

Report for: Overview and Scrutiny Committee, 13th June 2017
Title: Haringey Development Vehicle – Scrutiny Report
Report authorised by: Cllr Emine Ibrahim
Chair, Housing and Regeneration Scrutiny Panel
Lead Officer: Christian Scade, Principal Scrutiny Officer, Tel: 020 8489 2933
Ward(s) affected: N/A

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

1. Describe the issue under consideration

- 1.1 On 17th January 2017, the Overview and Scrutiny Committee (OSC) approved the interim report of the Housing and Regeneration Scrutiny Panel 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.
- 1.2 In developing its interim report, the Panel held a number of evidence gathering sessions and received 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 Panel made a number of recommendations, including that further scrutiny of the proposals for the establishment of the proposed HDV be undertaken before summer 2017.
- 1.3 The interim recommendations were considered by Cabinet on 14th February 2017¹. At the same meeting, Cabinet agreed to proceed to the Preferred Bidder Stage with Lendlease as its preferred bidder, a decision that was “Called-In” and studied by OSC on 2nd March 2017. OSC referred this decision back to Cabinet, with recommendations. On 7th March 2017 Cabinet re-considered and confirmed its original decision, subject to further commitments in response to the Call-In.
- 1.4 Since then work has been undertaken to further refine and negotiate the HDV. The final agreement will be put to Cabinet for approval in summer 2017. With this in mind, the Panel has been undertaking further scrutiny of the proposed HDV. This report outlines the findings, conclusions and recommendations the Panel has made.

2. Recommendations

- (a) That the Overview and Scrutiny Committee considers the findings of the Housing and Regeneration Scrutiny Panel and agrees the recommendations attached at **Table 1**.
- (b) That, subject to any comments or amendments the Committee wish to make, this report be submitted to Cabinet, on 3rd July 2017 for response.

¹[The Cabinet response to the interim recommendations \(Cabinet, 14th February 2017\) can be viewed here.](#)

Panel Membership	Cllr Emine Ibrahim (Chair)
	Cllr John Bevan
	Cllr Zena Brabazon
	Cllr Gail Engert
	Cllr Tim Gallagher
	Cllr Stuart McNamara
	Cllr Martin Newton

3. Table 1 – Recommendations of the Panel

No.	Recommendation
1a	<p>No decision on the HDV should be taken until a fully updated business case is prepared and evaluated. For the avoidance of doubt, before Cabinet is asked to approve the legal documentation to establish the HDV, and its first set of business plans, there must be a meaningful update to the Business Case, originally published in 2015, to ensure it is still fit for purpose. The updated business case should:</p> <ul style="list-style-type: none"> - Review the economic modelling used in the initial Business Case to reflect recent circumstances, which have increased economic uncertainty, including: Brexit, Crossrail 2, numerous changes in housing and planning law which were enacted in the Housing and Planning Act 2016, the recently released Housing White Paper (“Fixing our broken housing market), a new good practice guide to estate regeneration published by the Mayor of London, and the results of the “snap” General Election. - Be made public and transparent with sufficient time for meaningful scrutiny before a decision is taken.
1b	If time allows, this should be undertaken by an independent external advisor commissioned for this purpose.
2	That the full risk register, and comprehensive risk assessments, for the HDV be made available to the Housing and Regeneration Scrutiny Panel and made public prior to any decision being taken . This should work backwards from all the things that can go wrong, setting out where risk arises and the remedy for managing risk i.e. accept it, control it, transfer it, or avoid it.
3	<p>No decision should be taken to establish the joint venture until:</p> <ul style="list-style-type: none"> - The Council’s External Auditor has reviewed concerns, including those referred to them, relating to the HDV. Findings should be published (with actions to mitigate any risks set out and followed up) and considered by Corporate Committee. - Corporate Committee has considered the outcomes of the initial work that has been undertaken by internal audit concerning the HDV.
4	Any final approval to establish the HDV by Cabinet must be accompanied by a robust set of measures to audit the work of the joint venture on a continuous basis. This must include a detailed plan of how the 30 days per year of the internal auditor

No.	Recommendation
	looking at the HDV will be spent, to be addressed by Corporate Committee.
5	To address concerns raised by expert witnesses, and by Panel members themselves, about whether the 50:50 arrangements constitutes an “equal partnership”, and therefore whether the council’s objectives (policy framework/corporate plan) are achievable, the Head of Paid Service must ensure there is sufficient officer capacity to support the Council with its engagement with the HDV. This must be guaranteed, and outlined, before Cabinet is asked to establish the HDV.
6	To ensure clarity, details of the due diligence process for establishing the HDV, and its first set of business plans, should be included in the HDV Cabinet report. This should include clear, comprehensive information on the work that has been carried out, by whom, and steps that have been taken as a result.
7a	Information on what the Balance Sheet will look like on Day One, including the short- and long-term assets and liabilities, should be included in the HDV Cabinet report. To ensure clarity, it is recommended that a model balance sheet is included to illustrate what the basic HDV financial structure will look like.
7b	<p>In addition:</p> <ul style="list-style-type: none"> <li data-bbox="293 659 2051 738">i. The updated HDV Balance Sheet, including any major changes to assets or liabilities, should be reported quarterly to the Housing and Regeneration Scrutiny Panel. <li data-bbox="293 738 2051 786">ii. Management Accounts for the HDV should be reported quarterly to the Housing and Regeneration Scrutiny Panel.
8	The legal framework for the HDV must include binding guarantees in relation to dispute resolution mechanisms and, in order to reduce financial risk, the legal framework for the HDV must allow the Council (giving six months notice) to withdraw from the HDV every five years and without any compensation to be paid to Lendlease or to its subsidiaries or staff, and with the whole property portfolio being transferred back to Haringey.
9	A professional independent advisor should be appointed to support the Council on the HDV Board to ensure Haringey board members have a clear understanding of the matters put before them and the implications of any decision made by the board, to allow them to act in the best interest of the Council and local residents. This advisor would not be voting but would have full access to information and be able to input and participate at board meetings.
10	Cabinet should invite and establish a Gateway Review (using OGC methodology) to deliver a “peer review” in which independent practitioners from outside the project use their experience and expertise to examine the progress and likelihood of successful delivery of the project. Ideally this should happen before a decision is taken to establish the HDV.
11	To ensure probity, and to protect the council’s commercial interests, the legal agreement to establish the HDV should contain a commitment from Lendlease not to recruit any Haringey Council employee/Councillor/consultant who has worked for Haringey on the HDV over the past 3 years (2015-2017). Furthermore, neither should Lendlease provide such individuals with any payment or service or benefits for a period of five years from the date of establishing the joint venture. This should include

No.	Recommendation
	any company that is a subsidiary company of Lendlease.
12	The overarching agreement with Lendlease, to establish the HDV, should not contain an exclusivity percentage. Any exclusivity percentage should only be applied on a site by site basis following consideration of value for money and an appraisal of likely costs for each project.
13	In view of the interrelationship between Regeneration, Planning and the HDV, the Leader of the Council should ensure responsibility for Regeneration and the HDV are set out in the same portfolio. In addition, and following Recommendation 12 of the interim scrutiny report on governance, in order to remove any ambiguity concerning responsibilities for Regeneration and the HDV with that of the Local Planning Authority, it is recommended Cabinet responsibility for Regeneration and Planning is disaggregated and allocated to separate members.
14	No decision to commit any site should go ahead without a full and detailed equality impact assessment on each site. This work should be commissioned and completed independently, in order to demonstrate sufficient separation to the overarching Overview and Scrutiny Committee who should oversee this.
15	Given that the commercial portfolio would transfer immediately after establishing the HDV, a full and detailed equality impact assessment should be undertaken before the portfolio is transferred. If time allows, this should be undertaken by an independent external advisor. The final list of commercial properties proposed for transfer should be made public. The impact on the HRA should be quantified and made transparent as part of that listing.
16	<p>To ensure residents' rights are protected, a set of formal policy documents should be drafted specifically related to the rights of tenants and leaseholders living in properties to be transferred to the HDV. These policies must establish and set out firm and transparent criteria and principles regarding residents' rights, including:</p> <ul style="list-style-type: none"> a. That a clear, legally enforceable, commitment be made to council tenants to be re-housed on rent matching that of an equivalent council property and on the same terms, either on the estate or elsewhere in the borough, according to their choice. b. To protect homes for future generations of Haringey residents, the right-to-buy scheme should not be offered on replacement homes built by the development vehicle. c. In developing HDV tenancy and evictions policies, strong safeguards should be put in place to protect vulnerable tenants from eviction. d. That overcrowded tenants be offered a replacement property of a size that meets their needs.

No.	Recommendation
	<p>e. That robust and meaningful resident consultation be guaranteed, with a commitment that sites can only be transferred to the HDV once full resident consultation, has taken place. As part of the consultation process, the difference between refurbishment and demolition should be made clear with a clear choice of regeneration or renewal being stated i.e. not everything needs to be demolished.</p> <p>f. There should be a Ballot of tenants and leaseholders as part of the consultation process and that the Council should provide the evidence to residents that it is beneficial for sites to be transferred to the HDV. <i>(This recommendation was not agreed by all Panel members)</i></p> <p>g. Resident leaseholders should be provided with a package of support, including independent legal advice regarding their position, so they don't lose out when their property is subject to CPO.</p> <p>h. A clear policy should be set out to protect residents from onerous leasehold terms and escalating ground rents. In developing this policy, it is recommended consideration be given to Nationwide Building Society's new valuation policy for new build leasehold properties² (available here).</p>
17	That a Residents' Charter, setting out the expectations of Northumberland Park residents (or any other affected estate), written by the residents themselves, be adopted by Cabinet to give a clear public commitment to meeting the ambitions of tenants and resident leaseholders.
18	<p>The legal framework for the HDV must establish firm principles and policies which would be binding on any development carried out by the HDV. Cabinet must ensure that decisions on the HDV incorporate important protections for the provision of affordable, and target rent social housing, including:</p> <p>a. That the development vehicle be bound by Haringey's planning policy requiring at least 40% affordable housing and the Council should seek to use profits from the vehicle to boost affordable housing and target social rented numbers.</p> <p>b. Contractually making sure that target rent social homes are not transmuted into affordable rent homes.</p> <p>c. There should be no loss of target rented social housing – that is housing which was, prior to any demolition, council</p>

² <http://www.nationwide.co.uk/about/media-centre-and-specialist-areas/media-centre/press-releases/archive/2017/5/05-protect-homeowners>

No.	Recommendation
	<p>housing. Any new developments must reprovide – at minimum – an equivalent number of target rented homes on the same rents (without service charges) and security of tenure. The basis for calculating the number of such social target rent homes to be reprovided should be the number of council homes and leasehold properties on any estates before any people accept alternative accommodation i.e. the position at the start of any community engagement and consultation.</p> <p>d. All HDV viability assessments should be made public in full with no redactions.</p>
19	<p>Consideration should be given to establishing a wholly council-owned housing company to purchase and manage HDV affordable homes and target rent social homes. This will ensure that there will be no reduction in homes wholly owned and managed by the council.</p>
20	<p>Given that the HDV will operate in line with Haringey’s Housing Strategy the mixed communities model pursued by the HDV, with mix-tenure housing built in the same locality, must be underpinned by genuine social integration. Safeguarding for achieving this should include:</p> <ul style="list-style-type: none"> a. Social housing must be of the same standard as private housing b. All new build of all tenures should be pepper potted, with no “poor door” arrangements c. A retail offer which reflects the needs and wishes of all residents rather than aimed at just higher-income residents d. Leisure amenities must be equally accessible to private and social tenants e. Blocks of private flats should not be gated
21	<p>The legal framework for the HDV must establish firm principles and policies which would be binding on any development carried out by the HDV. Cabinet must ensure that decisions on the HDV reflect estate regeneration / development best practice, including:</p> <ul style="list-style-type: none"> a. There should be no building on Metropolitan Open Land. b. Good practice guidance, published by the Mayor of London on estate regeneration, should be complied with.

No.	Recommendation
	<p>c. There should be a suitable proportion of homes built to comfortably accommodate people with disabilities and all properties should be built to Lifetime homes standards.</p> <p>d. All building work by the HDV should be done to Passive House or Code 6 energy efficiency standards.</p> <p>e. Priority in all development design and building contracts should be given to sustainable housing contractors</p> <p>f. Ensuring all contracts engaged in by the HDV with third parties are awarded by transparent competitive tender.</p> <p>g. Arrangements being put in place with the construction subsidiary of Lendlease to provide local employment and training opportunities; particularly in respect of equalities groups, including job support and training for disabled people.</p> <p>h. To ensure the HDV provides decent jobs, preference in all subcontracts on HDV developments should be given to firms:</p> <ul style="list-style-type: none"> ○ Where apprentices are training for a Level 3 qualification and constitute 10% of the firms workforce. ○ That are approved by the South-East Region TUC (SERTUC) as a good reputation concerning blacklisting, health and safety and have a trade union recognition agreement and comply with existing construction industry collective agreements. ○ Where workers are all directly employed with CSCS cards and have recognised skill qualifications. <p>i. No HDV or sub-contractor employee should be paid less than the London Living Wage.</p>
22	The HDV must use all measures available, including any changes to national/regional policy, to enable homes built by the HDV to be only sold to UK residents, with priority given to Haringey residents and those with a local connection to Haringey (not overseas buyers).
23	Given the number of housing estates already listed for transfer to the HDV, and the significant number of commercial properties paying rent to Homes for Haringey which are scheduled for transfer, we recommend that clear consultation with the board of Homes for Haringey is initiated forthwith. This would be to establish in detail the likely impact of the HDV on Homes for Haringey, the Housing Revenue Account and the Homes for Haringey repairs service and any other significant factors, e.g. impact on staffing, equalities, the impact on other estates and overall viability of Homes for Haringey and its in house services.

No.	Recommendation
24	Both the revenue and the capital costs incurred by the Council and HFH in preparing any site for transfer to the HDV should be reimbursed to the Council and HFH at the date of the transfer. These costs incurred to commence from the date any site was identified as moving to the HDV until the actual legal date of its transfer to the HDV. For example, the revenue and capital costs would include all staff costs, all repair and capital costs involved in providing accommodation for residents decanted, all leaseholder costs, all legal costs and all disturbance costs to both residents and leaseholders. These costs listed are examples only, all other costs incurred should also be reimbursed.
25	The 1% rent reduction due as part of the government's 4 year rent reduction agenda should be appealed to the DCLG to be ceased for the Council and HFH properties within the HRA. The appeal to request exemption from any further rent reductions to enable the resultant extra rental income to assist with the regeneration of housing / estates.
26	That the Cabinet commit to exploring all options for using Haringey's right-to-buy receipts in conjunction with the HDV.
27	<p>The legal framework for the HDV must establish firm principles which would be binding on any development carried out by the HDV. Cabinet must ensure the following important protections to guarantee ongoing democratic control of major decisions:</p> <ul style="list-style-type: none"> a. No scheme land transfer to take place without Cabinet approving the business plan which should set out expectations on: the number and type of housing, employment spaces, job numbers and employment, inclusion of open space and community facilities, the timetable for development and an assessment of the key risks. b. Regular reports to Cabinet on the performance of the Haringey Development Vehicle, based on clear and robust key performance indicators. As set out in the interim scrutiny report (Recommendation 6), these should include: (i) Challenging targets for both revenue and capital growth from the management of the Council's commercial property portfolio; and (ii) Ambitious regeneration outcome targets to help improve the health, wellbeing, safety and life chances of those within regeneration areas (and beyond). c. Ward Councillors should be kept fully informed about specific proposals in their ward and a meaningful consultative structure established to ensure Ward Councillors are fully aware of, involved in, and able to influence the decision making process, and methodology, on any site decant and demolition. d. The HDV's Strategic Business Plan should be updated and presented to Overview and Scrutiny on an annual basis and senior HDV staff must be available to answer questions as required.
28	The Overview and Scrutiny Committee must itself commit to ongoing scrutiny, possibly by setting up a separate HDV Scrutiny

No.	Recommendation
	Panel.
29	An independent advisor with experience in finance, risk and partnerships should be appointed to assist the Committee/Panel with its scrutiny work.
30	That Cabinet be asked to consider and respond to the deputation, attached at Appendix 3, presented to the Overview and Scrutiny Committee on 13 June 2017 by the Northumberland Park Supporters Group.

4. Reasons for decision

“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 is suggested that further scrutiny would allow for further member engagement and to address the potential risks identified...”

Interim Scrutiny Report on HDV Governance, January, 2017, HRSP

4.1 Overview and Scrutiny can review or scrutinise decisions made or actions taken in connection with the discharge of any of the Cabinet’s functions and make reports and recommendations to the Cabinet in connection with the discharge of any functions and make reports or recommendations on matters affecting the area or its inhabitants. In this context, and following the publication of the Panel’s interim report on governance arrangements, the Overview and Scrutiny Committee agreed on 17th January 2017, that the Panel should undertake further scrutiny of the proposed HDV.

4.2 The **Terms of Reference** for this scrutiny project are outlined below:

- To establish and provide recommendations on the feasibility of the proposed joint venture model of council tenants being re-housed on rent matching that of an equivalent council property and on the same terms, either on the estate or elsewhere in the borough, according to their choice;
- To establish and provide evidence and recommendations on whether the HDV can deliver a tenancy and evictions policy which protects vulnerable tenants in the same way as council tenancies do;
- To establish and provide recommendations on whether overcrowded tenants can be offered a replacement property of a size that meets their needs;
- To further establish and provide recommendations on whether the financial arrangements of the proposed HDV adequately protect the Council’s interest;
- To consider the impact of the HDV on the Council’s Commercial Portfolio, including the impact on current businesses and those who work in them;
- To consider the impact of the HDV on Metropolitan Open Land;
- To consider the equalities impact of the HDV;
- To further establish the risks of the venture and make recommendations on whether these risks can be adequately mitigated.

4.3 The recommendations contained in this report address these concerns.

5. Alternative options considered

5.1 As outlined in section 6, evidence for this review was gathered in a variety of ways. Options considered are outlined in the body of the report. However, the Overview and Scrutiny Committee could decide not to approve the Panel’s

report and recommendations, which would mean they could not be referred to Cabinet for a response.

6. Methodology

- 6.1 During spring, the Panel held six evidence gathering sessions, meeting stakeholders with a wide range of knowledge and experience. This included local witnesses, such as council officers and community group representatives, as well as external contributors. A list of witnesses is attached at **Appendix 1** and the evidence they submitted is included at **Appendix 2**.
- 6.2 In addition to evidence received during this review, it is important to note that recommendations set out in this report reflect findings from earlier scrutiny investigations as well. This additional work, including the interim report on governance and the Call-In of the Cabinet's Decision to proceed to the Preferred Bidder phase of the procurement process, was undertaken during 2016/17 as part of the overall work programme for Haringey's Overview and Scrutiny Committee.
- 6.3 Members of the Panel also attended / asked questions at Cabinet meetings and assessed a range of documentary evidence and other published material. The reports and minutes from the following meetings were of particular interest:
- [HDV Business Case \(Cabinet, November 2015\)](#)
 - [Interim HRSP Report on HDV Governance \(OSC, January 2017\)](#)
 - [Cabinet Response to Interim HRSP Report \(Cabinet, February 2017\)](#)
 - [Approval of Preferred Bidder for HDV \(Cabinet, February 2017\)](#)
 - [Call-In: Recommendation of a Preferred Bidder for the HDV \(OSC, March 2017\)](#)
 - [Recommendation of a Preferred Bidder for the Haringey Development Vehicle – Outcome of Call-in to Overview and Scrutiny Committee \(Cabinet, March 2017\)](#)
- 6.4 Further information about the HDV, including links to the reports and minutes above, answers to FAQs, the HDV timeline and next steps, can be found via the following web-link – [Haringey Development Vehicle \(FAQs\)](#).

7. Introduction

- 7.1 A number of themes emerged from the Panel's investigations. These are set out below and relate, primarily, to: the business case; audit and risk; the scale of the proposed HDV, officer capacity; and concerns about the financial modelling and timing of the decision.
- 7.2 These findings have been used to develop recommendations which are based on important principles, including: protecting the Council's financial position; anticipating and managing risk; protecting residents' rights, the provision of affordable housing; advancing equality; ongoing democratic control and accountability; and ensuring transparency and probity.

7.3 Despite the above, it should be noted the subject of this inquiry has been unusually difficult to scrutinise by virtue of it being subject to ongoing negotiations, much of which has been deemed commercially sensitive. As a result, the Panel's recommendations are based on the information that was available concerning the HDV and from lessons learnt elsewhere. The Panel's concerns, findings and recommendations are intended to be useful in ensuring all matters are properly considered before a decision is made on whether to progress with the joint venture.

8. The Business Case

8.1 Building on concerns raised in sections 6.4 – 6.8 of the interim scrutiny report on governance, the 2015 Business Case for the HDV was quickly identified as a key line of enquiry for this review.

8.2 As set out in Appendix 2, several witnesses highlighted the substantive political and financial changes that have occurred since the decision was taken to enter into procurement for an Investment Partner for the HDV.

8.3 As demonstrated by evidence below, there was consensus that the Business Case needed to be revisited. This preceded the announcement of the unexpected General Election, which has brought further uncertainty and will mean further change. It was noted that this should be made a priority in order to limit the risks and uncertainties faced by the Council.

“The Council’s Business Case of 2015 was prepared before the EU referendum and before the numerous changes in housing and planning law which were enacted in the Housing and Planning Act 2016 and trailed in the White Paper recently released. As a result of these changes in the economic and political environment the Council’s decisions have to be tested against a much wider range of possible circumstances than must have seemed likely in 2015.

“The economy of the UK is very weak, with low investment; what little growth we have being driven by expanding household debt and no clear prospect that we’ll be able to take advantage of a devalued pound to increase our exports. Many of our export sectors in finance, insurance and related professional services are directly threatened by brexit while others – like the university sector, a huge earner of foreign exchange, are threatened by visa restrictions. We share with Greece the decline in real incomes in the last decade.

“We thus need to consider the possibility that the UK economy will fail to grow and may contract in the coming decade. Furthermore the effect of inflation of import prices leading to higher interest rates would both impoverish an indebted population and change balance of power within the HDV.

“The other contextual factor is related to housing policy: it keeps changing in ways which make it ever harder for councils to resume house-building. That’s one of the reasons why Haringey has proposed the HDV. But it seems quite possible that government will find ways of extending the Right to Buy to Council-owned companies or in other ways inhibit the efforts of London Boroughs to circumvent government policy. Although the Minister has backed off the RtB threat recently we cannot be very confident.”

Prof Michael Edwards, UCL Bartlett School of Planning

- 8.4 In addition, the Panel note with concern that Crossrail 2 was not included in the 2017 Budget, announced on 8 March.

“The existing good transport links are continuing to be strengthened, with the real possibility of Crossrail 2 making a further significantly positive impact on the Borough.”

Page 18, HDV Business Case, October 2015

- 8.5 An article in the Evening Standard³ (3rd April) reports that several property developers and housing associations had written to Philip Hammond urging him to announce the go-ahead for Crossrail 2. Without it, they said, they could not commit to building the number of homes required by the London Plan.
- 8.6 The Panel also note the emerging Wood Green Area Action Plan is predicated, to a significant extent, on Crossrail 2 being given the go-ahead, with a station located in Wood Green. Given the stated aim is to transfer key Council buildings, such as River Park House and other Station Road buildings into the HDV, the Panel considers that there is a real substantial risk in this strategy and provides another reason for updating the Business Case.
- 8.7 Therefore, at the time of writing, Crossrail 2 is by no means certain to go ahead. However, it appears essential in order to provide capacity for the intensification of the whole Upper Lea Valley Opportunity Area and for the commercial expansion of Wood Green as a centre.

Recommendation 1a

No decision on the HDV should be taken until a fully updated business case is prepared and evaluated. For the avoidance of doubt, before Cabinet is asked to approve the legal documentation to establish the HDV, and its first set of business plans, there must be a meaningful update to the Business Case, originally published in 2015, to ensure it is still fit for purpose. The updated business case should:

- Review the economic modelling used in the initial Business Case to reflect recent circumstances, which have increased economic uncertainty, including: Brexit, Crossrail 2, numerous changes in housing and planning law which were enacted in the [Housing and Planning Act 2016](#), the recently released [Housing White Paper](#) (“Fixing our broken housing market”), a new good practice guide to estate regeneration published by the Mayor of London, and the results of the “snap” General Election.
- Be made public and transparent with sufficient time for meaningful scrutiny before a decision is taken.

Recommendation 1b

If time allows, this should be undertaken by an independent external advisor commissioned for this purpose.

³ <http://www.standard.co.uk/news/transport/crossrail-2-property-developers-and-housing-associations-call-for-firm-commitment-a3505696.html>

9. Audit and Risk

- 9.1 It is recognised there is an inherent commercial risk in the establishment of a Local Asset Backed Vehicle (LABV) which is operated as a Limited Liability Partnership. However, throughout the course of this review, the Panel raised concerns that risks associated with the HDV had increased following publication of their interim report on governance.
- 9.2 The Panel's interim scrutiny report on governance highlighted the following:
- 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 Union (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.
- 9.3 With this in mind, a key line of enquiry for this review was to further establish the risks of the venture and to make recommendations on whether these risks can be adequately mitigated.
- 9.4 The Council's risk registers are the main means of identifying and recording risks, aiming to quantify the likelihood of the risk occurring and the impact that it would have on the Council's priorities. Their purpose is to provide a framework for debate on the mitigating controls and actions that may be required to reduce the level of risk to the council, to an appropriate level. They also allow for progress against actions to be monitored, so that the level of risk can be regularly re-evaluated. Risk registers are internal documents, to be used to identify, manage, monitor and control risks effectively.
- 9.5 It is recognised that some high level elements of the risk analysis are in the public domain, through Cabinet papers, scrutiny discussions and other material (including the online FAQ). However, because the detail of the governance structure is still the subject to negotiation, the Panel has not been able to consider a detailed risk register and/or in-depth assessments for the HDV. As a result, it has not been possible to explore in detail how the Council's exposure has been addressed, and the extent of the remaining risk.
- 9.6 The Panel was disappointed with this, especially as evidence received related to concerns about the structure of the HDV which, in the opinion of Justin Guest, a local resident and risk specialist, provided *"an open ended commitment by the Council but no proper way of managing that risk via an appropriate level of control over the actions of the HDV, and how money is taken out of the HDV (via fees etc.)"*.

Table 2 – Four proactive remedies for managing risk

Accept It	If managing or reducing the risk is not cost effective, but the risk is acceptable.
Control It	If it's an unacceptable risk, you should look to increase controls on it, e.g. putting more stringent management strategies in place to control or reduce the impact.
Transfer It	Insure against the consequences of the risk materialising, e.g. taking out contents insurance on the business premises.
Avoid It	Change the course of a business strategy to avoid the risk, e.g. withdrawing a problematic product line.

9.7 The points above, along with various concerns outlined in Appendix 2, lends support to the need for the full risk register and comprehensive risk assessments to be made available for public scrutiny prior to any decision being taken. For example, Justin Guest made the point that it was vital to work backwards from all the things that could go wrong, highlighting these clearly in a matrix that “sets out where risk arises and how it is allocated or mitigated / managed”.

Recommendation 2

That the full risk register, and comprehensive risk assessments, for the HDV be made available to the Housing and Regeneration Scrutiny Panel and made public **prior to any decision being taken**. This should work backwards from all the things that can go wrong, setting out where risk arises and the remedy for managing risk i.e. accept it, control it, transfer it, or avoid it.

9.8 In view of the above and the fact that the detailed financial structure and modelling of the HDV is also still subject to discussion, as part of the Preferred Bidder stage of the procurement process, the Panel was keen to further understand how risks would be managed.

9.9 Therefore, in addition to evidence received from the Council’s Head of Audit and Risk, outlined in sections 6.44 – 6.48 of the interim report on governance, the Panel considered the following points in relation to the audit function.

9.10 The Council’s external auditors are BDO. The “appointed auditor” has the ability to review or investigate any significant matters that comes to their attention during the course of an audit or as a result of concerns raised to them. The duties and the powers of the External Auditor are set out in the [NAO Code of Audit Practice](#) and the [Local Audit and Accountability Act 2014](#).

9.11 The role of the external auditor is to form an opinion on:

- Financial Statements

- o Whether the financial statements give a true and fair view of the financial position of the group and authority and its expenditure and income for the period in question.

- Whether the financial statements have been prepared properly in accordance with the relevant accounting and reporting framework set out in legislation, applicable accounting standards or other direction.
 - Other Information
 - Whether other information, published together with the audited financial statement, is consistent with the financial statements (including the Council's statutory Annual Governance Statement).
 - Use of Resources
 - Whether the authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
 - Additional Powers and Duties of the External Auditor
 - To allow electors to raise questions about the accounts and to consider objections
 - Where appropriate, to consider the issue of a report in the public interest and to make a written recommendation to the authority.
 - Where appropriate, to apply to the court for a declaration that an item is contrary to law.
 - Where appropriate, to consider whether to issue an advisory notice or to make an application for judicial review.
- 9.12 In relation to the HDV, BDO have stated they will review the Council's work to address identified issues and to ensure appropriate plans around governance, performance management and risk management are in place. This review will form part of their normal annual duty to review the arrangements for the "proper use of resources" of the Council and will be reported in the Audit Completion Report presented to the Corporate Committee in September.
- 9.13 Evidence gathering by the Panel confirmed that the external auditor has held initial discussions about the HDV with the Council's officers, and has asked a number of questions regarding the availability of information used to inform decisions on the HDV. Toward the end of evidence-gathering, the Panel learned of a commitment that this review would be sufficiently progressed to allow concerns to be raised before the intended date for Cabinet's decision on the HDV proposal.
- 9.14 In addition to work taking place as part of the annual audit, the external auditor was also considering, under its additional powers and duties, a number of issues that have been reported to them by local residents.
- 9.15 In the event that the external auditor raises significant concerns with regard to the HDV, these will be discussed with Council Officers with a view to addressing them. However, as noted above, the External Auditor has a number of options available to them, under the Local Audit and Accountability Act, should these be required.

- 9.16 Given the potential risks posed by the HDV, the Panel are concerned findings from the external auditor may not be fully available before Cabinet is asked to establish the HDV, and its first set of business plans.
- 9.17 The Panel also received an update on the work of internal audit. The Panel was reminded that internal audit provides independent and objective assurance to the Council, its members, the Chief Executive and Senior Leadership Team and to the Chief Financial Officer to support them in discharging their responsibilities under S151 of the Local Government Act 1972, relating to the proper administration of the Council's financial affairs.
- 9.18 Internal audit needs to comply with the statutory [2013 UK Public Sector Internal Audit Standards \(PSIAS\)](#). For 2017/18 a full 30 day internal audit programme has been agreed and a draft project plan agreed. This is based on undertaking the following:
- Some high level assurance and advisory work regarding the planned governance of the HDV project and how risk is being identified, managed and communicated
 - A review of the proposed governance arrangements and testing the controls and mitigations in place to manage the identified risks if/when the approval to establish the HDV has been obtained
 - Some operational risk based systems audits, focused on the achievement of business objectives within governance processes embedded by management.
- 9.19 Evidence gathering by the Panel also confirmed that the focus, number and timing of audits (within the 30 day programme) undertaken on the HDV will be determined by risk assessment if/as the HDV is progressed. Additional days of audit will be provided if risk assessments, or outcomes from early review work demand it.
- 9.20 Whilst a draft project plan has been agreed, the Panel understands that at present, it is anticipated that internal audit will not report the outcomes of its initial work to Corporate Committee until 25th July. The timing of this report concerns the Panel as the audit report will be presented subsequent to the Cabinet meeting on 3rd July where a decision to establish the joint venture will be taken. As a result, the Panel believe the internal audit report should precede any final decision on the HDV. In addition, the Panel would like to see further information on what the 30 day programme of internal audit will entail.

Recommendation 3

No decision should be taken to establish the joint venture until:

- The Council's External Auditor has reviewed concerns, including those referred to them, relating to the HDV. Findings should be published (with actions to mitigate any risks set out and followed up) and considered by Corporate Committee.
- Corporate Committee has considered the outcomes of the initial work that has been undertaken by internal audit concerning the HDV.

Recommendation 4

Any final approval to establish the HDV by Cabinet must be accompanied by a robust set of measures to audit the work of the joint venture on a continuous basis. This must include a detailed plan of how the 30 days per year of the internal auditor looking at the HDV will be spent, to be addressed by Corporate Committee.

- 9.21 Should the Cabinet decide to approve the legal documentation to establish the HDV the Panel sets out further recommendations (sections 10–24), concerning its design and operation, to ensure transparency and accountability.

10. Officer Capacity and Equality of Partnership

"The business plans of the HDV will provide the opportunity for the Council to enshrine its objectives into the sites and vehicle."

Page 6, HDV Business Case, October 2015

- 10.1 On the issue of risk, concerns have been raised about whether the 50:50 arrangements constitutes an "equal partnership", and therefore whether the council's objectives are achievable, especially as "*commercial interest will no doubt conflict with the council's motivations at times*" (Prof Loretta Lees, Leicester University).

"The people on the other side of this transaction do this sort of thing every day (think PFI). Officers in Haringey and Councillors do not. However exciting a piece of work this is, there is a need to step back and actually ask yourself are you well equipped to negotiate and manage a deal with partners who have such an advantage with respect to their level of competency and experience."

Justin Guest, Local Resident and Risk Specialist

- 10.2 One way of addressing this is to ensure there is sufficient senior officer capacity so the Council's interests can be properly managed. This was highlighted by Cllr Ed Turner, Deputy Leader, Oxford City Council, based on his experience from various partnership development schemes:

"Commitment of sufficient senior officer capacity (and of course strong relations with elected members) is vital. If there is insufficient officer resource to support the Board, the council's interest could slide, and very full engagement (along with officers doing the 'day job!') is essential."

- 10.3 Similar issues were raised by other witnesses, especially as at the start of this scrutiny inquiry much needed to be resolved in negotiations with Lendlease, the preferred partner. Evidence submitted by Pete Redman, Associate Centre for London, highlights that *“the details of risk mitigation, and projected returns, in the final document should be “tested to destruction”, possibly with a further stage by this Scrutiny Committee as part of that process”*.
- 10.4 The Panel feel strongly that capacity issues need to be addressed before Cabinet is asked to establish the HDV. Further comments relating to risks associated with officer capacity, and whether a 50:50 arrangement constitutes an “equal partnership” in reality are set out in Appendix 2.

Recommendation 5

To address concerns raised by expert witnesses, and by Panel members themselves, about whether the 50:50 arrangements constitutes an “equal partnership”, and therefore whether the council’s objectives (policy framework/corporate plan) are achievable, the Head of Paid Service must ensure there is sufficient officer capacity to support the Council with its engagement with the HDV. This must be guaranteed, and outlined, before Cabinet is asked to establish the HDV.

11. Due Diligence

- 11.1 Due diligence is central to the issue of risk and risk management. However, as highlighted by questions raised by Justin Guest, a local resident and risk specialist, it is unclear to the Panel whether a full due diligence has been undertaken:

“I see no discussion... on how (due diligence) is to be carried out (and indeed, if any proper (due diligence) has been carried out and by whom.)”

“Normally in a situation like this there is a rigorous (due diligence) process that looks at all aspects of the process by professionals (with insurance to back up their advice and work) and not (with the greatest of respect) an amateur Scrutiny Panel.”

“Who has looked at this and torn it to pieces to work out where this whole thing breaks?”

- 11.2 Similar concerns were highlighted by the Panel during their earlier investigation. Whilst it is acknowledged this may be due to how information on the HDV has been presented, a number of issues remain unclear.

Recommendation 6

To ensure clarity, details of the due diligence process for establishing the HDV, and its first set of business plans, should be included in the HDV Cabinet report. This should include clear, comprehensive information on the work that has been carried out, by whom, and steps that have been taken as a result.

12. Financial Modelling

- 12.1 The Panel heard evidence from officers who stated that the HDV will be constituted as a Limited Liability Company and as such is required to comply with the Companies Act 2006 as it refers to the delivery of annual statement of accounts. The statement of accounts will be completed by appropriately qualified accountants and the accounts will be subject to external audit to ensure that they show a true and fair view of the financial situation. The annual statements will be presented to the Board. In addition to these normal safeguards around financial integrity, the HDV will employ independent cost accountants who will ensure that the costs applied in business cases represent good value to the HDV.
- 12.2 The nature of the financial flows to and from the HDV are complex in nature and the Council is in the process of assessing the financial skills it will need on the Council's client side to capture the complexity within the Council's and Homes for Haringey accounts.
- 12.3 From the evidence received, the Panel believe that **short-term** liabilities (i.e. the bills and invoices of all description that would come from Lendlease and be charged to the joint venture) would appear to be matched, or netted-off, against the Loan Note, a **long-term** asset of the HDV. Officers should provide clear and transparent information on how this will work to protect Haringey's interest and this should be done prior to any contract with Lendlease being signed.

Recommendation 7a

Information on what the Balance Sheet will look like on Day One, including the short- and long-term assets and liabilities, should be included in the HDV Cabinet report. To ensure clarity, it is recommended that a model balance sheet is included to illustrate what the basic HDV financial structure will look like.

Recommendation 7b

In addition:

- i. The updated HDV Balance Sheet, including any major changes to assets or liabilities, should be reported quarterly to the Housing and Regeneration Scrutiny Panel.
- ii. Management Accounts for the HDV should be reported quarterly to the Housing and Regeneration Scrutiny Panel.

- 12.4 The issue of what the two partners commit to the HDV is central to managing financial risks to the Council. The Panel heard evidence regarding this, for example from Professor Steve Jefferys (see Appendix 2i), which is reflected in the recommendation below.

Recommendation 8

The legal framework for the HDV must include binding guarantees in relation to dispute resolution mechanisms and, in order to reduce financial risk, the legal framework for the HDV must allow the Council (giving six months notice) to withdraw from the HDV every five years and without any compensation to be paid to Lendlease or to its subsidiaries or staff, and with the whole property portfolio being transferred back to Haringey.

13. Governance Risk

- 13.1 Whilst the Panel's earlier investigation focused primarily on governance, during this review the scale and ambitions of the HDV were highlighted, leading to further discussions about the importance of HDV decision-making. The statements below were of particular interest:

"Find good people to be ... Board members. These should be skilled people with experience and business acumen. These are not representative roles and need not be officers or members. They will have duties to the (HDV), and will be accountable to the Borough through appointment or removal by the Borough. Keep your very best most senior people in a Borough only role, overseeing the work of (HDV) Board members, and to act in extremis if necessary."

Pete Redman, Associate, Centre for London

"It strikes me you need someone with commercial experience of these structures acting for the council to make sure you get a good deal. I would not leave this to officers who have little or no experience of how the real (commercial) world works."

Justin Guest, Local Resident and Risk Specialist

- 13.2 With this in mind, the recommendation below has been put forward to address these concerns.

Recommendation 9

A professional independent advisor should be appointed to support the Council on the HDV Board to ensure Haringey board members have a clear understanding of the matters put before them and the implications of any decision made by the board, to allow them to act in the best interest of the Council and local residents. This advisor would not be voting but would have full access to information and be able to input and participate at board meetings.

14. Project Management

- 14.1 As highlighted by the interim scrutiny report on HDV governance there are opportunities and strengths within the HDV proposal and, on the other hand, risks and weaknesses.
- 14.2 With this in mind the importance of successful project management, including independent external evaluation and feedback, was highlighted. In particular, the OGC Gateway methodology was considered by the Panel as a means of managing risks. This is a process that examines programmes and projects at key decision points in their lifecycle and is recognised as best practice in central government, where it is mandatory, the health sector and local government.
- 14.3 Underlying the OGC Gateway process is a set of guiding principles. These are applied by all Gateway users to maintain standards and are applicable to a range of programmes and projects, including:
- policy development and implementation
 - organisational change and other change initiatives
 - acquisition programmes and projects

- property/construction developments
 - IT enabled business change
 - procurements using or establishing framework arrangements
- 14.4 OGC Gateway Reviews deliver a "peer review" in which independent practitioners from outside the programme/project use their experience and expertise to examine the progress and likelihood of successful delivery of the programme or project. The review uses a series of interviews, documentation reviews and the teams experience to provide valuable additional perspective on the issues facing the project, and an external challenge to the robustness of plans and processes.
- 14.5 Successful project management provides an important vehicle for the delivery of local outcomes. Good and effective management and control of programmes and projects is, therefore, essential to the successful delivery of local objectives. The OGC Gateway Process is designed to provide independent guidance to ensure programmes and projects are delivered.
- 14.6 Given the HDV *"model is unproven, and the scale at which Haringey is undertaking it is unprecedented"* (Prof Lees, Leicester University) the Panel hope the recommendation below will be taken forward, ideally before a decision is taken.

Recommendation 10

Cabinet should invite and establish a Gateway Review (using OGC methodology) to deliver a "peer review" in which independent practitioners from outside the project use their experience and expertise to examine the progress and likelihood of successful delivery of the project. Ideally this should happen before a decision is taken to establish the HDV.

15. Ensuring Transparency and Probity

- 15.1 During evidence gathering, Professor Steve Jefferys, Emeritus Professor, London Metropolitan University, provided a critical analysis of Joint Private-Public 'Special Purpose Vehicles', highlighting the importance of transparency and probity. In view of this evidence, attached in full at Appendix 2i, the following recommendation has been put forward in order to protect the council's commercial interest.

Recommendation 11

To ensure probity, and to protect the council's commercial interests, the legal agreement to establish the HDV should contain a commitment from Lendlease not to recruit any Haringey Council employee/Councillor/consultant who has worked for Haringey on the HDV over the past 3 years (2015-2017). Furthermore, neither should Lendlease provide such individuals with any payment or service or benefits for a period of five years from the date of establishing the joint venture. This should include any company that is a subsidiary company of Lendlease.

Exclusivity and Value for Money Requirements

15.2 As set out in the Approval of Preferred Bidder for the HDV Cabinet Report (14th February 2017):

“The recommended preferred bidder is Lendlease on the basis that this bidder received the highest overall score across all the criteria from the Evaluation Panel, and satisfied the minimum (or “floor score”) requirement across all five criteria set out...”

15.3 A key element of the preferred bidder’s proposal, set out in section 6.38 of the Cabinet report, is “a construction exclusivity, whereby the preferred bidder’s construction arm will be guaranteed a proportion of construction contracts, subject to satisfying value for money requirements”.

15.4 This element of the proposal raised concerns during the Call-In meeting, held by the Overview and Scrutiny Committee on 2nd March 2017. These concerns, and Cabinet’s response to recommendations, are set out in the minutes (web-links below) from each meeting:

[Call-In: Recommendation of a Preferred Bidder for the HDV \(OSC, 2nd March 2017\)](#)

[Recommendation of a Preferred Bidder for the Haringey Development Vehicle – Outcome of Call-in to Overview and Scrutiny Committee \(Cabinet, 7th March 2017\)](#)

15.5 Matters relating to exclusivity and value for money requirements remained a key line of enquiry during this review. In view of the issues highlighted by the Overview and Scrutiny Committee in March, the statement below was of particular interest:

“At one point in the publicly available papers the benefits of guaranteed future work for the (joint venture) is mentioned; elsewhere there is emphasis that future work “may” be transferred to the (joint venture). There should be no open promise of future work. The Borough should assess the proposal for each project in advance and then decide whether it is suitable for the HDV. The partner’s role (as distinct from the joint venture) will vary with each project, or type of project. There is no single % of exclusivity for the partner that is right for all projects and the % for each should be decided as part of that project’s business plan before transfer to the (joint venture).”

Pete Redman, Associate, Centre for London

Recommendation 12

The overarching agreement with Lendlease, to establish the HDV, should not contain an exclusivity percentage. Any exclusivity percentage should only be applied on a site by site basis following consideration of value for money and an appraisal of likely costs for each project.

HDV Relationship with the Local Planning Authority

15.6 The Leader of the Council appointed the following Members to her Cabinet, with effect from 22 May:

Cllr Ejiqfor	Deputy Leader and Cabinet Member for Customer Services
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Cllr Ahmet	Cabinet Member for Environment
Cllr Arthur	Cabinet Member for Finance and Health
Cllr Ayisi	Cabinet Member for Communities
Cllr Demirci	Cabinet Member for Corporate Resources
Cllr Goldberg	Cabinet Member for Economic Development, Social Inclusion and Sustainability
Cllr Strickland	Cabinet Member for Housing, Regeneration and Planning
Cllr Vanier	Cabinet Member for Adult Social Care and Culture
Cllr Weston	Cabinet Member for Children and Families

- 15.7 The information above is noted. However, it was apparent, from the interim scrutiny report on governance, that there should be clear lines of separation between the Local Asset-Backed Vehicle (LABV), the Local Authority and the Local Planning Authority. This is because although an LABV may be partly owned by a Local Authority, in terms of any planning application and development process it should not receive, or appear to receive, any preferential treatment in the planning process, like any other applicant.
- 15.8 It was evident that other local authorities had sought to remove any ambiguities or perceptions about potential perceived conflicts that the LABV may have with the Local Planning Authority. While planning is a non-executive function, the member of the executive has lead responsibility for matters of planning policy.
- 15.9 *“The arrangements for the governance of the vehicle itself – covering matters such as the constitution of the Board, the decisions reserved to members of the company, the arrangements for resolving deadlocks etc. – will be set out in the Members’ Agreement and other legal documents which have been negotiated during procurement dialogue and which will be finalised with the preferred bidder before being presented to Cabinet for approval” (Approval of Preferred Bidder for HDV, Cabinet, February 2017).*
- 15.10 Within this framework, *“Board Members and voting rights are split 50/50 between both partners.... the Council will nominate 3 Board members, two officers (yet to be determined) and one Member (yet to be determined).” (Interim Scrutiny Report on HDV Governance, January, 2017).*
- 15.11 In terms of 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
<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • Decides how to deliver Business Plans’ high level outcomes • Proposes further sites and initiates Business Plans for them

partner	
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- 15.12 In this context, the Panel remains concerned that the Cabinet Member for Housing, Regeneration and Planning could be 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 as well.
- 15.13 The following recommendation was put forward in January, and the Cabinet response noted.

<i>Response to the Interim Scrutiny Report on HDV Governance</i>		
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.	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 has lead responsibility for the relationship with HDV.	Leader of the Council Summer 2017

- 15.14 In view of the recent Cabinet reshuffle (above) the Panel are unclear whether this response has been taken forward at this stage. With this in mind, the Panel agreed a further recommendation was needed. It is hoped the Cabinet responsibilities will provide clarity moving forwards.

Recommendation 13 In view of the interrelationship between Regeneration, Planning and the HDV, the Leader of the Council should ensure responsibility for Regeneration and the HDV are set out in the same portfolio. In addition, and following Recommendation 12 of the interim scrutiny report on governance, in order to remove any ambiguity concerning responsibilities for Regeneration and the HDV with that of the Local Planning Authority, it is recommended Cabinet responsibility for Regeneration and Planning is disaggregated and allocated to separate members.
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16. Advancing Equality

- 16.1 One of the reasons cited for the Preferred Bidder Call-In⁴ *“included: a failure to undertake proper Equalities Impact Assessments, potentially meaning the decision may well breach the Council’s public sector equalities duty...”* (Minutes, Overview and Scrutiny Committee, 2nd March 2017).
- 16.2 However, as set out in the Cabinet reports considered on 14 February and 7 March, and highlighted at the Call-In meeting itself, the recommendations to Cabinet expected in July 2017 – to establish the HDV, and to agree the first set of business plans – will be accompanied by full Equality Impact Assessments.

⁴ <http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=128&MIId=8162&Ver=4>

- 16.3 The potential impact of the individual business plans is likely to be greater than that of the decision to establish the HDV. At present, these business plans, and the final terms of the HDV's establishment, are still in development. However, the evidence presented to the Panel highlighted that many opportunities existed to help address inequalities. For example:

“Growth in housing supply, of all tenures, and extra resources for targeted services, will provide a positive step to address inequality.”

Pete Redman, Associate, Centre for London

“...Seeing developments progress in a timely fashion and with replacement of social rented housing should have positive equalities impact, as would any provision of training and apprenticeships.”

Cllr Ed Turner, Deputy Leader, Oxford City Council

- 16.4 The Council is exploring how best to embed equalities into the governance of the HDV to ensure due regard is given to the Public Sector Equality Duty. As set out in Section 26, this will include full Equality Impact Assessments being considered by Cabinet in relation to all future business plans and any other decision made by the Council related to the HDV.

- 16.5 The impact of the HDV on the Council's Commercial Portfolio, including the impact on the current businesses and those who work in them was also a key line of enquiry. The following comments were made during evidence gathering:

“Commercial property leases offer a fair balance between the interests of the tenants and landlord, and there is a well-tested framework for compensation. Transfer to the HDV does not change these.”

Pete Redman, Associate, Centre for London

“Our Oxpens project is a mixed-use development and we see no issues here. We...always look for trading and business opportunities for council services, while accepting these have to be competitive.”

Cllr Ed Turner, Deputy Leader, Oxford City Council

- 16.6 The evidence presented by Council Officers also made clear *“with leases simply transferring from the Council to the HDV, with no change, the impact of the transfer itself on current businesses will be negligible. Any impacts following transfer would arise from the management regime to be agreed in the business plan for the portfolio (which is still under development, and subject to approval by Cabinet in summer 2017) and from the HDV Board's implementation of that business plan over time.”*

Project Team Scrutiny Briefing

- 16.7 Despite these reassurances, the Panel still has particular concerns and are keen that all opportunities are taken to address inequality. This is particularly true for the Commercial Portfolio tenants, who the Panel understand have only received limited information on the HDV. To support these efforts to address inequality, the Panel recommend further work in these areas be undertaken by an independent external advisor.

Recommendation 14

No decision to commit any site should go ahead without a full and detailed equality impact assessment on each site. This work should be commissioned and completed independently, in order to demonstrate sufficient separation to the overarching Overview and Scrutiny Committee who should oversee this.

Recommendation 15

Given that the commercial portfolio would transfer immediately after establishing the HDV, a full and detailed equality impact assessment should be undertaken before the portfolio is transferred. If time allows, this should be undertaken by an independent external advisor. The final list of commercial properties proposed for transfer should be made public. The impact on the HRA should be quantified and made transparent as part of that listing.

17. Residents' Rights

- 17.1 The provision of housing, particularly to vulnerable members of society, is one of the most important responsibilities for a local authority. The Panel is particularly mindful of the anxiety and concern of residents of housing estates expected to be transferred to the vehicle.
- 17.2 To assist the Cabinet in allaying these concerns, and mindful that the assets that comprise the Council's main stake in the Vehicle are largely residents' homes, the Panel would suggest the following commitments be made by Cabinet in advance of the final decision to establish the HDV.

Recommendation 16

To ensure **residents' rights** are protected, a set of formal policy documents should be drafted specifically related to the rights of tenants and leaseholders living in properties to be transferred to the HDV. These policies must establish and set out firm and transparent criteria and principles regarding residents' rights, including:

- a. That a clear, legally enforceable, commitment be made to council tenants to be re-housed on rent matching that of an equivalent council property and on the same terms, either on the estate or elsewhere in the borough, according to their choice.
- b. To protect homes for future generations of Haringey residents, the right-to-buy scheme should not be offered on replacement homes built by the development vehicle.
- c. In developing HDV tenancy and evictions policies, strong safeguards should be put in place to protect vulnerable tenants from eviction.
- d. That overcrowded tenants be offered a replacement property of a size that meets their needs.
- e. That robust and meaningful resident consultation be guaranteed, with a commitment that sites can only be transferred to the HDV once full resident consultation, has taken place. As part of the consultation process, the difference between refurbishment and demolition should be

made clear with a clear choice of regeneration or renewal being stated i.e. not everything needs to be demolished.

- f. There should be a Ballot of tenants and leaseholders as part of the consultation process and that the Council should provide the evidence to residents that it is beneficial for sites to be transferred to the HDV. *(This recommendation was not agreed by all Panel members)*
- g. Resident leaseholders should be provided with a package of support, including independent legal advice regarding their position, so they don't lose out when their property is subject to CPO.
- h. A clear policy should be set out to protect residents from onerous leasehold terms and escalating ground rents. In developing this policy, it is recommended consideration be given to Nationwide Building Society's new valuation policy for new build leasehold properties⁵ ([available here](#)).

Recommendation 17

That a Residents' Charter, setting out the expectations of Northumberland Park residents (or any other affected estate), written by the residents themselves, be adopted by Cabinet to give a clear public commitment to meeting the ambitions of tenants and resident leaseholders.

18. The Provision of Affordable Housing

18.1 The Panel heard about development schemes elsewhere in London that had not produced the levels of affordable housing originally promised, and had led to development far beyond the budgets of residents prior to development. This is a particular concern for the HDV, given it will focus development in areas and sites of high concentration of affordable and social housing, which if transferred for redevelopment may reduce the supply and the proportion of social and affordable housing.

Viability Assessments

- 18.2 A key contributor to this shortcoming was the failures of the 'viability assessment' process with developers able to renege on previous commitments by arguing that it would be financially unviable for them to build the numbers of affordable housing agreed at the outset.
- 18.3 The Panel was particularly interested in evidence submitted by 35% Campaign, concerning developers, financial viability and regeneration at the Elephant and Castle in Southwark⁶. The Panel heard from one witness who had subsequently obtained a redacted copy of the viability assessment, which exposed flaws in the viability process and raised serious questions about its legitimacy.

⁵ <http://www.nationwide.co.uk/about/media-centre-and-specialist-areas/media-centre/press-releases/archive/2017/5/05-protect-homeowners>

⁶ Evidence submitted by Jerry Flynn, 35% Campaign (Appendix 2j)

- 18.4 In terms of the HDV it is recognised that the viability assessment would be brought forward by the 50:50 owned joint venture rather than the developer acting independently. This should be seen as an opportunity for utmost transparency and accountability. To ensure this the Panel recommend that the HDV's viability assessments are made public in full with no redactions.

Recommendation 18

The legal framework for the HDV must establish firm principles and policies which would be binding on any development carried out by the HDV. Cabinet must ensure that decisions on the HDV incorporate **important protections for the provision of affordable, and target rent social housing**, including:

- a. That the development vehicle be bound by Haringey's planning policy requiring at least 40% affordable housing and the Council should seek to use profits from the vehicle to boost affordable housing and target social rented numbers.
- b. Contractually making sure that target rent social homes are not transmuted into affordable rent homes.
- c. There should be no loss of target rented social housing – that is housing which was, prior to any demolition, council housing. Any new developments must reprovide – at minimum – an equivalent number of target rented homes on the same rents (without service charges) and security of tenure. The basis for calculating the number of such social target rent homes to be reprovided should be the number of council homes and leasehold properties on any estates before any people accept alternative accommodation i.e. the position at the start of any community engagement and consultation.
- d. All HDV viability assessments should be made public in full with no redactions.

- 18.5 The Panel heard compelling evidence from Cllr Ed Turner, Deputy Leader, Oxford City Council. He described various regeneration schemes which provided new homes for local people. This evidence, set out in Appendix 2c, provides the context for the recommendation below. During evidence gathering, the Panel was also made aware of many other wholly-owned housing companies established by local authorities across the country.

Recommendation 19

Consideration should be given to establishing a wholly council-owned housing company to purchase and manage HDV affordable homes and target rent social homes. This will ensure that there will be no reduction in homes wholly owned and managed by the council.

19. Mixed Communities

- 19.1 The Panel heard interesting evidence on how development can encourage or inhibit mixed communities, for example:

“Policy makers everywhere accept uncritically mixed communities policies in the face of evidence which suggests they will not be successful in terms of social inclusion or reducing poverty and will lead to significant gentrification”

Bridge et al (2012) Mixed Communities, Gentrification by Stealth

- 19.2 The renewal of Haringey’s council estates through the HDV is underpinned by the idea of mixing tenures in newly built mixed communities in order to:

“Deliver economic growth and provide new housing on the scale required, the Council has to use its own landholdings. Estate renewal on the Council’s large and medium sized estates also provides a major opportunity to increase the number of homes, to improve the mix of tenures and sizes and to address the condition of the housing stock.”

“Achieve estate renewal by intensification of land use and establishment of a range of mixed tenures, together with tenure change across the Borough where appropriate. To secure wider social and economic benefits in areas affected, including community facilities, skills and training, health improvement or crime reduction for the benefit of existing residents.”

Prof Loretta Lees, Leicester University

- 19.3 *“Yet mixed communities initiatives have been found, after extensive academic and policy research, both in the UK and the US, to produce gentrification and the displacement of public housing tenants. Current plans to redevelop council estates in Haringey will not only displace tenants from their homes but it also goes against the idea of the social (and economic) sustainability of cities (as is embedded in the London Plan and national urban policy).”*

Prof Loretta Lees, Leicester University

- 19.4 During the course of the review, the Panel received a wide range of evidence concerning mixed tenure council estate regeneration policies in London. This included information on the Aylesbury and Heygate estates in Southwark, the Ferrier estate in Greenwich, and Woodberry Down estate in Hackney.

Table 3 – Main lines of criticism⁷

- *“Most mixed community policy is one-sided – seldom advocated (or implemented because of land costs) in wealthier neighbourhoods.”*
- *“In terms of claims of greater social interaction, social capital – that there is little evidence that people from diverse backgrounds ‘actually mix’ - DCLG (2010) research also no evidence more social interaction - assumptions that physical proximity leads to closer social ties – is challenged in work of Butler and Robson (2003) on Brixton – incoming middle classes attracted by idea of diversity but no evidence social interactions – or Davidson’s (2010) research on socially mixed neighbourhoods in the redevelopment of riverside in London by major developers – which highlights high levels of segregation, gated developments and new residents in privately owned housing not seeing ‘the local area as offering appropriate or desirable retail, public, social and leisure facilities’ and instead gravitating towards central London and spending their money and leisure time elsewhere – little investment in surrounding neighbourhood.”*
- *“That mixed communities policies tackle the symptoms of poverty and inequality and not the causes (Cheshire. 2007) – mixed communities policy cannot reduce deprivation – statistics may show an increase in educational attainment, in income levels – but this reflects the composition of the incoming residents not any improvements in economic circumstances of existing residents.”*
- *“Cheshire (2007) disputes the view that ‘making communities more mixed makes the life chances of the poor any better’ - low income people can benefit from living in low cost areas.”*
- *“Successful at improving ‘place poverty’ not ‘people poverty’.”*

19.5 In addition, the evidence presented to the Panel highlighted key concerns in relation to the displacement of low income residents, gentrification of council housing estates and the loss of social housing.

19.6 A number of these concerns have been addressed elsewhere in this report. However, to ensure the model pursued by the HDV promotes genuine social integration, the Panel has put forward a number of additional recommendations. These are based on the lessons and safeguards from other council housing estate regeneration developments.

19.7 Further evidence is attached at Appendix 2, especially the submissions from Professor Loretta Lees, Dr Jane Martin, and 35% Campaign.

⁷ Dr Jane Lewis, London Metropolitan University (Appendix 2f)

Recommendation 20

Given that the HDV will operate in line with Haringey's Housing Strategy the mixed communities model pursued by the HDV, with mix-tenure housing built in the same locality, must be underpinned by genuine social integration. Safeguarding for achieving this should include:

- a. Social housing must be of the same standard as private housing
- b. All new build of all tenures should be pepper potted, with no "poor door" arrangements
- c. A retail offer which reflects the needs and wishes of all residents rather than aimed at just higher-income residents
- d. Leisure amenities must be equally accessible to private and social tenants
- e. Blocks of private flats should not be gated

20. Estate Regeneration/ Development Best Practice

- 20.1 In the course of its work, the Panel heard extensively of different case studies of estate regeneration, which is an aim of the HDV proposal. With the aim of assisting Cabinet by referring to good practice elsewhere, and to help ensure the HDV accomplishes its aims, the Panel has the following suggestions for commitments prior to any final decision on the HDV.

Recommendation 21

The legal framework for the HDV must establish firm principles and policies which would be binding on any development carried out by the HDV. Cabinet must ensure that decisions on the HDV reflect **estate regeneration / development best practice**, including:

- a. There should be no building on Metropolitan Open Land.
- b. Good practice guidance, published by the Mayor of London on estate regeneration, should be complied with.
- c. There should be a suitable proportion of homes built to comfortably accommodate people with disabilities and all properties should be built to Lifetime homes standards.
- d. All building work by the HDV should be done to Passive House or Code 6 energy efficiency standards.
- e. Priority in all development design and building contracts should be given to sustainable housing contractors
- f. Ensuring all contracts engaged in by the HDV with third parties are awarded by transparent competitive tender.

- g. Arrangements being put in place with the construction subsidiary of Lendlease to provide local employment and training opportunities; particularly in respect of equalities groups, including job support and training for disabled people.
- h. To ensure the HDV provides decent jobs, preference in all subcontracts on HDV developments should be given to firms:
 - o Where apprentices are training for a Level 3 qualification and constitute 10% of the firms workforce.
 - o That are approved by the South-East Region TUC (SERTUC) as a good reputation concerning blacklisting, health and safety and have a trade union recognition agreement and comply with existing construction industry collective agreements.
 - o Where workers are all directly employed with CSCS cards and have recognised skill qualifications.
- i. No HDV or sub-contractor employee should be paid less than the London Living Wage.

21. Overseas Buyers

“Earlier this year (2016), the Guardian revealed how a 50-storey block of 214 luxury apartments by the river Thames in Vauxhall was more than 60% owned by foreign buyers. In one of the starkest examples of the impact of foreign investment, it found that a quarter of the flats were held by companies in secretive offshore tax havens, and many were unoccupied⁸.”

The Guardian, 30th September 2016

- 21.1 Throughout the course of this review, the Panel’s evidence gathering highlighted real concerns, across London, about the number of homes being bought by overseas investors and the impact this is having on housing costs, gentrification and the scale of “buy-to-leave”.
- 21.2 A recent Transparency International report⁹ notes *“price rises consistently outstrip wage increases, dozens of prospective buyers compete for a shrinking pool of affordable stock whilst rent prices rise even higher... As a consequence, it is becoming more difficult to afford to stay in London for average people, with the Government admitting the UK housing system was “broken” in February 2017¹⁰. In response to this housing crisis the Mayor of London, Sadiq Khan, has launched an investigation into overseas investment*

⁸ <https://www.theguardian.com/cities/2016/sep/29/london-mayor-sadiq-khan-inquiry-foreign-property-ownership>

⁹ <http://www.transparency.org.uk/publications/faulty-towers-understanding-the-impact-of-overseas-corruption-on-the-london-property-market/>

¹⁰ <http://www.bbc.co.uk/news/uk-politics-38884601>

into the property market to assess its scale and whether it is a contributory factor to the capital's housing issues."

- 21.3 The research by Transparency International also revealed that 100% of the 51 apartments at South Gardens, a flagship development at Elephant Park, replacing the now-demolished Heygate Estate, were sold to overseas investors. Evidence from Jerry Flynn, 35% Campaign, highlighted that many residents that had bought their council homes under the right-to-buy scheme in the 1980s were forced to leave the Elephant and Castle area as new properties on offer were far beyond the compensation they were given, which could be as low as £80,000¹¹. Evidence received by the Panel showed prices at Elephant Park start at £569,000 for a studio flat and go higher than £1 million, meaning homes are out of reach for those on the average Southwark wage of £34,139. The homes on offer in the new development were being marketed as assets to global investors with adverts seen in China, Malaysia and Hong Kong¹². Due to these high prices and extensive marketing, sales of homes in the development have been dominated by overseas investors.
- 21.4 The issues outlined above are a concern. As a result, the Panel hope that findings from the GLA's research will improve understanding of the role of overseas buyers in the London property market in order to inform how the HDV would manage the uptake of the new housing it seeks to provide.

Recommendation 22

The HDV must use all measures available, including any changes to national/regional policy, to enable homes built by the HDV to be only sold to UK residents, with priority given to Haringey residents and those with a local connection to Haringey (not overseas buyers).

22. Property Management

HDV Relationship with Homes for Haringey

- 22.1 Various issues in relation to the Housing Revenue Account and Homes for Haringey have been considered and recommendations were put forward in January as part of the interim scrutiny report on HDV governance.

<i>Response to the Interim Scrutiny Report on HDV Governance</i>		
<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</p>	<p>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</p>	<p>Director of Housing and Growth</p> <p>Ongoing</p>

¹¹ <http://www.standard.co.uk/news/london/residents-of-the-heygate-estate-forced-to-move-out-of-london-8743216.html>

¹² <http://www.independent.co.uk/news/uk/home-news/end-of-an-area-for-notorious-heygate-estate-social-housing-gives-way-for-high-rise-in-prices-8929998.html>

<p>organisations to ensure that there is strategic and structured process through which sites best suited for regeneration are transferred to the HDV;</p>	<p>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).</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>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.</p>	<p>Chief Operating Officer Ongoing</p>

22.2 The Cabinet response, highlighted above, is noted and moving forward it is recognised close collaboration between Homes for Haringey and the HDV will be essential, from strategic planning right through to day-to-day operation. With this in mind, the Panel has put forward an additional recommendation in this area to ensure all matters are properly considered.

Recommendation 23
 Given the number of housing estates already listed for transfer to the HDV, and the significant number of commercial properties paying rent to Homes for Haringey which are scheduled for transfer, we recommend that clear consultation with the board of Homes for Haringey is initiated forthwith. This would be to establish in detail the likely impact of the HDV on Homes for Haringey, the Housing Revenue Account and the Homes for Haringey repairs service and any other significant factors, e.g. impact on staffing, equalities, the impact on other estates and overall viability of Homes for Haringey and its in house services.

Costs Incurred Preparing Sites for Transfer

22.3 In addition, there are further significant issues and costs relating to the transfer of council estates to the HDV. In order to prevent these costs falling to the

Council, with only a promise of repayment in the future when development costs are paid, the Panel recommends the following:

Recommendation 24

Both the revenue and the capital costs incurred by the Council and HFH in preparing any site for transfer to the HDV should be reimbursed to the Council and HFH at the date of the transfer. These costs incurred to commence from the date any site was identified as moving to the HDV until the actual legal date of its transfer to the HDV. For example, the revenue and capital costs would include all staff costs, all repair and capital costs involved in providing accommodation for residents decanted, all leaseholder costs, all legal costs and all disturbance costs to both residents and leaseholders. These costs listed are examples only, all other costs incurred should also be reimbursed.

Welfare Reform and Work Act 2016

- 22.4 Within its evidence gathering the Panel understood that the [Welfare Reform and Work Act 2016](#) and [amendment regulations](#) required registered providers of social housing in England to reduce social housing rents by 1% a year for 4 years from a frozen 2015 to 2016 baseline and to comply with maximum rent requirements for new tenancies. This reduction also applies to affordable rented properties. With this in mind, the following recommendation has been put forward to assist with the regeneration of housing / estates across the borough.

Recommendation 25

The 1% rent reduction due as part of the government's 4 year rent reduction agenda should be appealed to the DCLG to be ceased for the Council and HFH properties within the HRA. The appeal to request exemption from any further rent reductions to enable the resultant extra rental income to assist with the regeneration of housing / estates.

Use of Right-to-Buy Receipts

- 22.5 The Council is currently handing a large amount of right-to-buy money back to the Government, due to the restrictions placed upon the council's use of these receipts. Only 30% of this income can be used to build new homes, meaning that 70% must be found elsewhere.
- 22.6 Legal opinion would need to be obtained as to whether the joint venture arrangement would fall within the permitted "body" definition of the right-to-buy regulations but also meet the other relevant criteria in relation to the provision of affordable housing. However, if this has not been considered within the current financial model then, if the legal view was that right-to-buy receipts could be utilised in this arrangement, in theory – and subject to agreement - this could provide subsidy within the financial model and potentially enable the provision of additional affordable social target rented housing.

Recommendation 26

That the Cabinet commit to exploring all options for using Haringey's right-to-buy receipts in conjunction with the HDV.

23. Ongoing Democratic Control

- 23.1 As the HDV proposals entail transferring the Council's assets to a joint venture, the Panel has concerns that this could entail a loss of accountability and democratic control over publicly-owned property. To help ensure there is an ongoing relationship to allow elected members to scrutinise decisions and reflect the interests of residents, the Panel has the following suggestions for commitments to be made prior to any final decision on the HDV.

Recommendation 27

The legal framework for the HDV must establish firm principles which would be binding on any development carried out by the HDV. Cabinet must ensure the following important protections **to guarantee ongoing democratic control** of major decisions:

- a. No scheme land transfer to take place without Cabinet approving the business plan which should set out expectations on: the number and type of housing, employment spaces, job numbers and employment, inclusion of open space and community facilities, the timetable for development and an assessment of the key risks.
- b. Regular reports to Cabinet on the performance of the Haringey Development Vehicle, based on clear and robust key performance indicators. As set out in the interim scrutiny report (Recommendation 6), these should include: (i) Challenging targets for both revenue and capital growth from the management of the Council's commercial property portfolio; and (ii) Ambitious regeneration outcome targets to help improve the health, wellbeing, safety and life chances of those within regeneration areas (and beyond).
- c. Ward Councillors should be kept fully informed about specific proposals in their ward and a meaningful consultative structure established to ensure Ward Councillors are fully aware of, involved in, and able to influence the decision making process, and methodology, on any site decant and demolition.
- d. The HDV's Strategic Business Plan should be updated and presented to Overview and Scrutiny on an annual basis and senior HDV staff must be available to answer questions as required.

24. Commitment to Ongoing Scrutiny

- 24.1 Given the regeneration and development focus of the HDV will span a period of 15-20 years, with an option to extend thereafter, the importance of ongoing scrutiny was highlighted throughout. This builds on earlier recommendations put forward, such as ensuring Overview and Scrutiny has an opportunity, on an annual basis, to review the HDV's Strategic Business Plan and performance against it. This critical friend challenge is based on best practice highlighted by the Centre for Public Scrutiny:

“Now, more than ever, we need trusted decisions. We believe that decisions are better made when they involve others, whether that's democratically elected

representatives, those affected by the decisions or other key stakeholders, including employees and partners.”

Page 1, Centre for Public Scrutiny Strategy 2017-20

- 24.2 In addition, and in view of provisions already set out in the Council’s Rules of Procedure (Constitution, Part 4, Section G) the following recommendations have been put forward for consideration by the Overview and Scrutiny Committee.

Recommendation 28

The Overview and Scrutiny Committee must itself commit to ongoing scrutiny, possibly by setting up a separate HDV Scrutiny Panel.

Recommendation 29

An independent advisor with experience in finance, risk and partnerships should be appointed to assist the Committee/Panel with its scrutiny work.

25. Northumberland Park Supporters Group Deputation

- 25.1 On 13th June 2017 the Overview and Scrutiny Committee received a deputation, attached at Appendix 3, from the Northumberland Park Supporters Group. Presented by Rev Paul Nicolson the deputation highlighted that the health of the poorest tenants in the Borough is an economic, legal and moral issue.
- 25.2 The Committee agreed that the issues raised should be considered by Cabinet prior to any decision being taken to approve the legal documentation to establish the HDV, and its first set of business plans.

Recommendation 30

That Cabinet be asked to consider and respond to the deputation, attached at Appendix 3, presented to the Overview and Scrutiny Committee on 13 June 2017 by the Northumberland Park Supporters Group.

26. Contribution to strategic outcomes

- 26.1 In agreeing a tight and focused scope, consideration was given to how this scrutiny review could contribute to strategic outcomes.
- 26.2 The recommendations outlined in this report relate to:
- Priority 4 of the Corporate Plan – “Sustainable Housing, Growth and Employment”
 - Priority 5 of the Corporate Plan – “Create homes and communities where people choose to live and are able to thrive”

27. Statutory Officers Comments

Legal

- 27.1 Under Section 9F Local Government Act 2000 (“The Act”), Overview and Scrutiny Committee have the powers to review or scrutinise decisions made or other action taken in connection with the discharge of any executive and non-executive functions and to make reports or recommendations to the executive or to the authority with respect to the discharge of those functions. Overview and Scrutiny Committee also have the powers to make reports or recommendations to the executive or to the authority on matters which affect the authority’s area or the inhabitants of its area. Under Section 9FA of the Act, Overview and Scrutiny Committee has the power to appoint a sub-committee to assist with the discharge of its scrutiny functions. Such sub-committee may not discharge any functions other than those conferred on it.
- 27.2 Pursuant to the above provisions, Overview and Scrutiny Committee has established Scrutiny Review Panels of which include Housing and Regeneration Scrutiny Panel to discharge on its behalf defined scrutiny functions. On the request from Overview and Scrutiny Committee, Housing and Regeneration Scrutiny Panel has undertaken a review of the proposed Haringey Development Vehicle, the establishment of which is to be considered by Cabinet in July 2017. In accordance with the Council’s Constitution, the Panel must refer the outcome of its review to Overview and Scrutiny Committee for consideration and approval.
- 27.3 Overview and Scrutiny Committee must now determine whether to approve the Housing and Regeneration Scrutiny Panel’s findings and recommendations. The Committee has broad powers in this regard and should give due consideration to the extent to which the remit of the review has been met or otherwise. The remit of the Scrutiny Panel’s review is defined in the terms of reference set out in Paragraph 4.2 of this report. There are aspects of the review that are not strictly within the Scrutiny Panel’s terms of reference. For example, the parts with the headings “Project Management” “The Provision of Affordable Housing” “Mixed Communities” “Overseas Buyers” “Welfare Reform and Work Act 2016” and “Use of Right to Buy Receipts”. The Committee may decide to accept the findings under these headings on the basis of its importance and relevance to the subject matter and if consent had been sought for inclusion in the review, it would have been granted. Overall, the Committee should consider whether the findings and recommendations are based on good evidence, whether they accord with good practice and whether they are reasonable and rational.

Finance

- 27.4 The costs of undertaking this scrutiny review have been contained within existing budgets while the Panel has put forward a number of recommendations for consideration.
- 27.5 Where there are financial implications of implementing the recommendations within this report, it is important that the recommendations are fully costed and a funding source identified before they can be agreed. If the recommendation requires funding beyond existing budgets or available external funding, then Cabinet will need to agree the additional funding before any proposed action can proceed.

27.6 Specific comments in relation to individual recommendations, from the Deputy Chief Finance Officer, are as follows:

- Recommendation 3 – the external auditor has been working with the Council to address identified issues. Should additional work be required this will require identification of an appropriate funding source.
- Recommendation 7a and 7b – these would be prepared by the HDV Finance function and not the Council's Finance Officers.
- Recommendation 9 – appointment of a professional advisor will require the identification of an appropriate funding source.
- Recommendation 10 – will require the identification of an appropriate funding source.
- Recommendation 15 – appointment of an external advisor will require the identification of an appropriate funding source. The impact on the HRA will be considered in the financial comments within the July Cabinet report.
- Recommendation 19 – the establishment of a wholly council-owned housing company could incur significant legal and professional fees in set up costs although consideration could be given to using the Council's ALMO for this purpose.
- Recommendation 23 – the financial impact on Homes for Haringey will be considered in the financial comments within the July Cabinet report.
- Recommendation 24 – the reimbursement of revenue and capital costs incurred by the Council and HFH in preparing any site for transfer will need to be considered as part of the Members agreement and Strategic Finance Business Plan. This will be addressed as part of the July Cabinet report.
- Recommendation 26 – the use of right-to-buy receipts to provide grant subsidy within the Strategic Business Plan would need to be further considered and legal advice obtained.
- Recommendation 29 – the appointment of an independent advisor, to assist Overview and Scrutiny with its work, will require the identification of an appropriate funding source (unless this is done on a voluntary basis).

Equality

27.7 The Council has a public sector equality duty under the Equality Act (2010). This requires the Council to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited under the Act;

- Advance equality of opportunity between people who share a protected characteristic and those who do not;
 - Foster good relations between people who share a protected characteristic and those who do not.
- 27.8 As set out in the Cabinet report considered on 14 February and 7 March, the recommendations to Cabinet expected in July 2017 – to establish the HDV, and to agree the first set of business plans – will be accompanied by full Equality Impact Assessments. The potential impact of the individual business plans is likely to be greater than that of the decision to establish the HDV. Those business plans, and the final terms of the HDV’s establishment, are still in development.
- 27.9 The Council is exploring how best to embed equalities into the governance of the HDV to ensure due regard is given to the public sector equality duty. This will include full Equality Impact Assessments being considered by Cabinet in relation to all future business plans and any other decision made by the Council related to the HDV.
- 27.10 Bespoke equality training has been provided to Council Officers who have been working on the HDV business plans to ensure the Council pays due regard to the Public Sector Equality Duty.

28. Use of Appendices

Appendix 1 – Review Contributors

Appendix 2 – Evidence Pack

Appendix 3 – Northumberland Park Supporters Group Deputation

29. Local Government (Access to Information) Act 1985

[Nationwide steps in to protect homeowners from unfair leasehold practices \(Press Release, 5th May 2017\)](#)

[Crossrail 2: Property developers and housing associations call for “firm commitment” \(Evening Standard, 3rd April 2017\)](#)

[Recommendation of a Preferred Bidder for the Haringey Development Vehicle – Outcome of Call-in to Overview and Scrutiny Committee \(Cabinet, 7th March 2017\)](#)

[Call-In: Recommendation of a Preferred Bidder for the HDV \(OSC, 2nd March 2017\)](#)

[Faulty Towers: Understanding the impact of overseas corruption on the London property market \(Transparency International UK, March 2017\)](#)

[Approval of Preferred Bidder for HDV \(Cabinet, 14th February 2017\)](#)

[Cabinet Response to Interim HRSP Report \(Cabinet, 14th February 2017\)](#)

[More affordable housing promised \(BBC News, 7th February 2017\)](#)

[Interim HRSP Report on HDV Governance \(OSC, 17th January 2017\)](#)

[London mayor launches unprecedented inquiry into foreign property ownership \(The Guardian, 30th September 2016\)](#)

[HDV Business Case \(Cabinet, 10th November 2015\)](#)

[End of an area for notorious Heygate estate: social housing gives way for high rise in prices \(The Independent, 8th November 2013\)](#)

[Residents of the Heygate estate forced to move out of London \(Evening Standard, 2nd August 2013\)](#)

[Haringey Development Vehicle \(Online FAQs\)](#)

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Appendix 1

Review Contributors

The Panel interviewed the following witnesses as part of their evidence gathering – in order of their appearance before the group

Name	Role
Justin Guest	Local Resident and Risk Specialist
Cllr Ed Turner	Deputy Leader, Oxford City Council
Pete Redman	Associate, Centre for London
Professor Loretta Lees	Professor of Human Geography, Leicester University
Dr Jane Lewis	Senior Lecturer (Sociology/Social Policy), London Metropolitan University
Gail Waldman	The Highgate Society
Professor Michael Edwards	Senior Lecturer, Economics of Planning at UCL Bartlett School of Planning, and Honorary Professor
Professor Steve Jefferys	Emeritus Professor, European Employment Studies, London Metropolitan University
Jerry Flynn	35% Campaign, Southwark
Dr Denis Dillon	Birkbeck College, University of London
Dan Hawthorn	Director of Housing and Growth, Haringey Council
Tracie Evans	Chief Operating Officer, Haringey Council
Patrick Uzice	Principal Lawyer for Property, Planning and Regeneration, Haringey Council
Stephen Hartrick	Manager Commercial Estates, Haringey Council
Laura Bridges	Property Review Programme Manager, Haringey Council

Appendix 2

Evidence Pack

A	Council Project Team	Haringey Council
B	Justin Guest	Local Resident and Risk Specialist
C	Cllr Ed Turner	Deputy Leader, Oxford City Council
D	Pete Redman	Associate, Centre for London
E	Professor Loretta Lees	Professor of Human Geography, Leicester University
F	Dr Jane Lewis	Senior Lecturer (Sociology/Social Policy), London Metropolitan University
G	Professor Michael Edwards	Senior Lecturer, Economics of Planning at UCL Bartlett School of Planning, and Honorary Professor
H	Gail Waldman	The Highgate Society
I	Professor Steve Jefferys	Emeritus Professor, European Employment Studies, London Metropolitan University
J	Jerry Flynn	35% Campaign, Southwark