

Appendix 2: Recommendations

Recommendation from Scrutiny Review	Draft response (Agreed / Not agreed / Partially agreed)	Who and when
<p>Recommendation 1</p> <p>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.</p> <p>In terms of governance, there are a very significant set of issues, including:</p>	<p><i>This is not accepted.</i></p> <p><i>No evidence has been presented in this review to support the assertions that:</i></p>	
<p>1) A fundamental democratic deficit inherent in any such proposed structure and one of such size and scale;</p>	<p><i>This was not a topic of significant discussion in the evidence sessions for this review. Without further elaboration on the meaning or evidence of a 'democratic deficit' in this context, it is hard to respond in detail. However it is important to stress that the HDV model has been deliberately chosen precisely because – compared to the other viable options for delivering regeneration – it secures an active role for the Council and its elected members in determining the pace, scale and quality of</i></p>	

	<p><i>regeneration on Council owned land. The sharing of this control with a private partner is in proportion to the effort and investment which that partner is putting in, and the risk it is taking, without which regeneration would not be possible.</i></p>	
<p>2) There needs to be further clarity on the role of officers joining a board and the role of councillors;</p>	<p><i>This was not a topic of significant discussion in the evidence sessions for this review, and it is not clear on what specific issues clarity is required. As set out below, in making nominations to the Board of the HDV the Council will need to find the right balance of expertise and accountability in choosing not only the mix of officers and members, but also precisely which officers and members they should be. This will be essential in securing the best possible outcomes for the borough, and in counter-balancing the skills and expertise of the private partner's nominees. Where it is proposed that officers are nominated to the Board, this will still be subject to the approval of Cabinet as set out below, and within the framework of delegated authority from the Council executive under which officers act at all times. It is also worth noting that the Council nominees to the Board will always vote as a block; regardless of the mix as between members and officers are nominated, they would not be able to vote differently from each other.</i></p>	
<p>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;</p>	<p><i>This was not a topic of significant discussion in the evidence sessions for this review. There are currently no proposals on the conduct of HDV meetings or other transparency mechanisms;</i></p>	

	<p><i>transparency will be a key consideration in coming discussions with the preferred bidder about the conduct of HDV business in order to develop detailed administrative arrangements in accordance with the Council's requirements.</i></p>	
<p>4) The absence of any sufficient contingency plans to mitigate the risks of a scheme of such size and scale;</p>	<p><i>This was not a topic of significant discussion in the evidence sessions for this review. The lengthy procurement and negotiation process – which has led to the recommendation of a preferred bidder – has included the development of detailed legal agreements where the Council's principal preoccupation has been to manage its exposure to risks associated with the HDV, whether those be financial risks, reputational risks or risks that jeopardise the achievement of key HDV outcomes. The risks of not securing growth on council land – of inadequate housing and economic opportunity for Haringey residents, and of unsustainable council finances – have also been a major consideration in the decision to proceed with the HDV proposals.</i></p> <p><i>Nor is it accepted that there are 'unacceptably high risks associated with the establishment of the proposed HDV'.</i></p> <p><i>It is true that the referendum result has prompted a degree of economic and political uncertainty which was not present when the 2015 Business Case was approved. However, it is not considered that this uncertainty fundamentally changes either the long-</i></p>	

	<p><i>term demand for homes and jobs which underpins the case for development on Council land, nor the fundamentals of the property market which underpin the financial case for setting up the HDV; this latter point is borne out by the unwavering interest of the shortlisted bidders in the HDV in the wake of the referendum. Over the lifetime of the proposed HDV – expected to be at least 15-20 years – it would always have been the case that the property market would experience ups and downs; a long-term investment like that proposed by the HDV is particularly well-designed to withstand such cyclical movements, including by making adjustments to its business plans in order to adjust the phasing and mix of housing in response to market conditions.</i></p>	
<p>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.</p>	<p><i>This was not a topic of significant discussion in the evidence sessions for this review. The role of Secretary of State is a relatively simple matter to clarify: the Secretary of State is not required to give permission for establishment of a vehicle such as the HDV. Consent from the Secretary of State may be required to allow certain actions in respect of the HDV, for example the transfer of Housing land from the Council to the HDV. Where this is the case, there is no reason to believe that consent will be withheld, and allowance for the required process can and will be made in the HDV programme for any affected site. The legal documentation in relation to HDV caters for this process, in accordance with recommendations of the Council’s external legal</i></p>	

	<p><i>advisers.</i></p> <p><i>The use of joint ventures by local authorities is actively promoted in the Department for Communities and Local Government's 'Estate Regeneration National Strategy' published in December 2016.</i></p>	
<p>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.</p>	<p><i>The detailed governance arrangements and their impact on risk was not a topic of discussion in the evidence sessions for this review. The emerging governance arrangements underpinning the HDV proposals have the management of risk at their core.</i></p> <p><i>The Cabinet has previously deliberated, in November 2015, the in-principle case for establishing the HDV. The emerging proposals for the HDV have been the subject of lengthy, detailed negotiation and consideration by Council officers and advisers, under the guidance of a Project Board comprising members of Cabinet and senior Council officers.</i></p> <p><i>Overall, while the Overview & Scrutiny Committee will no doubt wish to further consider how the HDV and its work should be the subject of further scrutiny, it is not considered necessary, appropriate or proportionate based on this recommendation and the evidence supporting it to halt the process of establishing the HDV, especially given the delay this would create in delivering much-needed homes and jobs for Haringey.</i></p>	

<p>Recommendation 1a That further scrutiny of the proposals for the establishment of the proposed HDV is undertaken between January and summer 2017. And that:</p> <p>(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.</p>	<p><i>It is for the Overview & Scrutiny Committee and the relevant panel(s) to determine the scrutiny programme.</i></p>	
<p>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.</p>	<p><i>This is not accepted. Whether a decision is taken by Cabinet or Full Council is determined by statute and by the Council constitution, not at the discretion of Cabinet. There may be some decisions relating to the Council's relationship with the HDV which must be taken by Full Council, but the decision to set up the HDV is an executive decision and is for Cabinet to make.</i></p>	
<p>Prior to such authorisation the panel also recommend that:</p> <p>a) That Council take note of any recommendations arising from scrutiny from Recommendation 1.</p>	<p><i>As Recommendation 1 is not accepted, this is not accepted either.</i></p>	
<p>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;</p>	<p><i>This is partly accepted. Any recommendation to Cabinet to establish the HDV will be accompanied by a level of risk analysis and due diligence that goes well beyond that outlined in the Business Case</i></p>	<p>Director of Housing and Growth Summer</p>

	<p><i>considered by Cabinet in November 2015. This will not be 'new' for the purposes of this decision, but will instead be a development of the existing risk analysis informed by the further and more granular assessment of risk which has been incrementally carried out by Council officers and external advisers throughout the procurement process and final negotiations with the preferred bidder and which will fundamentally underpin the legal agreements which will be put forward for approval. The Council's auditors will also conduct a review of existing risk management processes which will assist in developing mitigation strategies and action plans as the HDV emerges.</i></p>	2017
<p>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.</p>	<p><i>This is not accepted. Agreement in principle to transfer a site to the HDV for redevelopment does not constitute any agreement to a particular proposal for redevelopment, or to a change to any resident's landlord. As acknowledged by the Panel, existing residents will be heavily involved in shaping and responding to the redevelopment proposals for each site. In respect of Council secure tenants statutory consultation under the Housing Act 1985 will be carried out with tenants as appropriate in future. Existing residents and tenants in the commercial portfolio have been kept informed about the HDV proposals as they have emerged.</i></p> <p><i>However, having taken the decision in November 2015 that an HDV-style approach was its preferred</i></p>	

	<p><i>model for achieving growth in homes and jobs on Council land, Cabinet does not feel it is necessary or appropriate to carry out further consultation with residents or commercial tenants on that specific topic now.</i></p>	
<p>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.</p>	<p><i>This is not accepted, for two principal reasons. First, the nominees to the Board need to combine accountability with appropriate levels of expertise in regeneration and other matters. The posts named above will not always offer the expertise required. Second, the proposed governance proposals for the HDV include a mechanism whereby – when the Board is deadlocked on any given issue – that issue can be escalated for negotiation and determination by the most senior figures in the two member organisations. If the Leader of the Council and/or the Head of Paid Service is already on the Board of the HDV, this escalation mechanism has nowhere to go, increasing the risk of complex external determination or – worse still – the forced wind-up of the HDV.</i></p> <p><i>Nominations to the Board of HDV are an executive function and will accordingly be made by Cabinet.</i></p>	
<p>Recommendation 4 To help assist in managing any conflicts of interest (COI) that may arise, it is recommended that:</p>	<p><i>It is accepted that officers should be clear and confident about their responsibilities as a nominee to the HDV Board. The Council will take advice on whether and how to codify this into a formal protocol</i></p>	<p>Director of Housing and Growth Summer</p>

<p>(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.</p> <p>(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.</p>	<p><i>which goes beyond existing requirements as set out in contracts of employment and Council guidance on appointments to external bodies.</i></p> <p><i>Once nominations (of officers and Members) have been confirmed, personalised packages of briefing and training will be prepared for each nominee, tailored to their existing levels of expertise and experience in the relevant matters and taking account of any protocol that is agreed.</i></p>	<p>2017</p>
<p>Recommendation 5</p> <p>(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.</p>	<p><i>It is accepted that the Overview and Scrutiny Committee should have an annual opportunity to review the HDV's Strategic Business Plan and performance against it.</i></p>	<p>Director of Housing and Growth</p> <p>Ongoing</p>
<p>(b) It is recommended that individual Business Development Plans for prospective site developments should:</p> <p>(i) Contain the full business case, risk analysis, key decisions and housing tenures and mix for the development.</p>	<p><i>This is partly accepted. These elements are certainly anticipated for inclusion in all Development Business Plans, though it may be that the <u>full</u> business case will be considered too detailed to be helpful in informing a Cabinet decision. Instead, a detailed summary may be a more efficient approach.</i></p>	<p>Director of Housing and Growth</p> <p>Summer 2017</p>
<p>ii) Be scrutinised by Overview & Scrutiny Committee before agreement and finalisation by Cabinet</p>	<p><i>This is not accepted. Development Business Plans will – prior to recommendation to Cabinet – be subject to significant engagement with a wide range of stakeholders. It is not considered appropriate, proportionate or consistent with previous precedents for pre-decision scrutiny, to introduce a requirement</i></p>	

	<i>of this nature. However it is proposed that the Overview and Scrutiny Committee could, as part of its annual review of the HDV's Strategic Business Plan, also review key elements of any emerging HDV Development Business Plans which are likely to be recommended to Cabinet in the coming year.</i>	
(iii) Be reviewed by Overview & Scrutiny Committee at a date and frequency determined by that Committee to assist in monitoring and evaluation	<i>This is partly accepted. It is proposed that the Overview and Scrutiny Committee should, as part of its annual review of the HDV's Strategic Business Plan, also review any current Development Business Plans.</i>	Director of Housing and Growth Ongoing
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).	<i>This is accepted. Performance measures on the above items – and a range of other key outcomes from the HDV's work – will be written into the business plans that will be approved by the Council and adopted by the HDV upon the HDV's establishment later in 2017, and updated from time to time.</i>	Director of Housing and Growth Summer 2017
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;	<i>This is accepted. The Council may from time to time need to call on expert external advice – of a commercial and/or legal nature – in order to optimise the outcomes and manage the risks arising from the HDV's work. It is not expected that the Council would retain advisers on a long term basis, but instead that it would procure specific advice when required, subject always to available budget and using appropriate procurement frameworks and call-</i>	Director of Housing and Growth Ongoing

	<i>off contracts where possible.</i>	
(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);	<i>This is not accepted. The appointment of the HDV auditors will be a matter for the HDV itself. Council nominees to the Board will participate in this decision, but it is not common practice to reserve this decision to the members of company, and there are not considered any special circumstances in this case why this particular decision should be reserved in this way.</i>	
(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;	<i>This is accepted in principle. The Council's constitution sets out the audit function's right of access to information within the remit of the Council's control, and the Council's s151 Officer has a statutory responsibility to ensure an adequate and effective control environment for all areas of council investment. The Council's audit function will certainly need to have access to any information about the work of the HDV relating to the Council's membership or interest in the HDV or to risks to which the Council is exposed through the work of the HDV.</i>	Director of Housing and Growth Ongoing
(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.	<i>This is accepted. The Council's Audit and Risk function will need sufficient resource – including support from its externally procured internal auditors – to appropriately carry out its function in relation to the HDV and its relationship with the Council. In early 2017, the Council and its auditors are planning a project on the Council's relationship with the HDV</i>	Head of Audit and Risk Management Ongoing

	<p><i>which will include consideration of the longer-term audit arrangements and what the Council will need to put in place to ensure appropriate audit activity in the future. The Council's current internal audit partner is a large organisation with significant experience in providing support to both the private and public sectors, with access to a wide pool of expertise. Should it be identified that the audit partner does not have the relevant expertise to undertake any specialist assurance reviews, the Council has the facility to commission further independent work to obtain the assurance it requires.</i></p>	
<p>Recommendation 8 To support the client management function:</p> <p>(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.</p>	<p><i>This is accepted. It is proposed that the lead accountable officer for managing the Council's relationship with the HDV will be the Director of Housing & Growth, who will not be one of the Council's nominees to the Board of the HDV.</i></p>	<p>Director of Housing and Growth</p> <p>Summer 2017</p>
<p>(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).</p>	<p><i>This is accepted. The recent restructure of the Regeneration, Planning & Development department of the Council has made provision for just such a dedicated resource. Further, staff from across the Council – including (but not limited to) officers from Housing & Growth, Regeneration, Commissioning, Public Health, Commercial & Operations, Transformation & Resources and Strategy & Partnerships – will work closely with the Director of</i></p>	<p>Director of Housing and Growth</p> <p>Summer 2017</p>

	<i>Housing & Growth, and directly with the HDV, on managing the relationship and securing the desired outcomes from the HDV's work. Staffing needs will be kept under close review throughout the life of the HDV, and in particular during the early months.</i>	
<p>Recommendation 9</p> <p>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</p>	<i>This is accepted. Where subsidiary LLPs are created under the whole ownership of HDV, the presumption is that the HDV Board will also act as the Board of that subsidiary under the same arrangements as for the main HDV Board.</i>	Director of Housing and Growth Summer 2017
<p>Recommendation 10</p> <p>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.</p>	<p><i>This is partly accepted. The HDV will need an agreed mechanism for handling member enquiries. There will also be arrangements to make sure that ward councillors are effectively involved in local projects throughout the development process.</i></p> <p><i>However, it is important to stress that the HDV will not simply be a wholly owned arms' length body of the Council – such as Homes for Haringey for example – but is instead a separate private entity of which the Council owns 50%. The precise mechanism will therefore need to be agreed with the HDV.</i></p>	Director of Housing and Growth Autumn 2017
<p>Recommendation 11</p> <p>To promote community engagement and involvement within the HDV it is recommended that the HDV sets up a community consultative group to engage and involve local stakeholders in those areas</p>	<i>This is partly accepted. Thorough, timely and meaningful community engagement will be essential to the success and credibility of the HDV. In order to capture local issues in the most direct way, and</i>	Director of Housing and Growth End 2017

<p>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.</p>	<p><i>ensure that local people and businesses can directly influence what happens in their neighbourhoods at the right time, it is likely that these arrangements will be mostly on a site-by-site or at least area-by-area basis. Detailed proposals for engagement will be developed by the HDV, in collaboration with local communities, in the early months of the HDV's life, building upon the proposals discussed during the procurement process.</i></p>	
<p>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.</p>	<p><i>This is accepted. Whilst the Cabinet Member for Planning is not part of the local planning authority, Cabinet responsibility for Planning will not sit with the member or members that are nominated to the Board of the HDV or with a member who otherwise has lead responsibility for the relationship with HDV.</i></p>	<p>Leader of the Council Summer 2017</p>
<p>Recommendation 13 Given that the HDV will be delivering the regeneration of local estates managed by the ALMO it is recommended that:</p> <p>(i) there should be an alignment of the business plans of the two organisations to ensure that there is strategic and structured process through which sites best suited for regeneration are transferred to the HDV;</p>	<p><i>This is accepted. Close collaboration between Homes for Haringey and the HDV will be essential, from strategic planning right through to day-to-day operations. This will indeed be particularly important in the lead-up to any decision to transfer a site currently managed by Homes for Haringey, but will be equally important in other areas of joint work, for example in managing housing estates where multi-phase estate renewal is underway and in managing blocks containing both Council-owned homes and HDV-owned commercial properties. Sites can and will only be transferred to the HDV once full resident consultation has taken place (and in accordance with the HDV documentation).</i></p>	<p>Director of Housing and Growth Ongoing</p>

<p>(ii) Further clarification and reassurance is provided as to the position and future viability of the HRA once HRA land is drawn down in to the HDV.</p>	<p><i>This is accepted. The impact on the Council's Housing Revenue Account will have to be understood as part of any decision to transfer a site to the HDV. This will be set out as part of the financial implications in any Cabinet decision to transfer sites to the HDV, whether as part of the initial decision to set up the HDV (for the first phase of sites) or in any later decision to transfer further HRA sites to the HDV. It will in turn be reflected in the Council's HRA business plan.</i></p>	<p>Chief Operating Officer</p> <p>Ongoing</p>