

Report for: Cabinet 14th February 2017

Item number: 8

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

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

Lead Officer: Dan Hawthorn

Ward(s) affected: All

Report for Key/ Non Key
Non Key Decision:

1. Describe the issue under consideration

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

2. Cabinet Member Introduction from the Leader of the Council

2.1 The proposals for the Haringey Development Vehicle are a key element of our plans to deliver the growth in homes and jobs on which Haringey residents, and the future stability of the Council, depend. I welcome the Panel's consideration of governance and related issues, which come a useful time as the proposals for the vehicle emerge. However, I am absolutely clear that there is no justification for delaying the Council's decision-making in respect of the vehicle, given the detailed work done so far and the unacceptable delay this would cause in delivering much-needed growth.

3. Recommendations

3.1 To consider the Overview and Scrutiny Report on Governance arrangements for Haringey Development Vehicle (attached as Appendix 1).

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

4. Reasons for decision

4.1 On 17 January 2017, Overview and Scrutiny Committee approved the report of the Housing and Regeneration Scrutiny Panel (HRSP) on the governance

arrangements for the proposed Haringey Development Vehicle (HDV), a joint venture between the Council and a private partner to support local housing and regeneration ambitions.

- 4.2 In developing its report, the HRSP held a number of evidence gathering sessions and taken evidence from local stakeholders including council officers, community group representatives, other local authorities, Investment Partners in other joint ventures and expert independent opinion via the Chartered Institute of Housing. The HRSP then made a number of recommendations.

5. Alternative options considered

- 5.1 As set out in the HRSP's report, in view of the Panel's objection to the HDV it could have chosen not to make any recommendations about the governance arrangements for the HDV. If it was not to make any recommendations however, the Panel felt it may miss the opportunity to influence ongoing procurement discussions with the preferred bidder and so decided to make recommendations.

6. Background information

- 6.1 On 10 November 2015, Cabinet approved the business case for establishing the 'Haringey Development Vehicle' (HDV), a proposed joint venture between the Council and a private partner to drive the development of housing and employment space, and wider regeneration, on Council-owned land. In January 2016, the Council commenced a procurement process to select its private partner. The Council is scheduled to select its preferred bidder in February 2017, and conclude the necessary legal agreements – and establish the HDV – in summer 2017.
- 6.2 The agreements between the Council and its partner will determine, among other things, the governance arrangements for the HDV. These have been the subject of negotiation with bidders during the Competitive Dialogue process, and will be finalised following the selection of the preferred bidder and ahead of the HDV's establishment. At the same time, the Council will need to make its own internal arrangements for appointing its representatives to the HDV Board and managing its relationship with the HDV.
- 6.3 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, and to align with the timing of the process described above, the HRSP produced a report on the governance arrangements for the proposed Haringey Development Vehicle (HDV). The Overview and Scrutiny Committee agreed the HRSP report at its meeting on 17 January 2017.

7. Contribution to strategic outcomes

- 7.1 The recommendations and responses made will contribute to the establishment and operation of the HDV, which is a critical tool in the delivery of Priority 4 ("Drive growth and employment from which everyone can benefit") and Priority

5 (“Create homes and communities where people choose to live and are able to thrive”) of the Corporate Plan.

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

Finance

8.1 Where recommendations have been accepted or partially accepted, the relevant financial implications have been set out below.

- Recommendation 2b. There is no additional cost related to this recommendation as a risk analysis would have been undertaken in any case.
- Recommendation 5. There are no new cost implications for the part of the recommendation that are agreed.
- Recommendation 6. There are no additional cost implications related to agreeing this recommendation as KPI’s would have been expected to be developed in any case.
- Recommendation 7. The cost of external advice will need to be built into future budgets as required and an estimate of the required level of advice will form part of the annual budget-setting process which would include the budget for the audit function.
- Recommendation 8. Recent restructures within the Council have been designed to address this issue, however the need will evolve over time and budgets will need to be revised as necessary.
- Recommendation 9. There are no additional cost implications related to this recommendation.
- Recommendation 10. It is expected that any Member enquiry process will be a cost to the HDV and hence would have no direct impact on Council budgets.
- Recommendation 11. There are existing posts within the Council structure that are involved in community engagement and the HDV would be expected to increase the resource available here. If there is a need for additional resources within the Council to support the consultation process then additional budget would need to be agreed by Cabinet.
- Recommendation 13. It would be expected that this work will take place as part of the ongoing financial planning of the Council and hence be resourced from existing budgets, although at this point it would be expected that the viability of the HRA would be improved by the HDV drawing down HRA land.

8.2 If the HDV was to be halted at this point, the Council would need to consider the financial impact of a number of issues. These would include increased costs whilst the procurement is frozen to retain consultant resources for an indefinite period and the risk that these resources would not be available at a later date if work to achieve financial close was restarted. There would also be the risk of legal challenge from bidders, with associated additional costs in robustly defending the Councils position. Additionally, if the procurement did not complete in a timely manner, it would most likely undermine market confidence in the Council and potentially undermine both ongoing and future procurement

exercises. This would mean that the Council would be less likely to be able to achieve the best financial outcomes across a wide range of service areas.

- 8.3 A decision not to proceed with the HDV would mean that the Council would need to identify other ways to generate the income expected from the HDV both in terms of share of profits and expected growth in the Council Tax and Business Rates base. If such income could not be identified then there would need to be significant levels of additional savings found in order to balance the Council's budgets in future years.

Procurement

- 8.4 The procurement team has been closely involved throughout the procurement process in selecting a private sector partner with which to form the proposed Haringey Development Vehicle. While the recommendation to halt the procurement process is not supported in the draft response, the Council does have the right to amend the procurement timetable or halt the process if it chooses. The Head of Procurement would however recommend that any amendments to governance arrangements within the HDV Members' Agreement can be agreed during preferred bidder stage. These are refinements that typically take place during this stage of the process and therefore 'halting' the process would appear to be excessive and disproportionate.

Legal

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

Equality

- 8.8 An Equalities Impact Assessment was carried out for the purposes of the decision by Cabinet to establish the vehicle in November 2015. There are no

further Equalities implications arising from the scrutiny recommendations or the draft response.

9. Use of Appendices

Appendix 1: Interim Report Governance Arrangements for Haringey Development Vehicle

Appendix 2: Response to recommendations

10. Local Government (Access to Information) Act 1985

10.1 Draft minutes of the Overview & Scrutiny Committee meeting held on 17 January 2017 can be found on the Council website at:

<http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=128&MId=7968&Ver=4>