Report for: Cabinet 14th March 2017

Item number: 13

Title: **Cross borough project with St Mungo's and Resonance to improve housing options for homeless families**

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

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Ward(s) affected: All

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

1. DESCRIBE THE ISSUE UNDER CONSIDERATION

1.1. This Cabinet report seeks approval to invest £15 million in a project led by St Mungo's and Resonance with three (or more) other London Boroughs and the GLA. This joint project will acquire existing properties across London to expand the supply of suitable accommodation for the Council to meet its statutory duties to the homeless.

1.2. Alongside existing and planned other initiatives such as the opening of Broadwater Lodge and the increased focus on prevention work in the Supported Housing review; this scheme has the potential to both improve the offer for homeless households and make significant financial savings to the Council. It will improve the quality of homes into which the Council's homelessness duty is discharged and provide ongoing support to the households placed in these properties, enhancing their ability to move on into permanent accommodation.

1.3. The scheme is called the Real Lettings Property Fund 2 Limited Partnership ("the Fund"). Haringey's £15m, including £4.5m of Right to Buy receipts, would be invested alongside £15m each from three other local authorities and £15m from the Greater London Authority. Croydon, Lambeth and Westminster have confirmed they will invest.

1.4. The Fund proposes to purchase residential units across London, to which Haringey would have nomination rights to 47 two bedroom units for the period of the Fund. The Council would also receive an annual yield on the fund, projected to be 2.0% net from year four of the Fund. In addition, the Council would receive any capital uplift from house price inflation, alongside the return of its original £15m investment at the close of the Fund. Taken together the fund projects a blended 5% per annum return to investors over its lifetime. This fund is the third one of its type run by St Mungo's and Resonance and their track record so far shows that they have delivered on contractual obligations and provided a yield against investment.

2. CABINET MEMBER INTRODUCTION

2.1. Tackling homelessness is a top priority for the Council. Not just because of the terrible impacts that it can have on the life chances, health and well being of homeless households, but also because of the unsustainable costs the Council is currently facing in dealing with this problem.

2.2. All councils in London are finding it increasingly difficult to meet their duties to homeless households. Rents are rising faster than incomes and the impacts of welfare reform are really beginning to bite. The number of people presenting as homeless as a result of their tenancy ending is growing. The availability of affordable private rented homes is shrinking and social rented housing is becoming an even scarcer resource due to underinvestment by government. With new, and probably underfunded, homelessness duties looming, and with great uncertainty over future government funding for temporary accommodation, the situation can only get starker - for homeless households and for the Council.

2.3. In Haringey, as the report says, the Council currently has over 3,200 households in temporary accommodation, over 90% of which are families with children. This costs the Council over £7m annually, yet too much of this housing is unsuitable “annexe” accommodation. These numbers just have to be reduced, but in a way that ensures high quality outcomes for these families.

2.4. The Council can fulfil its homelessness duties if it can find appropriate private rented sector housing for homeless households. But this is becoming increasingly difficult and all London local authorities are looking for innovative ways to meet this need.

2.5. This proposed joint investment in the Real Lettings Fund is just one of a number of ways the Council is trying to do this. It would provide relatively long-term sustainable homes, with high quality management and move on support provided by St Mungo’s. It would reduce the need to place homeless households in expensive and unsuitable emergency accommodation. And it would enable the Council to reinvest its Right to Buy receipts to resolve the starkest housing challenge it currently faces; an investment that will be returned to the Council to reinvest in further affordable housing at the end of the fund.

2.6. It is a partnership with three other London Boroughs – Croydon, Lambeth and Westminster, with the Mayor of London also considering investing. It will provide homes managed by St Mungo’s, who have an excellent record in supporting homeless people and assisting them to move on into settled housing.

2.7. It is not the whole or the only solution to the Council’s homelessness challenge. But it is one of a suite of proposals, described in the report, that will together start to produce better outcomes for homeless households and reduce the costs of homelessness the Council currently bears.

RECOMMENDATIONS

It is recommended that the Cabinet:

2.8. Agree to the Council participating in the Fund as a limited partner and to invest a total sum of £15 million in the Fund for the purpose and objectives set out in section 6 of this report.

2.9. This will be funded from the capital budget for Temporary Accommodation Property Acquisition Scheme agreed by Full Council in the Capital Strategy in February 2017. Therefore this will be financed from the Councils own resources with £4.5m financed using Right to buy Receipts if permissable.

2.10. Agree to the Council entering into the nomination agreement with St Mungo's. This agreement is ancillary to the Fund and is intended to secure nominations for Haringey to 47 properties within Greater London for the lifetime of the Fund.

2.11. Give delegated authority to the Director of Regeneration, Planning and Development in consultation with the Section 151 Officer and the Cabinet Member for Housing, Regeneration and Planning, to approve the final terms and conditions and all documentation.

3. REASONS FOR DECISION

4.1 Recommendation 3.1 is proposed in order to:

a) Help the Council meet its statutory duty to provide accommodation to homeless households in accordance with the provisions of Part VII of the Housing Act 1996, by increasing the supply of accommodation into which the Council will be able to place them, ending their housing duty.

b) Improve the quality of accommodation into which the households are placed and improve the support provided to them.

c) Help reduce the costs currently accruing to the Council in meeting that duty and potentially provide a return on the capital invested.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1. Other options considered include:

Investing the £15 million in other means of acquiring stock

4.2. The Council could offer the £15 million as low (or no) interest loans to Housing Associations to build stock to which the Council could nominate homeless families. But this is unlikely to be attractive to Housing Associations because they are able to access relatively cheap borrowing fairly easily. Indeed Government low cost loan schemes have had very little take up in the sector.

4.3. The Council could offer it as grant to achieve the same end. If it did so using Right to Buy receipts it would not easily be able to combine it with other public funding, notably from the GLA, in the way that the Fund can combine these funds. If it did so using borrowing, it would be a questionable use of council resources to borrow against its own assets to increase the asset base of any particular Housing Association.

4.4. The Council could also use these funds to acquire such stock itself for use to meet its statutory duties. This option is also being explored and could be delivered alongside the Real Lettings scheme, where the opportunity to acquire homes arises and where the viability is strong. The financing of such purchases would be considered separately and would need to address three main drawbacks, as set against the Real Lettings scheme. Firstly, there would not be the expertise of the Fund in acquiring and managing the stock, built up over the two previous funds that have acquired stock all over the capital. Secondly, were the stock owned directly by the Council in the HRA it would raise issues about the rents that could be charged and this may undermine the viability of the scheme. Thirdly, purchasing independently would not provide the Council with some of the protection provided by a wider portfolio should there be any housing market downturn. These do not rule out future initiatives in this direction, but are highlighted to stress the fact that the Real Lettings scheme offers a tested, relatively straightforward and immediately available route to acquire the use of housing stock.

4.5. There are a range of initiatives under way to reduce the cost of temporary accommodation, and to effectively prevent homelessness and the reliance on expensive nightly let temporary housing from the private rented sector (known as 'annexes'). This proposal is one of several approaches, supplementing the drive to produce greater numbers of better priced and sustainable homes, to either prevent homelessness or move people on from expensive temporary accommodation. These include:

- the drive to access greater numbers of Assured Shorthold Tenancy offers in the private rented sector, where homeless people are able to establish themselves in a settled home, no longer requiring the Council to owe them a homelessness duty;
- the conversion of existing Council buildings into more affordable temporary or emergency housing, as has recently occurred with the conversion of the Broadwater Lodge former care home into emergency accommodation for families;
- the consideration of new temporary homes being built, using modular technology and using temporary sites within and near to Haringey:
- the temporary use of Council housing that has been earmarked for future demolition, through regeneration schemes; and
- the consideration, as appropriate, of moves out of London to meet some temporary accommodation needs.

Not making any such investment in new homes for temporary accommodation

4.6. The current cost of temporary accommodation to the Council, around £7m per annum as of Q3 2016, is unsustainable. This proposal will only go some way towards reducing these costs. However it is essential that the Council takes some action to increase supply of alternatives to expensive Temporary Accommodation, in addition to the programme in place to maximise homelessness prevention. If the capital is available to invest in a scheme with very low risk that will likely deliver substantial revenue savings alongside a medium term capital gain, the Council's financial position does not easily allow it to ignore that opportunity.

5. BACKGROUND INFORMATION

Homelessness duty

5.1. Local authorities are required to provide accommodation to homeless households in accordance with the provisions of Part VII of the Housing Act 1996. In carrying out this duty local authorities must ensure they comply with the requirements of Homelessness (Suitability of Accommodation) (England) Order 2003 (SI 2003/3326) and ensure that homeless households with dependent children or that include someone that is pregnant are only accommodated in bed and breakfast shared accommodation in an emergency and then for no longer than six weeks. As with all

Councils in London, it is challenging for the Council to remain compliant with this duty, with significant financial costs accruing to the General Fund in doing so.

5.2. Since November 2012, local authorities have been able to bring to an end their obligations under the full housing duty by a private rented sector offer under s193 of the Housing Act, as amended by s148 (5)-(7) of the Localism Act 2011. The accommodation must be suitable but does not require the applicant's agreement to be a valid offer. The proposed investment in the Fund detailed below would assist the Council to meet its statutory duties to homeless families, by providing a relatively long-term sustainable accommodation solution and reducing use of expensive and unsuitable emergency accommodation.

5.3. The Council will come under increasing financial pressure, with the freezing of Local Housing Allowance rates (LHA) for 4 years. Currently in Haringey the average median private sector rent is £1,400 per calendar month[1] whereas the LHA is only £1,110[2] leaving a monthly gap of £290. It is to be anticipated that this gap can only widen over the period of the LHA freeze.

The Real Lettings scheme

5.4. The Real Lettings Property Fund 2 Limited Partnership offers Councils the opportunity to invest in the Fund which acquires a diversified portfolio of residential property in London. It enables the local authorities that invest in the Fund to bring their housing duty to an end by nominating applicants for re-housing in the private rented sector.

5.5. With three local authority investors, the Fund would purchase 200 units and each local authority would have nomination rights to 47 two bedroom properties across London and the GLA (when it invests) would have nomination rights to 50 one bed properties, for Move-On from the homeless hostels it funds. These numbers will be scaled up if there are more investors than the three Councils currently investing in the Fund, as set out above.

5.6. The scheme was set up by St Mungo's (a homelessness charity and registered provider) which the Council currently commissions to provide supported and temporary housing and Resonance Limited (a Fund Management Company specialising in social impact investments).

5.7. St Mungo's and Resonance established the first Real Lettings Property Fund (RLPF) in February 2013 with initial investment from L&Q Foundation, Big Society Capital, Esmée Fairbairn Foundation, Lankelly Chase Foundation and the City of London (through City Bridge Trust). It has subsequently received additional investment from the London borough of Croydon and the Trust for London. The fund has £56.6m invested across London providing 259 properties, mainly 2 bedroom flats for use by the investing local authorities to discharge their housing duty. Following this a National Homelessness Property Fund was established by St Mungo's and Resonance, focusing first on Oxford, Bristol and Milton Keynes, with £30m of initial investment

5.8. The Fund is a limited partnership arrangement with Resonance RLPF2 GP Limited (a subsidiary of Resonance Limited) as the General Partner and all the local authorities participating and investing being Limited Partners. It is proposed that the Fund would have a life of seven years extendable by two further periods of one year). As a limited partnership is not a legal entity the properties acquired by the Fund will be held on trust by Resonance RLPF2 GP Limited and Resonance RLPF2 Nominee Limited (also another subsidiary of Resonance Limited). The General Partner will be responsible for management of the limited partnership (to the

[1] Latest Valuation Office Agency data https://data.london.gov.uk/dataset/average-private-rents-borough

[2] For a 2 bedroom flat in the in outer London BRMA https://lha-direct.voa.gov.uk/search.aspx

exclusion of the Limited Partners). As an investor the Council will be a Limited Partner.

5.9. There will be two committees:

a) An Investment Committee, whose remit is to recommend decisions on property purchase opportunities proposed by the Fund Manager based on their fit with risk and return criteria of the Fund and suitability for the desired social impact.

b) An Advisory Committee, which comprises representatives of the Limited Partners. The Advisory Committee meets at least annually with the General Partner and Fund Manager, and at such other times as may be requested by the Fund Manager, two members of the Advisory Committee or investors who represent 20% of interests in the Fund, in order to review progress and any potential conflicts of interest between the Fund Manager or any of its Associates and the Fund. The committee is selected annually by invitation from the General Partner from representative investors according to the detailed provisions of the Limited Partnership Agreement.

5.10. Voting rights of investors on the Investment Committee when making any changes to the scheme are split as follows:

- Any day-to-day non material decisions are made by way of an Ordinary Resolution (which requires a simple majority of more than 50% of investors' approval)
- Any important decisions are dealt with through a Special Resolution (which requires at least 75% of investor's approval)
- Investor votes are proportionate to their capital contributions to the Fund (including Carried Interest Partners)

5.11. The Fund's purpose is to provide an investment vehicle for those wishing to gain exposure to real estate whilst generating a significant social impact. Its financial objective is to provide its investors with a capital and income return from residential property within Greater London. The primary return focus is income, with all investments being underpinned by five year leases to St Mungo's. The Fund's social impact objective is to acquire properties that meet the housing parameters of St Mungo's who then use the properties acquired by the Fund for at least five years as locations for their homelessness prevention and re-integration programmes.

5.12. Resonance Impact Investment Limited (a subsidiary of Resonance Limited) has been appointed as the Fund Manager for the Fund with direct responsibility for sourcing, negotiating the purchase of and leasing of the properties, when it considers appropriate,

5.13. The Fund is expected to terminate on the seventh anniversary of the First Closing Date, ie February 2017. It may be extended by the Fund Manager beyond seven years by up to two further one year periods, each such extension being subject to prior approval of a Special Resolution of the Limited Partners. At the end of the investment the preferred exit route for the Fund is the development of a further fund to take up the existing fund. At this point the Council would have an option to re-invest or divest and realise the capital appreciation.

5.14. At the end of the current Fund and if the Fund is extended, nomination rights would be re-negotiated and it may be possible for the Council to withdraw its investment but maintain nomination rights. All households already living in properties at the end of the Fund would simply retain their tenancy into a future fund if this is developed. Should a further fund not be established then the properties could be sold to a registered provider and this would be coordinated over the last two years of the Fund.

5.15. At present Croydon, Lambeth and Westminster all have Cabinet approval to invest in the Fund and the GLA is considering a bid for funding in its current investment round. A further £15m of social investment is being sought, with the investors seeking a return rather than the properties which would be distributed between other investing authorities.

5.16. From an investment perspective the Fund offers a number of attractive features over and above those that a standard investment into residential property would normally provide, namely:

- A minimum 5 year lease agreement
- A one-point-contact for the tenant and a strong covenant
- No void risk
- Councils are free from operational repair obligations
- A measurable social impact in addressing homelessness
- Lease payments linked to Local Housing Allowance

5.17. Notwithstanding these benefits, it must be noted that, as this project is an investment, there is, as with all investments, some associated risks. This includes the possibility that Government could change policy and reduce the level of LHA. However, this risk would also apply to all other properties in which homeless households are placed where rents are at or above LHA, including any similar scheme the Council might choose to run itself. A second risk is that the Fund might not be able to acquire sufficient properties. While this is possible it would be a greater risk were the Council to undertake the procurement directly, given that the Fund has greater experience and capacity in this role. There are also options built into the fund to deal with any such eventuality. Thirdly, it is possible that over the period of the fund house prices may fall and the capital value of the investment will be reduced. To mitigate this there is within the agreement the capacity to extend the lifetime of the fund to deal with such an eventuality. It is also noted that any such fall is likely to bring much more significant costs and benefits to the Council than the impact purely on this fund.

5.18. The Fund's relationship with St Mungo's will be governed by a Framework Agreement and the properties will be leased to St Mungo's for a minimum term of 5 years. St Mungo's will be responsible for building insurance and routine maintenance costs, as well as the risk of tenant voids. The rental income that St Mungo's pay to the Fund is linked to Local Housing Allowance (LHA) levels for the specific property, and is paid regardless of whether St Mungo's has a tenant in the property (ie void risks are born by St Mungo's and not the Fund). The financial model for the Fund does not assume growth in LHA over the life of the Fund. St Mungo's will enter into nomination rights with the local authority investors, who will then nominate tenants for these properties. St Mungo's will then sub-let the properties to tenants at risk of homelessness on a twelve month AST at LHA rents.

5.19. St Mungo's retains 21% of the LHA income per property, in addition to a £4,000 placement fee per letting from the Councils who nominate. St Mungo's has the right to refuse a placement, where the referral is deemed inappropriate. But this should be rare, as checks are carried out before nominating the placement.

The benefits of investing in the fund

5.20. The most important benefit is the likely better outcomes for homeless households. This is in part because the homes will be better quality than the alternatives into which they are likely to be placed, with better quality management. Ongoing tenancy support will be provided by St Mungo's, an organisation with an excellent track record in supporting homeless people into settled accommodation. This should improve their chances of accessing employment and training and is likely to increase the likelihood of successful move-on into permanent accommodation at the end of the tenancy. In addition where the Council discharge its housing duty for these households into these homes in other boroughs, this will reduce the extent to which these households will represent as homeless.

5.21. The key financial benefit to the Council would be a saving on the costs of temporary accommodation, as set out below. Haringey would also receive an annual yield on its investment, projected to average 2% net over years 4 to 7 of the Fund, with a lower figure of 1.4% in year 3 and, in addition, any capital appreciation on the homes at the end of the fund. The Fund would commence acquiring properties in early 2017, but the Fund is projecting that it will take two years to fully acquire all 200 properties. It is anticipated that the Council's £15m investment will be fully drawn down within that two year period.

5.22. In summary an investment of £15m would secure 47 properties within Greater London to which Haringey would have nominations rights for the lifetime of the Fund. This is an average of £317k per property including all refurbishment costs. The £317k is based on an average purchase price of £285k, refurbishment of £17.5k and stamp duty and other costs of £14.5k. St Mungo's view is that this will enable a portfolio to be delivered across London rather than concentrated in narrow areas. Investing in this scheme effectively transfers the risk of sourcing, managing and supporting properties and households for discharge of duty to an organisation with a good reputation in this area

5.23. On disposal of the assets at the end of year seven, the £15m initial investment is expected to be returned in full to Haringey (and the other partners) together with a proportionate share of any uplift in capital value. Although the return of the initial investment is not guaranteed, the risk of loss through falling value is low because the properties will all be situated in London. There is also a further safeguard of the Fund Manager being able to extend the life of the Fund for up to a further two years if it were felt that exit at that point was not appropriate.

5.24. There will be £4,000 placement fee (payable to St Mungo's) for each individual placed into a unit owned by the Fund. The total revenue cost implication of these fees over the seven year term of the fund is £284,000 (assuming there were 71 households assisted). This revenue cost will be met from the expected savings from the current Temporary Accommodation budget.

5.25. There are presently over 3,200 households occupying temporary accommodation, 93% of which are families with children, resulting in a net cost to the council of approximately £7.2m annually. The costs are largely attributed to a shortage of affordable units for long term lease in the PRS and an increased reliance and usage on expensive nightly paid "annexe" accommodation. There are over 1,600 households occupying annexe accommodation at an average annual net cost to the council of about £2,600 per unit.

5.26. Assuming that there is a turnover of around 50% in the 47 two bedroom properties, it can be modelled that Haringey's housing duty to 71 families will be discharged through the RLPF2 contract term. Taking into account the average annual cost to the Council were these households placed in other Temporary Accommodation, ie up to £3,223 per annum for a 2 bed annexe property, this would equate to a saving of up to £229,000 per annum.

6. CONTRIBUTION TO STRATEGIC OUTCOMES

6.1. The Council's Corporate Plan '*Building a Stronger Haringey Together'* identifies five key priorities. The fifth of these is a commitment to "*Create homes and communities where people choose to live and are able to thrive".* This identifies preventing homelessness and support as one of the three key strands of work to deliver this priority and then explicitly states that "*We will work with partners and landlords to secure good quality accommodation at reasonable prices, as a way to prevent homelessness and reliance on temporary accommodation".* The recommendations in this report are entirely focused in delivering that aim.

6.2. In addition, the Corporate Plan commits to delivering this priority through ensuring Value for Money, in particular: *"Achieving the best outcome from the investment made"*. The recommendations of this report seek to make the most effective use of capital investment to improve services to vulnerable residents, as well as making financial savings to the Council.

6.3. Haringey's Housing Strategy 2017-2022 sets out four key objectives, of which the second is to *"Improve help and support to prevent homelessness".* Among the four priorities to deliver this objective is the commitment to *"Provide suitable and affordable emergency or temporary accommodation when necessary, in accordance with fair and transparent criteria, while overall reducing the number of households in temporary accommodation and the cost of it to the local taxpayer."* The recommendations in this report are entirely focused in delivering that aim, in particular reducing the number of households in temporary accommodation and reducing the cost to the taxpayer.

7. STATUTORY OFFICERS COMMENTS (CHIEF FINANCE OFFICER (INCLUDING PROCUREMENT), ASSISTANT DIRECTOR OF CORPORATE GOVERNANCE, EQUALITIES)

Finance

7.1. The £15m investment in the RLPF2 will be funded from the capital budget for Property Acquisitions included within the 10-year capital strategy approved by Full Council in February 2017. This budget has a total 10-year value of £33m and has already been assessed for affordability as part of the overall capital programme. The profile of this budget is shown below:

Scheme	2016/17	2017/18	2018/19	2019/20	2020/21	Total
	£'000	£'000	£'000	£'000	£'000	£'000
Property Acquisition Scheme	4,121	7,440	8,640	9,860	3,000	33,061

7.2. The Fund manager's model produces an Internal Rate of Return for the Council of 5.2% this is equal to the Council's cost of capital of 5.2% but the overall returns including the service benefits mean this represents value for money.

7.3. Although the financial modelling is based on a repayment loan for this specific project, the Council will borrow as appropriate for the capital programme as a whole.

7.4. It is intended to use the 1-4-1 element of Right to Buy receipts to finance 30% of this expenditure, this is subject to advice currently being obtained from legal counsel. This equates to £4.5m and will reduce the level of General Fund borrowing required as estimated in the original £33m programme. Legal opinion on the ability to use the RTB receipts for this particular purpose is set out in paras 8.20 to 8.23 below.

7.5. The estimated cashflows have been modelled by the Council and these are shown in the table below:

RLPF2 Cashflows

Year	1 £'000	2 £'000	3 £'000	4 £'000	5 £'000	6 £'000	7 £'000	Totals £
Share of rental income	0	0	217	305	305	304	303	1,434
Nominations (placement fee)	(92)	(96)	(19)	(19)	(19)	(19)	(19)	(284)
Interest on borrowing	(103)	(213)	(217)	(214)	(210)	(205)	(201)	(1,364)
Net Cashflow	**(195)**	**(309)**	**(19)**	**71**	**75**	**79**	**83**	**(213)**
Temp Accom costs avoided	37	113	151	151	151	151	151	907
Cashflow including avoided costs	**(158)**	**(196)**	**132**	**223**	**227**	**231**	**235**	**694**

7.6. The modelling shows the assumed borrowing costs can be covered and a small revenue surplus generated at the end of the fund. No inflation is assumed in the cashflows but the costs of acquisition are assumed to be covered by the disposal proceeds. The modelling is based on 47 units and this is based on Resonance's (the Fund manager) estimate of the cost of properties but this is not guaranteed and the actual number of units may be lower which would impact on the financial modelling.

7.7. The projected net annual cash return from the properties is approximately 2% which equates to approximately £300k (excluding any capital gains) from years 3-7 of the scheme. The 2% return, however, is not guaranteed as it depends on a number of variables. This will be treated as investment income in the Council's budgets. It is important to stress that this project is an investment and as with all investment there are associated risks. The cashflow projection are based on a number of assumptions that may or may not materialise as are influenced by factors outside the Council's control.

7.8. The impact on the temporary accommodation budget is the avoided costs of placing a homeless family in a unit of emergency nightly accommodation (most expensive). However, it should be noted that placement fee is £4k per property versus an annual saving of £3.2k of avoided costs. This means, therefore, that in the year of acquisition each unit will actually be an additional cost to the Council and savings will only materialise in the second year of use (which may not necessarily be a full year saving in the second year). Also, worth bearing in mind is that this may not result in a reduction in the forecast overspend but may mitigate any increase in the overspend (if used for prevention rather than discharge of duty for existing TA households). Over the 7 years of the fund, the net impact is £694k of avoided costs (£907k of avoided costs less £213k of placement fee).

7.9. The initial capital expenditure totalling £15m drawn down over 2 years will be shown in the Council's financial statements as capital expenditure. The annual income will be shown in as investment income.

7.10. The capital returns at the end of the fund will be treated as a capital receipt for the Council and used to repay any debt associated with the investment with any remainder used to finance the capital programme.

Legal

7.11. The Assistant Director Corporate Governance has been consulted in the preparation of this report and makes the following comments.

7.12. Haringey owes housing duties to the homeless under Part VII of the Housing Act 1996 which are set out in the body of the report (under the heading "Homelessness Duty")

7.13. To participate in the Fund and undertake the transaction proposed in this report, the Council will be relying upon the General Power of Competence ("general power”) contained in Section 1 of the Localism Act 2011 in conjunction with the powers set out below.

7.14. Section 1 Localism Act 2011 (Act) is a very broad based power which allows local authorities to do anything that an individual may do. There are some limits on the power set out in section 2 of the Act. If there is a power in existence before Section 1 became law and which is subject to restrictions then these restrictions also apply to the exercise of the general power so far as it is overlapped by the pre-commencement power. This general power also does not enable the local authority to do anything which the authority is unable to do by virtue of a pre-commencement limitation. It further does not allow the local authority to do anything which the authority is unable to do by virtue of a post-commencement power which is expressed to either apply to this general power, to all the authority’s powers or to all the authority’s powers but with exceptions that do not include the general power.

7.15. Section 4 Localism Act 2011 provides that if an authority is exercising the general power for a commercial purpose then the local authority must do it via a company. In this instance the Council is proposing to invest in a Fund for the purposes set out in paragraph 6. of the report and the primary purposes of the Fund must be non-commercial. The Council will be nominating those who are homeless and to whom it has a duty (as set out in paragraph 8.12) under the nomination agreement to be entered into with St Mungo’s as result of its investment. In addition the objectives of the investment are to comply with the objectives of Corporate Plan referred to in paragraph 7 of the report. These objectives are non-commercial socio-economic objectives.

7.16. The Fund is a Limited Partnership and the Council would become a limited partner and members should note that the Council will not be involved in the management or day to day running of the Fund and that once the Council has agreed to invest it must provide the funding committed when required by the Fund.

7.17. The Council’s power to invest lies within section 12 of Local Government Act 2003. Under that section the Council has the power to invest for "any purpose relevant to its functions under any enactment, or for the purposes of the prudent management of its financial affairs”. In exercising this power the Council must have regards to any guidance and any other guidance the Secretary of State may specify by regulations. The guidance is the Guidance on Local Government Investments issued on 11 March 2010.

7.18. Members should note that the Fund does not guarantee any returns on the Council’s investment.

7.19. The service elements of this transaction are ancillary to the Fund and therefore do not fall within the scope of the Public Contracts Regulations 2015.

7.20. The Council has entered into a Retention Agreement with the Secretary of State for Communities and Local Government dated 24 September 2012. Under that agreement it is entitled to retain Right to Buy receipts to a maximum of 30% of the amount it spends on provision of social housing within 3 years from the date of that receipt.

7.21. Spending on provision of social housing is the amount spent on the development cost associated with provision of social housing for the benefit of the Council’s area.

7.22. The Retention Agreement permits the Council to take into account as spending on social housing payments made to another body (provided it does not hold a controlling interest in that body) which that other body then uses in the provision of social housing.

7.23. On that basis, save as mentioned below, investment into the Fund can be taken into account against RtB receipts, as and when the fund uses the Council’s investment for purchase of housing units.

7.24. Under the terms of the Partnership Agreement (to be entered into) an Investment into the Fund is described in large part (£999.90 of every £1,000 invested) as a loan. To meet the Retention Agreement conditions the Council's investment must be treated as "spending on social housing" under that Retention Agreement. Finance comments confirm that - for the purposes of the Council's accounts - the investment is to be treated as capital expenditure. Officers are aware that one of the other proposed local authority investors has been advised by its external legal advisers that that means that the investment is to be treated as "spending" under the Retention Agreement and confirmed its investment on this basis. Officers have however sought the advice of Leading Counsel on this point.

Equalities

7.25. In formulating policies the Council has had regard to its public sector equality duty under the Equality Act 2010, which requires it to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- advance equality of opportunity between people who share a 'protected characteristic' and people who do not;
- foster good relations between people who share a relevant 'protected characteristic' and people who do not.

7.26. The 'protected characteristics' are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation. They also cover marriage and civil partnership with regards to eliminating discrimination.

7.27. As identified in the EqIA (Appendix B) the scheme will impact positively upon homeless families in reducing the amount of time spent in temporary accommodation and move them to more suitable forms of self-contained PRS accommodation.

7.28. The policy will focus on properties which will be suitable for small families. When compared to the general population, these households are:

- More likely to be younger
- More likely to be from the BME community,
- More likely to be headed by a female, and
- As a household are more likely to be headed by a lone parent
- More likely to have dependent children
- More likely to be pregnant

7.29. The scheme will ensure that households will not spend as long in temporary accommodation and the council will be in a position to offer more suitable, self-contained PRS accommodation more quickly and within government timescales.

8. USE OF APPENDICES

Appendix A - Equalities Impact Assessment

9. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985