would be with.

6.25 Whilst the panel understands that formal statutory consultation will be undertaken by the HDV and the council prior to any estates being drawn down into the HDV itself, it feels that additional consultation is necessary ahead of authorisation. Such consultation with local residents is important as the regeneration of estates may, in the opinion of the panel, lead to the break-up of well established communities.

Authorisation of the proposed HDV

6.26 Given the substantial financial and other risks that the proposed HDV represents to the Council, local taxpayer, council tenants and local businesses (as outlined above), the HRSP cannot support the authorisation of the HDV is it stands.

6.27 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 suggested that further scrutiny would allow for further member engagement and to address the potential risks identified above.

> ***Recommendation 1a***
> That further scrutiny of the proposals for the establishment of the proposed HDV is undertaken between January and summer 2017. And that:
> **(a)** The HRSP should agree the terms of reference for this work with OSC
> **(b)** Should as a minimum encompass the potential risks identified with the HDV and plans to mitigate these.

6.28 In evidence gathered among other case study local authorities, it was noted in some instances the decision to authorise the LABV was taken by Cabinet and in others, by Full Council. It clearly for the Council to decide what is included within the budget and policy framework and therefore what decisions are taken by Council and those by its Executive (Cabinet).

6.29 Given the scale and nature of the proposed HDV, the volume of land and assets to be transferred and the far reaching impact that proposals may have for local residents, tenants and businesses, it is recommended that the decision to authorise the HDV is undertaken by Council. In taking this decision, Council should receive an updated assessment of the Business Case, a risk assessment and consultation with groups directly affected by the transfer of Council-owned land to the HDV.

> ***Recommendation 2***
> Given the scale and nature of the decision to authorise the proposed, final authorisation should be reserved to Full Council and not Cabinet. Prior to such authorisation the panel also recommend that:
> **a)** That Council take note of any recommendations arising from scrutiny from Recommendation 1.
> **b)** A new and updated risk assessment on the Business Case for the proposed HDV is undertaken and that the terms of this risk assessment and due diligence are made public;
> **c)** A full consultation is undertaken among those tenants and leaseholders in estates which have been indentified for renewal through the HDV and tenants within Councils Commercial Portfolio which will transfer to the HDV upon authorisation.

Governance arrangements for the proposed HDV

6.30 Notwithstanding the concerns raised above, the panel have developed a number of conclusions and recommendations to inform the governance arrangements for the HDV. It is intended that these recommendations, if approved, will guide and inform discussions with the preferred bidder, to be announced in February 2017.

Representation of the Council on the HDV Board and managing conflicts of interest

6.31 The panel noted that the proposed numerical representation on the HDV Board (three positions) broadly conforms to practice elsewhere. There was however variations as to how such representation were comprised:

- LABV 1 (South East): council representation on the LABV board was made up of 2 Councillors and 1 officer;
- LABV 3 (North East); council representation was two Members and two officers.

6.32 In selecting representatives, it will be imperative that the Council nominates those with appropriate skills, expertise and understanding to contribute to the operation of the HDV and ensure that the interests of Council are maintained. This approach is underscored in key government guidance.[25]

Recommendation 3
Given the proposed scale of the proposed HDV and impact of decisions taken by the HDV Board, it is recommended that the Council nominate three of the four following representatives to for the HDV Board: Leader of the Council, the Cabinet member for Housing, Regeneration and Planning, Head of Paid Service or Section 151 Officer. Other officer's participation should be solely advisory and ultimate responsibility for decisions must remain with the Leader, Cabinet Member and Head of Paid Service.

6.33 Representatives of the council (and the Investment Partner) on the HDV Board have a primary legal duty to serve the interests of the development vehicle, which may potentially present a conflict of interest as they seek to balance this responsibility with the requirements of partners. Board representatives must also not favour the interests of one party over another. The duties required by Board representatives in respect of members and the interests of the HDV is summarised in national guidance below:

> *'The primary obligation and legal duty of care of directors of a Joint Vehicle (JV) constituted as a company is to the JV itself.... They have an obligation to exercise independent judgement and act in good faith so as to promote the success of the JV.... .*
>
> *As the JV is owned by its participants, promoting its success should be assessed by reference to the participants and their long term interests, but directors are also required to take into account of ....the interests of a number of other stakeholders, such as the JV's employees, suppliers, customers, and wider interests such as the environment.*
>
> *Further, the directors are not permitted to favour the interests of one participant over another and must act fairly as between the members of the JV.'*[26]

6.34 Nonetheless, there may be instances where potential conflicts of interest may arise, particularly where representatives are an employee of the nominating member (the Council or Investment Partner). National guidance suggests that such employees should undertake training to help identify and prevent conflicts of interest from occurring.[27] In the interests of transparency, the panel also believe that additional guidance should be developed for council representatives on the HDV board.

[25] Joint Ventures: a guidance note for public sector bodies forming joint ventures with the private sector. HM Treasury, 2010
[26] Joint Ventures: a guidance note for public sector bodies forming joint ventures with the private sector. HM Treasury, 2010 (10.10)
[27] Joint Ventures: a guidance note for public sector bodies forming joint ventures with the private sector. HM Treasury, 2010 (10.7)

Recommendation 4
To help assist in managing any conflicts of interest (COI) that may arise, it is recommended that:
(a) An officer protocol is developed which sets out the expectations of those officers in representing the council on the HDV Board, potential areas where conflict of interest may arise and how these may be resolved or avoided.
(b) Officer and member representatives on the HDV board should undergo regular training and update to ensure that they can appropriately identify when COI may be resolved or avoided.

Business Plans

6.35 Evidence gathering by the panel confirmed the centrality of Business Plans to the operation and accountability of the HDV. As noted earlier, there are two types of Business Plan; the Corporate Business Plan which provide the overarching aims and objectives of the HDV and Development Business Plans which provide details of individual developments undertaken by the HDV.

6.36 From evidence gathering with other local authorities, the panel learnt that Business Plans would be critical documents as they drive and control the operation of the development vehicle. In this context, the panel understood that the Development Business Plans which would be developed by the Boards and should contain key information for approval by respective partners, including:

- The nature and scope of the planned development;
- The full business case that supports the development;
- Anticipated gains and outcomes of the development;
- A full risk assessment of the development proposals;
- Details of all necessary planning consents;
- Detail all the key decisions to be taken within the development.

6.37 Given the provisional arrangement that Development Business Plans are generally agreed for a three year period and their agreement by partners actually triggers the drawdown of council owned assets, it is important that these are effectively scrutinised before final authorisation. Evidence presented to the panel suggested that Development Business Plans of LABVs are routinely subject to pre-decision scrutiny in other authorities. This provided an opportunity to reflect on the ambitions and outcomes of each development project and to ensure that appropriate risk assessments and safeguards are put in place to protect the interests of the council.

6.38 It is noted within the provisional proposals for the HDV; Development Business Plans are agreed for a three year period before being reviewed by Cabinet. The Panel were of the view that in addition to pre-decision scrutiny, these plans should be subject to additional monitoring and evaluation at appropriate junctures determined by the Overview & Scrutiny Committee.

6.39 The HDVs Corporate Business Plan, in providing the overarching strategy for the development vehicle, should be regularly reviewed and updated. This should be undertaken with the involvement of partners and reflect changes in business conditions, trading plans, budget and financing issues and identified risks. The Corporate Business Plan should also provide progress reports on the actual and prospective development of regeneration sites. Evidence from the operation of LABVs

elsewhere would suggest that Corporate Business Plans are also subject to regular scrutiny to assist with the monitoring and review process.

Recommendation 5
(a) It is recommended that the Corporate Business Plan is presented to Overview & Scrutiny on an annual basis and through which the overall performance and impact of the HDV can be monitored, reviewed and assessed.
(b) It is recommended that individual Development Business Plans for prospective site developments should:
(i) Contain the full business case, risk analysis, key decisions and housing tenures and mix for the development.
ii) Be scrutinised by Overview & Scrutiny Committee before agreement and finalisation by Cabinet.
(iii) Be reviewed by Overview & Scrutiny Committee at a date and frequency determined by that Committee to assist in monitoring and evaluation.

Managing the performance of the HDV

6.40 In talking to members and officers managing other LABVs, the panel understood that the establishment of clear, robust and challenging Key Performance Indicators (KPI), would be critical to assess the ongoing performance of the HDV not only in terms of growing its investment (commercial portfolio) but in making sure it achieves its stated development outcomes.

6.41 In this context, the panel noted that the experience of one particular LABV where it was felt that KPIs should be challenging but also flexible so that these can be adapted to respond to changing market conditions (e.g. rising market).

Recommendation 6
It is recommended that the council develop a clear and robust set of Key Performance Indicators (KPI) for the HDV. These should include:
(i) Challenging targets for both revenue and capital growth from the management of the Council's commercial property portfolio;
(ii) Ambitious outcome regeneration outcome targets to help improve the health, wellbeing, safety and life chances of those within regeneration areas (and beyond).

Decision making

6.42 Whilst the panel acknowledges that the establishment of the HDV is a commercial entity and accordingly is afforded some financial and business freedoms to enable it operate to best effect, there must be clear lines of accountability for decision making. To ensure the accountability of the HDV and that at key business junctures the interests of the council are maintained, certain issues should require the approval of the Council.

6.43 National guidance would suggest that the following issues should be matters reserved to members within the partnership (and which broadly conform to the decision making schedule proposed within the HDV in 5.26): [28]

- Approval of business plans, budgets, material contracts and any material deviation by the JV from those documents;

[28] Joint Ventures: a guidance note for public sector bodies forming joint ventures with the private sector (HM Treasury, 2010)

- Changes in the distribution policy;
- Introduction of new funding, whether in the form of equity or debt;
- Introduction of a new participant;
- Veto rights regarding the appointment of key personnel;
- Changes to the underlying constitutional documents; and
- Termination or sale of a material part of the business or assets of the vehicle.

Managing operational risk of the HDV

6.44 In the course of its investigation the panel have identified a number of risks ahead of the authorisation of the prospective HDV (6.2-6.25). Subsequent to this, the panel have also identified number of operational risks for the HDV for which internal systems and controls will need to be developed. These fall in to two key categories and illustrated below:

Commercial risks	**Delivery risks**
Downturn in the housing market	Procurement
Cost inflation	Political consensus
Obtaining planning consents	Reputational
Availability of finance	

6.45 The panel received evidence from the Head of Audit and Risk (A & R) to further understand how operational risks posed by the HDV would be managed within the Council. The panel understood that the purpose of A & R was to help services to identify where risks are in the business and to ensure that there are robust systems and controls in place to prevent or mitigate them.

6.46 The panel noted that the HDV had been identified as an area of risk for the Council and A & R would be developing a work programme to support the risk management process within the housing and regeneration function in the council (where HDV relationship management will be centred). This would be undertaken in a structured way in which A & R will test the effectiveness of systems and controls put in place to manage risks. The panel noted that any reports compiled by A & R would be public and published at Corporate Committee.

6.47 Given the scale, nature of activities and potential risks posed by the HDV, the panel were concerned as to the level of resource and support that would be available to A & R to provide risk assurance for this joint development vehicle. In particular the panel wanted further clarification and reassurance that A & R would have:

- Access to information within the HDV to support its risk assessment process;
- Access to specialist advice and support in providing risk assurance on such a complex entity as the HDV.

6.48 From the evidence gathered by the panel, it is understood that the decision to appoint an auditor for the HDV will be taken by the HDV Board. Whilst accepting that the HDV must be granted some commercial freedoms, the panel were of the view that the appointment of the auditor for the HDV should be reserved to partners.

Recommendation 7
To support the management of the operational risk of the HDV it is recommended that:
(a) Expert independent advice continues to be obtained to ensure that the HDV operates in the interest of the Council, residents and service users;

(b) The appointment of the HDV auditors should be a reserved decision and taken with the approval of both partners (the Council and Investment Partner);
(c) To help identify risks, ensure the effectiveness of controls and providing reassurance to the Council and its members it is recommended that the Council's Audit & Risk function has unfettered access to information on the operation of the HDV;
(d) Given the proposed scale of the proposed HDV, it is recommended that the Council ensure that there is sufficient resource within the Audit & Risk function to provide the necessary assurance and where necessary, expert input should be commissioned to support the A & R function in relation to the HDV.

Relationship management function

6.49 Within its evidence gathering the panel understood that the client management function within the council, that is how its bodies and structures interface with the HDV, would be of critical importance to the governance of the HDV, particularly in relation to the monitoring business plans, budgets and other financial monitoring.

6.50 The time required by officers to manage client function of the HDV for the Council should also not be underestimated. Evidence obtained from the panels visit to another local authority revealed that the time taken to manage the interests of the LABV and took up more than 1 day of officer time per week. Considering that the value of this LABV was just £4 million, it is fair to assume that officer time that will be required to support the client management function for the HDV which has a GFV 500 times greater (£2 billion) will be substantially greater. The panel were of the view that this should be acknowledged in client management resource for the HDV.

6.51 In addition, national guidance suggests that there should be a dedicated officer, who is not part of the HDV board, to lead client management activities within the council:

> *'The public sector body will need to consider how best to monitor the ongoing activities of the Joint Vehicle. In all cases designated individuals within the public sector body should be responsible for the review of business plans, budgets and financial information regarding the ongoing activities of the JV. These individuals should not be directly involved with the day to day operations of the JV or act as directors of the JV. In addition mechanisms should be put in place so that matters requiring its approval as a participant can be dealt with expeditiously.'*[29]

6.52 It is suggested that that the establishment of a dedicated officer to manage liaison function between the Council and the HDV, whose role is delineated from other officers who may represent the council on the HDV board, will bring greater accountability and clarity.

Recommendation 8
To support the client management function:
(a) It is recommended that there should be a dedicated accountable officer (who is not a representative on the HDV Board) at the Council to manage the interface between the Council and the HDV and provide liaison support between officers and bodies of respective partners.

[29] Joint Ventures: a guidance note for public sector bodies forming joint ventures with the private sector (HM Treasury, 2010)

(b) That sufficient resource is made available to support both the proposed dedicated accountable officer and other officers representing the council on the HDV board (including how this is reflected in the job description and role makeup of officers).

Governance arrangements for Subsidiary Limited Liability Partnerships

6.53 The panel note that it is likely that there will be a number of subsidiary LLPs to separately manage the development and investment activities of the HDV. Evidence obtained from LABV 3 in North East England would suggest that the memberships and other governance structures created for the overarching LLP and subsidiaries can be similar, as this helps to streamline support (e.g. meetings can run sequentially with the same members).

6.54 The panel were of the view that subsidiary LLP should be constituted as the overarching LLP and that the same governance arrangements should apply.

Recommendation 9
It is recommended that the subsidiary Limited Liability Partnerships which are created by the HDV are subject to the same governance structures as the HDV itself. The membership of these LLP boards should include the same balance and the same right of access to information. The subsidiary LLPs cannot be a method of circumventing agreed governance and decision making arrangements.

How will the HDV relate local to Councillors and other community stakeholders?

6.55 Although the HDV will be owned party by the Council, it will still be a private entity and in this context it is not clear what process will be established for handling members' enquiries once it's established. The panel recommend that a member enquiry process comparable to that established for Homes for Haringey will be agreed with the HDV to ensure that member enquiries are handled in comparable manner.

Recommendation 10
The panel recommend that a member enquiry process is established for the HDV. The operational standards for this process should be comparable to for example, the arms length organisations in which the Council has an interest.

6.56 The degree to which local councillors and other community stakeholders are engaged and involved in regenerations plans will be critical to the success of the HDV. The panel note that community consultation will be undertaken alongside the Development Business Plan process. To ensure that this is undertaken in a systematic and robust manner the panel recommend that a consultation reference group is established for each development project. This consultation reference group should include local councillors as well as other local community and business representatives to help steer and facilitate local engagement and involvement in regeneration plans.

Recommendation 11
To promote community engagement and involvement within the HDV its is recommended that the HDV sets up a community consultative group to engage and involve local stakeholders in those areas covered by regeneration plans. This should include councillors appointed by the council as well as representatives from local community groups, residents, local business and other interested local stakeholder.

HDV Relationship with the Local Planning Authority

6.57 From the experience of other authorities, it was apparent that there should be clear lines of separation between the LABV, the Local Authority and the Local Planning Authority. For although and LABV may be partly owned by a Local Authority, in terms of any planning application and development process, it should not receive any preferential treatment in the planning process, but like any other applicant. It was important that this is maintained in both practice and in the perception

6.58 It was evident that other local authorities had sought to remove any such ambiguities or perceptions about the potential perceived conflicts that the LABV may have with the Local Planning Authority, where membership of the HDV Board has restricted involvement in the Local Planning Committee.

6.59 In the local context, the panel were concerned that the Cabinet Member for Housing, Regeneration and Planning was 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 in the Council. The panel recommend that it may be helpful to realign cabinet responsibilities in respect of oversight of these potentially conflicting responsibilities.

Recommendation 12
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.

HDV Relationship with the Housing Revenue Account

6.60 Whilst the panel understood that housing operated by Homes for Haringey could be drawn down into the HDV for the purposes of estate renewal, it was unclear as to how this would impact on the long term sustainability of the Housing Revenue Account (HRA). Whilst there may be some reduction in costs for debt servicing and building maintenance, income to the HRA would be reduced as would potential borrowing against this asset. The panel were of the view that further clarification would be helpful from the Council (who manage the HRA) on the future viability of the HRA once land transfers to the HDV.

Recommendation 13
That the Council should provide further clarification and reassurance as to the future position and viability of the HRA once HRA owned land is drawn down in to the HDV.

HDV Relationship with the Homes for Haringey

6.61 The relationship that the HDV has with Homes for Haringey will be important to ensure that any estate renewal programme is successful. If the HDV is to have an estate regeneration role as planned, it is then clear that there should be an alignment of the business plans of both the HDV and Homes for Haringey. Such an alignment will ensure that the identification and draw down of estate regeneration sites is undertaken in a strategic and structured manner.

Recommendation 14
Given that the HDV will be delivering the regeneration of local estates managed by the ALMO it is recommended that there should be an alignment of the business plans of

the two organisations to ensure that there is strategic and structured process through which sites best suited for regeneration are transferred to the HDV.

7. Recommendations of the panel

7.1 A summary of all the recommendations made within the report are collated here for ease of reference.

Recommendation 1
A balance has to be found in any venture involving public bodies such as the council, including not only decisions of the Cabinet but also the scrutiny function, with a responsibility to the public to be thorough and prudent. On the one hand there are opportunities and strengths within the HDV proposal and on the other there are risks and weaknesses. From what the panel has learnt through the work of this review, it is clear that very significant risks with the proposed HDV remain. What the Council, and by extension its tenants and residents, gain from the proposed HDV is far less clear than what it and they stand to lose. That is the picture that has emerged from the evidence that we have seen and heard during this review, and also from the inferences that have had to be drawn from the information that simply wasn't available.

In terms of governance, there are a very significant set of issues, including:
1) A fundamental democratic deficit inherent in any such proposed structure and one of such size and scale;
2) The role of unelected officers joining a board in a voting capacity would supersede the role of elected councillors;
3) A lack of transparency with regard to meeting structures, particularly in relation to rights of attendance at HDV meetings, and whether reports and minutes would be publicly available;
4) The absence of any sufficient contingency plans to mitigate the risks of a scheme of such size and scale;
5) What, if any, role the Secretary of State for Communities & Local Government has, or ought to have, in authorising a scheme of such size and scale.

On the basis that at present there are no governance arrangements that adequately mitigate the risks of this scheme, the panel has no other option than to **recommend** that the HDV plans are **halted** and that further scrutiny work should be undertaken.

Recommendation 1a
That further scrutiny of the proposals for the establishment of the proposed HDV is undertaken between January and summer 2017. And that:
(a) The HRSP should agree the terms of reference for this work with OSC
(b) Should as a minimum encompass the potential risks identified with the HDV and plans to mitigate these.

Recommendation 2
Given the scale and nature of the decision to authorise the proposed, final authorisation should be reserved to Full Council and not Cabinet. Prior to such authorisation the panel also recommend that:
a) That Council take note of any recommendations arising from scrutiny from Recommendation 1.

b) A new and updated risk assessment on the Business Case for the proposed HDV is undertaken and that the terms of this risk assessment and due diligence are made public;
c) A full consultation is undertaken among those tenants and leaseholders in estates which have been indentified for renewal through the HDV and tenants within Councils Commercial Portfolio which will transfer to the HDV upon authorisation.

Recommendation 3
Given the proposed scale of the proposed HDV and impact of decisions taken by the HDV Board, it is recommended that the Council nominate three of the four following representatives to for the HDV Board: Leader of the Council, the Cabinet member for Housing and Regeneration, Head of Paid Service or Section 151 Officer. Other officer's participation should be solely advisory and ultimate responsibility for decisions must remain with the Leader, Cabinet Member and Head of Paid Service.

Recommendation 4
To help assist in managing any conflicts of interest (COI) that may arise, it is recommended that:
(a) An officer protocol is developed which sets out the expectations of those officers in representing the council on the HDV Board, potential areas where conflict of interest may arise and how these may be resolved or avoided.
(b) Officer and member representatives on the HDV board should undergo regular training and update to ensure that they can appropriately identify when COI may be resolved or avoided.

Recommendation 5
(a) It is recommended that the Corporate Business Plan is presented to Overview & Scrutiny on an annual basis and through which the overall performance and impact of the HDV can be monitored, reviewed and assessed.
(b) It is recommended that individual Business Development Plans for prospective site developments should:
(i) Contain the full business case, risk analysis, key decisions and housing tenures and mix for the development.
ii) Be scrutinised by Overview & Scrutiny Committee before agreement and finalisation by Cabinet.
(iii) Be reviewed by Overview & Scrutiny Committee at a date and frequency determined by that Committee to assist in monitoring and evaluation.

Recommendation 6
It is recommended that the council develop a clear and robust set of Key Performance Indicators (KPI) for the HDV. These should include:
(i) Challenging targets for both revenue and capital growth from the management of the Council's commercial property portfolio;
(ii) Ambitious outcome regeneration outcome targets to help improve the health, wellbeing, safety and life chances of those within regeneration areas (and beyond).

Recommendation 7
To support the management of the operational risk of the HDV it is recommended that:
(a) Expert independent advice continues to be obtained to ensure that the HDV operates in the interest of the Council, residents and service users;

(b) The appointment of the HDV auditors should be a reserved decision and taken with the approval of both partners (the Council and Investment Partner);
(c) To help identify risks, ensure the effectiveness of controls and providing reassurance to the Council and its members it is recommended that the Council's Audit & Risk function has unfettered access to information on the operation of the HDV;
(d) Given the proposed scale of the proposed HDV, it is recommended that the Council ensure that there is sufficient resource within the Audit & Risk function to provide the necessary assurance and where necessary, expert input should be commissioned to support the A & R function in relation to the HDV.

Recommendation 8
To support the client management function:
(a) It is recommended that there should be a dedicated accountable officer (who is not a representative on the HDV Board) at the Council to manage the interface between the Council and the HDV and provide liaison support between officers and bodies of respective partners.
(b) That sufficient resource is made available to support both the proposed dedicated accountable officer and other officers representing the council on the HDV board (including how this is reflected in the job description and role makeup of officers).

Recommendation 9
It is recommended that the subsidiary Limited Liability Partnerships which are created by the HDV are subject to the same governance structures as the HDV itself. The membership of these LLP boards should include the same balance and the same right of access to information. The subsidiary LLPs cannot be a method of circumventing agreed governance and decision making arrangements.

Recommendation 10
The panel recommend that a member enquiry process is established for the HDV. The operational standards for this process should be comparable to other arms length bodies for which the Council has oversight.

Recommendation 11
To promote community engagement and involvement within the HDV its is recommended that the HDV sets up a community consultative group to engage and involve local stakeholders in those areas covered by regeneration plans. This should include councillors appointed by the council as well as representatives from local community groups, residents, local business and other interested local stakeholder.

Recommendation 12
To remove any ambiguity between the role 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,

Recommendation 13
That the Council should provide further clarification and reassurance as to the future position and viability of the HRA once HRA owned land is drawn down in to the HDV.

Recommendation 14

Given that the HDV will be delivering the regeneration of local estates managed by the ALMO it is recommended that there should be an alignment of the business plans of the two organisations to ensure that there is strategic and structured process through which sites best suited for regeneration are transferred to the HDV.

7. Contribution to strategic outcomes

7.1 The work of the panel in assessing the governance arrangements for the HDV
- Priory 4 of the Corporate Plan to promote sustainable housing, growth and employment; and
- Priority 5 Creating homes and communities where people choose to live and are able to thrive.

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

Finance and Procurement

The report cites Brexit and the potential financial impacts this may have on the national and local economy and the financial risks and uncertainties these pose as a potential reason to consider not proceeding with the establishment of the Housing Development Vehicle.

With any significant regeneration project based on a lifecycle of 15-20 years there will always be the potential for changes to the economy and financial risks which cannot be forecast with any certainty. However, as part of the proposed arrangements these risks will be identified and managed over the lifetime of the project. The regeneration activity will take place in phases and the arrangements allow for adequate opportunity for scrutiny of the proposals, and assessment of the viability of each scheme, at each stage.

Growth in the Haringey local economy to create employment, affordable housing and an improvement in the quality of life for its citizens will only be achieved by significant investment and the Council is not in a financial position to fund that investment itself.

In addition, the regeneration activity will potentially generate additional resources for the Council which will be important with the government's vision to move to local authority self-financing.

Consideration should also be given to the fact that there may be financial implications arising from any subsequent decision for the Council to withdraw from the proposed joint venture arrangements.

A number of the specific recommendations relate to governance or other matters which have no direct financial impact.

Recommendation 2 refers to the requirement for a risk assessment to be carried out on the business case for the Haringey Development Vehicle (HDV) and for this to be made public.

Since the Cabinet decision to approve the establishment of the HDV was made in November 2015 a lengthy OJEU procurement has been undertaken to appoint the joint venture partner and final evaluations are coming to a close and a preferred bidder will be decided shortly. The business case for the establishment of the HDV will be considered as part of the final selection process. Public information will be made available where appropriate in line with Haringey's ethos of transparency.

Recommendation 6 refers to the implementation of robust Key Performance Indicators setting clear and challenging targets for revenue and capital growth in relation to the commercial portfolio. There are certain targets which have already been set for the bidders in finalising their proposals and these will continue to be monitored and new ones added where appropriate.

The composition of the client function has not yet been determined but any resources required will need to be contained within the existing budgetary framework.

Recommendation 13 in relation to the alignment of business plans will be fully adopted as will the recommendation in relation to the consideration of the impacts on the HRA of the HDV.

Legal

The Assistant Director of Corporate Governance has been consulted on the content of this report and comments have been incorporated within.

Equality

The Council has a public sector equality duty under the Equalities Act (2010) to have due regard to:

- Tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
- 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.

The first phase of development sites to the HDV will be informed and supported by an Equality Impact Assessment (EqIA). This process will commence once a preferred bidder has been confirmed and when there is greater clarity on the sites that will transfer to the HDV. The EqIA will be presented alongside development business plans for individual sites.

9. Use of Appendices

There are no appendices to this report.

10. Local Government (Access to Information) Act