

# **MINUTES OF THE MEETING OF THE CABINET HELD ON THURSDAY, 20TH JULY, 2017, 6.00pm**

## **PRESENT:**

**Councillors: Claire Kober (Chair), Jason Arthur, Eugene Ayisi, Ali Demirci, Alan Strickland, Bernice Vanier and Elin Weston**

**Also present - Councillors: Wright, Ibrahim, Brabazon, Tucker, McNamara, Carter, Connor, Hare**

### **43. FILMING AT MEETINGS**

The Leader referred to agenda item 1, as shown on the agenda in respect of filming at this meeting and Members noted this information.

### **44. APOLOGIES**

Apologies for absence were received from Councillors: Ejiofor, Ahmet and Goldberg.

### **45. DECLARATIONS OF INTEREST**

There were no declarations of interest put forward.

### **46. MATTERS REFERRED TO CABINET BY THE OVERVIEW AND SCRUTINY COMMITTEE - DECISION OF THE OVERVIEW AND SCRUTINY COMMITTEE HELD ON THE 17 JULY 2017 REGARDING MINUTE 35 HARINGEY DEVELOPMENT VEHICLE - FINANCIAL CLOSE AND ESTABLISHMENT**

The Leader referred to the agenda which set out that this was a special meeting of the Cabinet convened, within the constitutionally required timescale of 5 working days, to re-consider the 3<sup>rd</sup> of July Cabinet decision on the Haringey Development Vehicle Financial Close and Establishment. This was following the outcome of the Overview and Scrutiny Committee meeting, held on the 17<sup>th</sup> of July to consider the call in of this key decision.

Cabinet agreed that they did not require private discussion of the exempt material and would re-consider the decision in the open part of the meeting.

Councillor Wright, Chair of the Overview and Scrutiny Committee, was invited to introduce his report and he spoke in relation to the 7 recommendations, agreed by the Overview and Scrutiny Committee. He acknowledged that Council Members were reaching the final stage of decision making on the HDV and thanked scrutiny Members for the number of hours spent scrutinising this decision and raising important issues.

The call-in meeting had concentrated on the risks concerning the HDV establishment which had been a long running theme in the debate about the HDV. This initiative to increase housing carried risks and Cllr Wright felt that Overview and Scrutiny were right to deliberate this to understand what position to take.

In their deliberations, the Overview and Scrutiny had considered: public policy outcomes, the much-needed increase in housing and in particular social housing. The Council had a public duty to families on waiting lists for housing and this had also been a paramount issue in the Overview and Scrutiny discussions.

The Overview and Scrutiny recommendations were focussed on: need to provide target rents, support people failed by the housing market, ensure that there was a clear prioritisation on the right of return, ensuring that the exclusivity arrangements provided value for money and can be monitored through the HDV process, providing a public company which secured public interests for housing, ensuring that there were separate and specific member roles to take forward the interests of residents in respect of housing and employment without any conflict, full engagement by HDV staff in the scrutiny process, and supporting the social and community use of the commercial portfolio buildings.

The Cabinet Member for Housing, Regeneration and Planning and thanked the Overview and Scrutiny Committee for their recommendations and responded as follows:

**a) Clarification of what the overall numbers of social homes at target will be for Site 1 allocations immediately, as well as a clear commitment to a net increase in homes available for social housing at target rent.**

The Cabinet Member reiterated that there can be no definitive statement at the present time about the overall total number of homes, or the homes of different tenures, on the first phase of development sites. This would only be clear once the schemes have been fully worked up, in collaboration with local people, and based in part of the detailed needs of existing residents and after the formal planning process had been concluded. Therefore, there needed to be more consultation and master planning work before this clarification was provided.

However, the following assurances could be provided:

- Of the estimated 6,400 homes on these first 'Category 1 sites', 40% will be affordable.
  - Replacement homes, under Right to Return, provided at target rents in perpetuity.
  - The make-up of the 40% will be in line with the Council's Housing Strategy, both in the mix of different tenures, and the definitions of affordability which are based on average incomes, not average rents or house prices.
- The Cabinet Member further referred to paragraph 3.7 of the Cabinet report, which advised that no decision on disposal of any part of Northumberland Park or Cranwood to the HDV had yet been taken by the Council and any such

decisions would only be taken in future following the necessary community consultation and further equality impact assessments. The Cabinet Member further emphasised that there was no detailed decision on these sites tonight before consultation with residents which was why detailed numbers could not be given.

**b) Clear commitment to the prioritisation of the absolute right of return**

The Cabinet Member emphasised that the commitment to a right of return was already absolute, both in the HDV Land Assembly Agreement and in the Estate Renewal Rehousing and Payments Policy.

The Cabinet Member accepted that some of the wording in the Land Assembly Agreement could have been clearer, and he agreed to amend this in the final documents to make it more clear and transparent.

**c) That any exclusivity arrangement be on a site-by-site basis, rather than overall exclusivity.**

The Cabinet Member advised that this recommendation could not be agreed as this arrangement was integral to the Lendlease bid and the proposed agreement. Also, the landmark agreement securing local jobs, training and contracts would be difficult to take forward without having an overall agreement of this nature.

**d) To establish a wholly owned company in order to buy up social rented units at target rents**

The Cabinet Member advised that the Head of Housing was already exploring the option of a wholly owned housing company, currently for the primary reason of purchasing properties to support the supply of Temporary Accommodation. If this company was established, there would be an option to buy homes but this would need to be looked at in the future on a phase by phase basis.

**e) A commitment to the Councillor appointed to the social impact vehicle being different to that appointed to the HDV Board**

The Cabinet Member agreed that this was a good idea, but the Social Investment Vehicle governance arrangements had not yet been finalised. There would be future full discussion with Members on this issue and this could also need a Cabinet decision.

**f) Obligation for senior HDV staff to attend and engage fully in the scrutiny process**

The Cabinet Member advised that there was no issue with HDV staff attending Scrutiny and being open to questions as other Council partners were.

**g) A commitment to an assessment of buildings in community use, prior to their transfer to the HDV, to identify and protect their social and community value.**

The Cabinet Member emphasised the importance of understanding that there was a separation of the Council's community buildings and buildings in the commercial portfolio at commercial rents that happen to be rented by a charity or a third sector organisation. The Cabinet Member reiterated that none of the Council's Community Buildings were proposed for addition to the HDV.

The Cabinet Member advised that a great deal of work has already been completed to identify the list of properties proposed for transfer to the HDV and impact.

While the Council would continue to consider all potential impacts up to the point of any given property transferring, the presumption remained that all commercial properties identified in this Cabinet decision will transfer. This was motivated not least by the desire to ensure that all tenants benefit from the improved landlord service that the HDV can provide.

The Cabinet Member outlined that the Commercial Portfolio Business Plan sets out the provisions in place in HDV decision making to protect charities, childcare providers, and places of worship, public functions or any other case where tenants and/or users might be vulnerable or disadvantaged. Equality impact assessments would be undertaken to mitigate any negative impacts and promote equality. It was important to note that most of the business users had chosen to rent the commercial building from the Council and had been doing so for some time.

There were questions put forward from Councillors: McNamara, Ibrahim, Carter, Tucker, Brabazon, Hare, Connor and the following information was provided:

- In relation to judicial reviews and complaints about the HDV, the Council would take legal advice on the likelihood of success. However, this was not the forum to discuss advice received. The Council would defend claims put forward.
- The HDV staff would be accountable to Overview and Scrutiny Committee in the same way other Council's partners were, when called to meetings. In terms of the availability of board minutes and reports, the Cabinet Member had seen good scrutiny of other partners where this information was not available. It was also important to note that all major decisions on sites would still require Cabinet decision making. Therefore, Scrutiny would continue to scrutinise detailed documents relating to HDV decisions coming through the decision-making process to Cabinet in the normal way
- The residents in the Northumberland Park area, outlined by Cllr Carter, would have been notified that their homes were included in proposed regeneration as part of the Tottenham Area Action Plan consultation process.

- In relation to paragraph 6.101 which set out information on home ownership and management, this was not an exhaustive list of options and did not preclude the option of a wholly owned housing company.
- In respect of the signing of the legal agreements, the Council would continue to take legal advice and the legal agreements would be signed at the appropriate time.
- The £50m fine was not attributed to Lendlease but paid by the organisation that had fitted the faulty glass at the development of the Old London Stock exchange development. The Cabinet Member underlined that the Council takes safety standards seriously and as with all developments would consider standards through the planning process and through building regulation control.
- Exit agreement options had already been discussed at the Overview and Scrutiny meeting on the 17<sup>th</sup> of July meeting.
- The Land Assembly agreement would be redrafted to make clear and capture that the right of return has priority and trumps all other agreements. This document had already been cleared with an external lawyer to ensure it captured this point before publication, but the Cabinet Member was happy to ensure that the document clarified this further.
- In relation to Homes for Haringey homes that were situated above commercial properties, the Cabinet Member emphasised that these homes were not being transferred to the HDV. The commercial properties being transferred were on a leasehold basis.
- There was a precedent for scrutiny to scrutinise partners. The Council and all Members would have access to all major decisions of the HDV as they will require Cabinet approval and progress through the mainstream democratic process.
- Risk assessment mitigation was considered in the Cabinet documents, and the very structure of the HDV had been designed to mitigate risk. The Cabinet Member emphasised that land goes into the HDV on a phased basis to minimise risk. The Cabinet Member was also satisfied that risk had been properly considered when compiling proposals on the HDV.
- In relation to carbon levels, the Cabinet Member reiterated that the HDV will strive for C40 accreditation. This was recognised as the most demanding level of accreditation. The HDV was expected to be an exemplar for carbon management and would be considering issues related to embedded carbon whilst balancing the priority to deliver modern new homes that have been asked for in the consultations with residents.
- Leaseholders were not expected to have significant financial losses as the shared equity provisions being offered went beyond statutory provision and would help leaseholders who want to stay in their area.

- In terms of housing numbers, there were not detailed physical plans because there was a need to consult with tenants on sites in order to make these decisions. This was further set out in the response to scrutiny recommendation A.
- Social rents were discussed at the Overview and Scrutiny meeting on the 17<sup>th</sup> of July and the Housing Strategy makes clear that the Council will not accept rents up to 80% on most properties. This Strategy was agreed by Members at full Council after consultation with residents
- In relation to the length of phasing for VAT payments, this was only one option being considered. Therefore, it was not known yet what the approach will be for mitigating the potential impact of VAT, let alone the timing.

Following the completion of responses to the scrutiny recommendations and responses to member questions at the meeting, the Leader asked Cabinet to consider the resolutions at minute number 35, which were unchanged. Cabinet unanimously,

## **RESOLVED**

1. To note the outcome of the Preferred Bidder Stage of the Competitive Dialogue Procedure under the Public Contracts Regulations 2015 as outlined in this report;
2. To confirm Lendlease Europe Holdings Limited (“Lendlease”) as successful bidder to be the Council’s HDV partner; and
3. To approve the setting up of the HDV with Lendlease or a subsidiary vehicle set up by Lendlease on the basis that the Council will hold 50% and Lendlease 50% of the vehicle and based on the proposed structure as set out in the attached report.
4. To approve the legal documents at Appendices 1b through 1j of the attached report and summarised in paragraphs 6.35 to 6.90 of this report so as to give effect to resolutions 1, 2 and 3, subject to resolution 6 [ a to d] below.
5. To approve the following Business Plans at Appendices 2a through 7a, and summarised in paragraphs 6.91 to 6.121 of this report, subject to recommendation 6 (d) below:
  - a) Strategic Business Plan
  - b) Northumberland Park Business Plan
  - c) Wood Green Business Plan
  - d) Cranwood Business Plan
  - e) Commercial Portfolio Business Plan
  - f) Social and Economic Business Plan

6. Gives delegated authority to the section 151 officer, after consultation with the monitoring officer:
  - a) To approve the final terms of the two Property Management Agreements, referred to in paragraphs 6.70 to 6.72 of this report, to a maximum total value as set out in the exempt part of this report, such agreements to be agreed before the Members Agreement is entered into;
  - b) To approve any of the financial agreements and instruments listed in paragraph 2.1.1 of the Members' Agreement (at Appendix 1b);
  - c) To approve any further deeds and documents which are ancillary to the legal documents approved here, as described in paragraph 2.1.1 of the Members' Agreement (at Appendix 1b); and
  - d) To approve any amendments to the legal documents and business plans approved here as may be necessary, for reasons including but not limited to ensuring consistency between them and finalising any outstanding areas.
7. To declare that the Commercial Properties listed in Appendix 6c are no longer required for housing purposes, and to appropriate these properties for general fund purposes (subject to obtaining any necessary Secretary of State consent);
8. To dispose of the Council's commercial portfolio (as listed in Appendices 6c and 6d) to the HDV's Investment LP subsidiary in phases (as set out in the Agreement for Sale of the Investment Portfolio at Appendix 1c) for the total sum of £45m, and that the disposal shall be on the basis of a long leasehold interest for a term of 250 years and based on the lease referred to in the Agreement for Sale of the Investment Portfolio;
9. To agree that the sum of £45m referred to above will be the Council's initial investment in the HDV; and
10. To give delegated authority to the section 151 officer to agree the timing for the disposal of these properties to the HDV's Investment LP subsidiary and to approve individual final leases to facilitate such disposals.
11. To give the HDV an option for a 250-year lease on land identified in the Development Framework Agreement as being Category 1A land in Wood Green and within the Council's freehold ownership, subject to the valuation methodology set out in the Development Framework Agreement.
12. To note that in agreeing to the suite of legal agreements and to the Business Plans, Cabinet is not being asked to decide whether any part of Northumberland Park or Cranwood is to be disposed of to the HDV or any of its subsidiaries, and that nothing within any of them commits the Council to make any such disposal;
13. To note that any such decisions will only be made following community consultation, including statutory consultation under section 105 Housing Act

1985, and further equality impact assessments, all of which will be reported back to Cabinet in future report(s) for decision;

14. To note that if Cabinet in its discretion does make future decisions to dispose of any part of Northumberland Park or Cranwood to the HDV or any of its subsidiaries, there will also be need for Full Council authorisation for making an application for consent to dispose to the Secretary of State under sections 32 and 43 Housing Act 1985.
15. To note that as a result of the disposal of the commercial portfolio and the transfer of some of the management services there may be a small number of employees that will be TUPE transferred (to the HDV or its supply chain) and the Council and Lendlease have agreed that – if this occurs – these employees should remain within the Haringey Pension Fund.

## **Reasons for decision**

### The case for growth

The Council's corporate plan makes a strong commitment to growth. Specifically, it identifies the need for new homes to meet significant housing demand which is making decent housing unaffordable for increasing numbers of Haringey residents, and causing more and more families to be homeless. It also identifies the need for more and better jobs, to revitalise Haringey's town centres, increase household income for Haringey residents and give all residents the opportunity to take advantage of London's economic success. This commitment to growth is further reflected and developed in the Council's Housing Strategy and Economic Development & Growth Strategy.

The need among Haringey's population is stark:

- In Northumberland Park ward, unemployment (at 26%) is almost double the rate across the whole borough and three times the national average. More than a quarter of residents (26%) in the ward have no formal qualifications, against 13% for all of Haringey.
- There is also a growing incidence of "in- work poverty": 32% of Haringey residents earn below the London Living Wage compared to 24% in 2010. Median income of employees living in Tottenham is £11.40 an hour, compared to £16.90 in the rest of Haringey and £16.60 in London.
- Too many young Haringey residents are not in employment, education or training (NEET). Northumberland Park, St Ann's and Noel Park wards have a 16 and 17-year-old NEET rate over 4%, compared to the Haringey average of 3.6% and the national average of 3.1%.
- Life expectancy is demonstrably worse in the east of the borough compared to the west of the borough: on average, the difference between parts of the east and parts of the west is 7 years. Obesity amongst children in Tottenham and mental health challenges in the whole borough are significant, and stubborn.

- Market rents in Haringey have increased from a median rent of £900 per month in 2011 to £1,400 per month in 2016. In order to afford the median, rent for a two-bedroom private rented flat in the borough, a household would need to earn an annual income of around £63,000, based on the principle that a household shouldn't have to spend more than 40% of their net income on housing costs. On this principle, a household on the median income in the borough could afford to pay rent of £878 per month, compared to the actual median rent (£1,400 per month as above). This means that a lot of households are in fact spending 50%+ of their net income on housing costs.
- Meanwhile, for prospective purchasers, the average house price in Haringey is now around £430,000, up from £225,000 ten years ago, which in turn leads to higher demand for private rented housing, pushing rents up still further. House prices in the borough are now 13.7 times the median income – in 2002 it was 7 times.
- This means that for both renters and buyers, market-price housing is less and less accessible – making the need for new affordable housing more important than ever, and showing how demand in all parts of the market is failing to keep up with supply. And in the next ten years, Haringey's population is estimated to grow by 10.9%, adding another 30,000 residents by 2025 and a total of 52,000 additional residents by 2035.
- At the end of March 2017 there were 9,098 households on Haringey Council's Housing Register. The number of social housing lets in Haringey in 2017/18 is expected to be just fewer than 500; in 2011/12, it was just over 1,100. Across London, supply of new homes has been below the London Plan target every year, and even further adrift of the London Strategic Housing Market Assessment target.
- There are over 50,000 London households who are homeless and in temporary accommodation, with over 3,000 of those Haringey households. Homeless acceptances in Haringey have increased from 355 in 2010 to 683 last year. Increasingly these are households who were evicted from the private rented sector because they could not afford the rent.

Overall, based on data from the combined Indices of Multiple Deprivation (2015), Northumberland Park ward falls among the 10% most deprived areas in England and many parts of the ward are in the 5% most deprived.

Growth is also essential to the future sustainability of the Council itself. With Government grant dwindling, local authorities are increasingly dependent on income from Council tax and – in light of recent reforms – business rates. Without growing the Council tax and business rate base, the Council will increasingly struggle to fund the services on which its residents depend. Improvement in the living conditions, incomes, opportunities and wellbeing of Haringey residents will directly contribute to the full range of aims in the Council's Corporate Plan.

- Particular groups - including women, disabled people and BAME groups – are more likely to experience these inequalities in prosperity and wellbeing, and therefore most likely to benefit from the positive outcomes from growth.
- By securing growth in homes and jobs – and maximising the quantity, quality and/or pace of such growth – is core to achieving the Council’s aims, including:
- Meeting housing demand will lead to more and more families are able to afford a home in the borough, either to rent or buy, alleviating the stark housing crisis.
- Meeting housing demand also drives down levels of homelessness, so fewer households find themselves in crisis, and the significant pressure on the Council budget through increased temporary accommodation costs is relieved.
- increasing the number of jobs in the borough will lead to more opportunities for Haringey residents to boost their incomes and job prospects, more vibrant and successful town centres with more activity and spending during the working day, with reduced risk of ‘dormitory borough’ status as working residents leave the borough to work elsewhere.
- increasing levels of development in turn increase the Council’s receipts in s106 funding and Community Infrastructure Levy, in turn increasing the Council’s ability to invest in improved facilities and infrastructure (like schools, health centres, open spaces and transport) and in wider social and economic programmes such as those aimed at improving skills and employability.
- Growing the Council tax and business rate base will reduce the risk of financial instability for the Council and of further, deeper cuts in Council budgets and hence to Council services as Government grants dwindle to zero over the coming years.

#### Options for driving growth on Council land

The Council cannot achieve its growth targets without realising the potential of unused and under-used Council-owned land. Accordingly, in autumn 2014 the Council commissioned work from Turnberry Real Estate into the options for delivering these growth objectives. Turnberry also examined the market appetite for partnership with the Council to deliver new housing and economic growth.

In February 2015 Cabinet, on the basis of this work, agreed to commission a more detailed business case to explore options for delivery. At the same time, the member-led Future of Housing Review concluded (as set out in its report to Cabinet in September 2015) that a development vehicle was ‘likely to be the most appropriate option’ for driving estate renewal and other development on Council land.

The business case developed following Cabinet’s February 2015 decision compared a number of options for achieving the Council’s objectives, and ultimately recommended that the Council should seek through open procurement a private sector partner with whom to deliver its objectives in an overarching joint venture development vehicle.

This business case, and the commencement of a procurement process, was agreed by Cabinet on 10 November 2015.

### The joint venture development vehicle model

The joint venture model approved by Cabinet on 10 November 2015 is based on bringing together the Council's land with investment and skills from a private partner, and on the sharing of risk and reward between the Council and partner. The Council accepts a degree of risk in that it will transfer its commercial portfolio to the vehicle (as part of its initial investment), and will (subject to the satisfaction of relevant pre-conditions) also commit other property, as its equity stake in the vehicle. It has also to bear the costs of the procurement and establishment of the vehicle, and a share of development risk. However, in return, the contribution to its Corporate Plan objectives, including high quality new jobs, new homes including affordable homes and economic and social benefits, would be at a scale and pace that would otherwise be unachievable. The Council will also receive a financial return, principally through a share of profits that it can reinvest in the fulfilment of its wider strategic aims as set out in the Corporate Plan.

Under this model, the development partner matches the Council's equity stake, taking a 50% share of the vehicle and hence a 50% share of funding and development risk. In return, and by maintaining strong relationships and delivery momentum, they obtain a long-term pipeline of development work in an area of London with rising land values, and with a stable partner.

### The procurement processes

As well as approving the business case for establishing the HDV, at its meeting on 10 November 2015 Cabinet also resolved to commence a Competitive Dialogue Procedure under the Public Contracts Regulations 2015 to procure an investment and development partner with which to establish the HDV. Following a compliant procurement process, Lendlease was approved as preferred bidder by Cabinet at its meeting on 7 March 2017. Cabinet also approved a reserve bidder in the event that it was not possible to finalise the agreement with Lendlease.

Following that decision, further work was undertaken by the Council and Lendlease teams to confirm the terms of the Lendlease bid, in order to arrive at an agreed set of legal agreements (to establish the HDV) and business plans (to set out its first phase of work). By approving the legal agreements and business plans put forward here, and therefore authorising establishment of the HDV and agreeing its initial work programme, Cabinet will be taking a major step in unlocking the considerable growth potential of the Council's own land and meeting a number of core Council ambitions.

The establishment of the HDV (through the execution of the legal agreements) and the agreement of its initial work programme (through the approval of the business plans) represent a significant step in delivering the Council's objectives for improving the prosperity and wellbeing of Haringey's residents. However, it is also important to recognise the flexibility in the arrangement to respond to changing circumstances and changing priorities – and the Council's capacity to control that change. For example:

- It is likely that plans for major development schemes will change following extensive consultation with residents and other stakeholders;
- If market conditions change, the HDV can decide to amend its proposals – for example, switching homes for sale to homes for rent – or to re-phase its programme;
- Arrangements for the ownership and management of homes are flexible, and can respond over time including in response to changing Council priorities and changes in the local and national funding regime.

All material changes would be subject to the Council and Lendlease agreeing any necessary elements of – or amendments to – the scheme business plans. Further, any additional Council property proposed for development by the HDV would be subject to a new business plan which would have to be approved by the Council (and Lendlease) before work could commence.

In addition to these controls over the work programme of the HDV through its status as a 50% partner, the Council will retain its statutory functions in respect of the HDV work programme, including as local planning authority, giving it further influence and assurance over the implementation of the HDV's programme of work.

### **Alternative options considered**

In November 2015, Cabinet considered and approved a business case for establishing an overarching joint venture vehicle to drive housing and job growth on Council land. That business case identified and assessed a number of alternative options for achieving the Council's objectives, and found that the overarching joint venture vehicle would be the most effective mechanism for achieving those goals.

Throughout the process of procuring a partner with which to establish the HDV, the Council has reserved its position to not appoint any of the bidders in the event of the bids not being satisfactory, or otherwise not wishing to proceed. This report outlines the benefits and projected outcomes that will arise from the establishment of the HDV, in the context of the Council's objectives and aspirations as set out in the November 2015 report to Cabinet. If the Cabinet chooses not to proceed with establishing the HDV, it will risk not obtaining these likely benefits, or not obtaining them at the scale, pace and/or quality which would otherwise be possible.

The Council has within its procurement documentation made clear that bidders' participation in the Competitive Dialogue process is at their own expense, that the Council will not be responsible for bid costs and that it is not obliged to accept any tender.

## **47. EXCLUSION OF THE PRESS AND PUBLIC**

Not required.

**48. HARINGEY DEVELOPMENT VEHICLE - FINANCIAL CLOSE AND ESTABLISHMENT**

As per item 46.

This page is intentionally left blank