

Report for: Cabinet 3 July 2017

Item number: 9

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

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

Lead Officer: Dan Hawthorn, Director of Housing & Growth

Ward(s) affected: All

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

1. Describe the issue under consideration

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

**2. Cabinet Member Introduction (Cllr Strickland, Cabinet Member for
Housing, Regeneration and Planning)**

2.1 The proposal to establish the Haringey Development Vehicle is central to our plans to deliver new homes and jobs for the people of Haringey, and to the future stability of the Council. I welcome the Panel's consideration of a broad range of issues arising from the decision to establish the HDV and the work it will do. I'm pleased to agree – or partially agree – a great many of these recommendations.

2.2 However, I am absolutely clear that there is no justification for delaying the Council's decision-making in respect of the vehicle. I am fully satisfied that the detailed work done so far gives us a sound and compelling basis on which to proceed, and cannot accept any further delay in this work to improve the prosperity and wellbeing of Haringey residents.

3. Recommendations

Members are asked:

3.1 To consider the Overview and Scrutiny Report on the Haringey Development Vehicle ('HDV') (attached as Appendix 1).

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

4. Reasons for decision

4.1 On 13 June 2017, Overview and Scrutiny Committee approved the report of the Housing and Regeneration Scrutiny Panel (HRSP) on the proposed HDV.

4.2 In developing its report, the HRSP held a number of evidence gathering sessions and took evidence from Council officers as well as a range of experts and local stakeholders. The HRSP then made a number of recommendations, which were adopted by Overview and Scrutiny Committee on 13 June 2017.

5. Alternative options considered

5.1 None.

6. Background information

6.1 On 10 November 2015, Cabinet approved the business case for establishing the 'Haringey Development Vehicle' (HDV), a proposed joint venture between the Council and a private partner to drive the development of housing and employment space, and wider regeneration, on Council-owned land. In January 2016, the Council commenced a Competitive Dialogue procurement process to select its private partner. The Council then confirmed the selection of Lendlease as its preferred bidder on 7 March 2017 (following a call in considered by the Overview & Scrutiny Committee). Since then the suite of key legal agreements necessary for the establishment of the HDV, together with the business plans that will form the basis of its initial work programme, have been finalised. These documents will be presented to Cabinet for approval on 3 July 2017.

6.2 The legal agreements and business plans will determine, among other things, the commercial and governance arrangements for the HDV and its approach on a range of policy and delivery issues, both generally and in relation to specific sites and properties. These have been the subject of negotiation with bidders during the Competitive Dialogue process, and finalised with Lendlease following its selection as preferred bidder. At the same time, the Council will need to make its own internal arrangements for fulfilling its responsibilities as a member of HDV and managing its relationship with the HDV.

6.3 Under its agreed terms of reference, the HRSP can assist the Council in developing or updating local policies to improve local service provision. In this context, the HRSP produced this report on the the proposed Haringey Development Vehicle to align with the timing of the process described above.

7. Contribution to strategic outcomes

7.1 The recommendations and responses made will contribute to the establishment and operation of the HDV, which will contribute to achieving the strategic outcomes set out across the full scope of the Corporate Plan 'Building a Stronger Haringey together', and in particular Priorities 4 (Growth) and 5

(Housing), as well as to the more detailed expression of these ambitions in the Economic Development and Growth Strategy and Housing Strategy.

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

Finance

- 8.1 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.
- 8.2 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).

Procurement

- 8.3 Strategic Procurement has been closely involved throughout the procurement process in selecting a private sector partner with which to form the proposed Haringey Development Vehicle (HDV).
- 8.4 Strategic Procurement notes the comments contained in this report; however the procurement process has already defined the core terms of the HDV Agreement. The procurement process only makes provision for clarification of terms and minor amendments, the regulations do not allow for any material change to the terms of the Agreement or the commercial structure at this stage of the process.
- 8.5 Strategic Procurement supports the recommendations of this report and confirms there are no procurement related matters that would prevent the Council completing the procurement process in awarding the contract to the preferred bidder.

Legal

- 8.6 The HDV will be a Limited Liability Partnership created pursuant to the Partnership Act 2000. The governance arrangements relating to the HDV will be set out in the Members Agreement that will be presented to Cabinet on 3 July. The Members Agreement is the governing instrument and deals with the relationship between the members, it sets out the decision making process including (inter alia) the composition of the HDV Board, decisions that can be taken by the HDV Board and those that can be taken by the Members, and how conflicts would be resolved. That document (together with the other suite of key documents) has been the subject of dialogue with each bidder during the Competitive Dialogue process. Dialogue is now closed and final tender submissions were submitted by each of the bidders. The Council has selected Lendlease as the preferred bidder and since then work has been on going to finalised the various legal agreements (including the Members Agreement) that would form the suite of documents needed to set up the proposed HDV.
- 8.7 Under Regulation 30 of the Public Contracts Regulations 2015 any further negotiations between the Council and the preferred bidder must not have the effect of materially modifying the essential aspects of the procurement (including the needs and requirements set out in the contract notice or the descriptive document) and does not risk distorting competition or causing discrimination. So any proposal or recommendation that would have such an effect on the Members Agreement or any other legal agreements relating to the HDV would be in breach of these Regulations and must therefore be avoided.
- 8.8 The responses set out in Appendix 2 do not on the face of it contain any proposal that would constitute a breach of Regulation 30.

Equality

- 8.9 All business plans – the mechanisms for committing sites to the HDV – are (and will continue to be) accompanied by equality impact assessments (EqIAs) which inform the content of the plans, and which Cabinet will consider alongside the business plans themselves as part of the decision on whether to approve them. This is to ensure that Cabinet members discharge their Public Sector Equality Duty (PSED). The business plans' EqIAs contain actions to commit to undertaking further EqIAs for specific elements of the business plans.
- 8.10 However, it is not accepted that this should be undertaken by an external advisor. It is good practice for the individual or team to develop the EqIA alongside the development of a proposal as this allows equality issues to be embedded in proposals. It also allows the Council to document how it has shown due regard to the PSED throughout the development of the proposal as the duty does not just apply to decision makers but also people developing and implementing decisions. An external advisor would be detached from the process.
- 8.11 Bespoke training and additional support has been provided to officers to help them develop EqIAs .

9. Use of Appendices

Appendix 1: Haringey Development Vehicle – Scrutiny Report (including appendices)

Appendix 2: Draft response to recommendations

10. Local Government (Access to Information) Act 1985

- 10.1 Draft minutes of the Overview & Scrutiny Committee meeting held on 13 June 2017 are not available at the time of this report's publication, but will be published at www.haringey.gov.uk in due course.
- 10.2 A large amount of information about the Haringey Development Vehicle proposals – including answers to a number of frequently asked questions, and links to previous Cabinet decisions – is available on a dedicated page of the Council website at www.haringey.gov.uk/hdv.