

Notice of Meeting

CABINET

Tuesday, 23 April 2019 - 7:00 pm
Council Chamber, Town Hall, Barking

Members: Cllr Darren Rodwell (Chair); Cllr Saima Ashraf (Deputy Chair) and Cllr Dominic Twomey (Deputy Chair); Cllr Sade Bright, Cllr Evelyn Carpenter, Cllr Cameron Geddes, Cllr Syed Ghani, Cllr Margaret Mullane, Cllr Lynda Rice and Cllr Maureen Worby

Date of publication: 11 April 2019

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AGENDA

1. Apologies for Absence

2. Declaration of Members' Interests

In accordance with the Council's Constitution, Members are asked to declare any interest they may have in any matter which is to be considered at this meeting.

3. Minutes - To confirm as correct the minutes of the meeting held on 19 March 2019 (Pages 3 - 9)

4. Contract for Generic Advice and Enhanced Welfare Rights Service (Pages 11 - 21)

5. Development of Land at 482-528 Rainham Road South, Dagenham (Pages 23 - 41)

6. **Development of Land at Rectory Road, Dagenham (Pages 43 - 63)**
7. **Any other public items which the Chair decides are urgent**
8. **To consider whether it would be appropriate to pass a resolution to exclude the public and press from the remainder of the meeting due to the nature of the business to be transacted.**

Private Business

The public and press have a legal right to attend Council meetings such as the Cabinet, except where business is confidential or certain other sensitive information is to be discussed. The list below shows why items are in the private part of the agenda, with reference to the relevant paragraph of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended). ***There are no such items at the time of preparing this agenda.***

9. **Any other confidential or exempt items which the Chair decides are urgent**



Our Vision for Barking and Dagenham

ONE BOROUGH; ONE COMMUNITY; NO-ONE LEFT BEHIND

Our Priorities

A New Kind of Council

- Build a well-run organisation
- Ensure relentlessly reliable services
- Develop place-based partnerships

Empowering People

- Enable greater independence whilst protecting the most vulnerable
- Strengthen our services for all
- Intervene earlier

Inclusive Growth

- Develop our aspirational and affordable housing offer
- Shape great places and strong communities through regeneration
- Encourage enterprise and enable employment

Citizenship and Participation

- Harness culture and increase opportunity
- Encourage civic pride and social responsibility
- Strengthen partnerships, participation and a place-based approach

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MINUTES OF CABINET

Tuesday, 19 March 2019
(7:00 - 8:35 pm)

Present: Cllr Darren Rodwell (Chair), Cllr Saima Ashraf (Deputy Chair), Cllr Dominic Twomey (Deputy Chair), Cllr Sade Bright, Cllr Evelyn Carpenter, Cllr Cameron Geddes, Cllr Syed Ghani, Cllr Margaret Mullane, Cllr Lynda Rice and Cllr Maureen Worby

98. Declaration of Members' Interests

Councillor Bright declared a non-pecuniary interest in relation to the item "Amalgamation of Marks Gate Infant and Junior Schools to form a Primary School" as she was a member of the Marks Gate Federation Governing Body.

99. Minutes (18 February 2019)

The minutes of the meeting held on 18 February 2019 were confirmed as correct.

100. Budget Monitoring 2018/19 - April to January (Month 10)

The Cabinet Member for Finance, Performance and Core Services presented a report on the Council's revenue and capital budget monitoring position for the 2018/19 financial year as at 31 January 2019 (Month 10).

The underlying General Fund position had improved slightly from the previous month, with a projected end of year overspend of £3.985m against the budget of £145.368m. The Cabinet Member also referred to proposals within the report in relation to the carry forward of unspent revenue into the next financial year, virements between budgets, a working capital support facility in the form of a pre-approved loan of up to £200,000 to B&D Reside to support the ongoing development of the business model for the company, and the formalisation of amendments to the Capital Programme that were reported to the last meeting.

The Cabinet **resolved** to:

- (i) Note the current forecast outturn position for 2018/19 of the Council's General Fund revenue budget as detailed in section 3 and Appendix A to the report;
- (ii) Approve the carry forward requests into 2019/20 as detailed in section 4 and Appendix B to the report;
- (iii) Approve a working capital facility of up to £0.2m for the B&D Reside group of companies on the terms set out in section 5 of the report;
- (iv) Approve a virement in 2018/19 in respect of the Street Purchasing income and expenditure budgets and a virement from 2019/20 onwards in respect of the disaggregation of the placements budget for Children with Disabilities, as detailed in section 6 of the report; and

- (v) Approve the reprofiled Capital Programme for 2018/19 of £284.758m, as detailed in Appendix D to the report.

101. Amalgamation of Marks Gate Infant and Junior Schools to form a Primary School

The Cabinet Member for Educational Attainment and School Improvement presented a report on the proposed amalgamation of Marks Gate Infants and Junior Schools to form an all-through primary school from the start of the 2019/20 academic year.

The Cabinet Member referred to the key benefits of the amalgamation and the progress already being made under the leadership of the new Executive Headteacher. With regard to the changes to funding arrangements, it was noted that the joint Governing Body was fully aware of the funding reductions that would result as a direct consequence of the amalgamation and continued to review their impact.

The Cabinet **resolved** to agree the amalgamation of Marks Gate Infant and Junior Schools into a single Primary School with effect from 1 September 2019.

102. Contract for the Provision of a Domestic and Sexual Violence Service

The Cabinet Member for Social Care and Health Integration introduced a report on the proposal to commission a number of separate services aimed at tackling domestic and sexual violence via a new contract with a single, strategic partner from 1 October 2019.

The Cabinet Member explained that the Council currently commissioned a number of services from several external voluntary providers. The new arrangement would bring together elements of refuge, advocacy, therapeutic support and community engagement under one service provider who would be responsible for delivering a service that could be adapted to the changing needs of residents and fluctuating budgets. The new arrangement would also bring additional benefits, including the ability to source other potential funding streams to strengthen sustainability through the service.

The Cabinet Member referred to some of the key domestic and sexual violence challenges and the Ending Violence Against Women and Girls Strategy 2018-2022, recently adopted by the Health and Wellbeing Board, which set out a needs-led approach to tackling the problems in Barking and Dagenham. A future report to the Cabinet would also set out arrangements for a new, independent commission to look, in particular, at overcoming the perceived acceptance and 'normalisation' of domestic and sexual violence amongst the local community.

Cabinet Members spoke on some of the positive activities already being undertaken by the Council and voluntary sector in the Borough to raise awareness of domestic and sexual violence issues and the support services available to victims. The Cabinet Member also confirmed that support services related to the entire community, including the LGBT community, and the new contract included specific requirements regarding fully accessible services and their promotion /

visibility across all groups.

The Cabinet **resolved** to:

- (i) Agree, in accordance with the provisions of clause 6.6(h) of the Council's Contract Rules, to waive tendering requirements and directly award the contract for the provision of an Independent Domestic and Sexual Violence Advocacy Service for a three-month period up to 30 September 2019;
- (ii) Agree that the Council proceeds with the procurement of a contract with a strategic partner to deliver outcomes based Domestic and Sexual Violence Services with effect from 1 October 2019, in accordance with the strategy set out in the report; and
- (iii) Delegate authority to the Commissioning Director of Adults Care and Support, in consultation with the Cabinet Member for Health and Social Care Integration and the Director of Law and Governance, to conduct the procurement and award and enter into the contract(s) and all other necessary or ancillary agreements with the successful partner, in accordance with the strategy set out in the report.

103. Commercial Company Business Plans

The Cabinet Member for Finance, Performance and Core Services introduced the Barking and Dagenham Trading Partnership (BDTP) Business Plan for 2019-2022 and the Barking and Dagenham School Improvement Partnership (BDSIP) Business Plan for 2019/20.

The Cabinet Member reminded colleagues that the formation of Council-owned companies was a key aspect of the Council's growth-led transformation programme. The BDTP and BDSIP, alongside Be First, B&D Reside and B&D Energy, were key elements of that programme and it was noted that the Council's approach to commercialisation had been officially recognised with the award of "Entrepreneurial Council of the Year" at the Local Government Chronicle (LGC) Awards 2019 on 13 March 2019.

The Business Plans included information on the activities of the companies to date and showed that both were ahead of their respective projected financial targets for 2018/19. Performance levels were also very positive, with 93% of the Borough's schools choosing to participate in the BDSIP while the BDTP had kept 99% of appointments on time, completed 97% of repairs during the first visit and had an overall satisfaction rate of 97.5%.

The Cabinet Member referred to the detailed proposals and financial arrangements for 2019/20 within the Business Plan documents (which were in the exempt section of the agenda due to their commercially confidential nature) and confirmed that the Council's Shareholder Panel had scrutinised the assumptions and proposals within the Plans in detail.

One aspect of the BDTP Business Plan related to its future plans following the recent acquisition of Londoneast-uk Limited (LEUK), as part of the long-term objective of growing its trading activity through securing new business, and the

associated land acquisition that formed part of the arrangements agreed by the Cabinet under Minute 57 (13 November 2018). The Cabinet Member was very pleased to announce that BDTP had recently reached an 'in principle' agreement with University College London (UCL) for the sale of part of the LEUK land to UCL to facilitate the development of a world class research facility, which would further boost the regeneration of the area and bring significant benefits to the local economy.

It was also noted that the Be First Business Plan 2019-2024 would be presented to the Cabinet at its May meeting.

The Cabinet **resolved** to:

- (i) Approve the Barking and Dagenham Trading Partnership Business Plan for 2019/20 – 2021/22, as set out at Appendix A to the report;
- (ii) Agree to the Barking and Dagenham Trading Partnership entering into any procurement related agreement or commitment required to enable the delivery of the Business Plan, subject to:
 - (a) compliance with relevant procurement law;
 - (b) compliance with its own scheme of delegation;
 - (c) compliance with state aid rules; and
 - (d) any other relevant approvals by the Council which may be relevant or required for the specific project.
- (iii) Endorse the Barking and Dagenham School Improvement Partnership Business Plan 2019/20, as set out at Appendix B to the report.

104. B&D Energy Limited Business Plan 2019/20

The Cabinet Member for Regeneration and Social Housing introduced the 2019/20 Business Plan for B&D Energy, the Council's Energy Services Company (ESCO).

The inaugural B&D Energy Business Plan was approved by the Cabinet in June 2016 and had overseen the successful delivery of the Becontree District Heating Network, which provided energy to the existing Leisure Centre, the new 50-metre swimming pool and to 170 residential units. The key focus of the 2019/20 Business Plan related to the continued development of District Energy Networks, specifically in the Barking Town Centre area, and Energy Performance Contracting.

The Barking Town Centre project would deliver supplies of low carbon heat to approximately 8,000 homes and 60,000m² of commercial floor area and had already been identified by the Greater London Authority as 'Strategically Significant'. The capital cost of developing the network had been estimated at £31.5m and the Cabinet Member confirmed that while the Council would fund the vast majority, via a commercial loan to B&D Energy, the viability of the scheme was entirely dependent on receiving at least £5m grant funding from the Government.

The Business Plan also set out proposed changes to the management and operational structure of the company, as well as steps to strengthen and clarify the

governance and accountability arrangements underpinning the relationship between the Council and B&D Energy.

Cabinet Members spoke in support of the latest initiatives aimed at providing low cost, low carbon heat and power to the local community as part of the Council's drive to reduce energy poverty and promote Barking and Dagenham as the "Green Capital of the Capital".

The Cabinet **resolved** to:

- (i) Approve the B&D Energy Limited Business Plan for 2019/20, as set out at Appendix 1 to the report;
- (ii) Approve the creation of a Strategically Significant District Energy Network across Barking Town Centre ("the Scheme"), subject to the receipt of grant funding from the Department of Business Energy and Industrial Strategy (BEIS) Heat Network Investment Project (HNIP) and as generally set out in the Business Plan;
- (iii) Agree the submission of an application to the BEIS for HNIP grant funding in the sum of £5m;
- (iv) Agree, subject to the receipt of HNIP grant, to the Council borrowing £27.2m (including £1.7m approved via the 2016 Business Plan) and on-lend to B&D Energy on state aid compliant terms to fund the balance of the project capital costs of the Scheme;
- (v) Delegate authority to the Director of Inclusive Growth, in consultation with the Finance Director, the Director of Law and Governance, the Cabinet Member for Finance, Performance and Core Services and the Cabinet Member for Regeneration and Social Housing, to negotiate terms and agree the corporate loan(s), shareholder agreement, and all associated contract documents in a manner compliant with state aid rules to fully implement and effect the Scheme and the Business Plan;
- (vi) Delegate authority to the Director of Inclusive Growth, in consultation with the Finance Director, the Director of Law and Governance, the Cabinet Member for Finance, Performance and Core Services and the Cabinet Member for Regeneration and Social Housing, to negotiate the final terms and enter into long leases (for 20 years or longer) in respect of the new Energy Centre and energy centre/substations at Abbey and Becontree Leisure Centres, subject to a valuation pursuant to the requirements as to disposals in section 123 of the Local Government Act 1972 and state aid principles being complied with; and
- (vii) Delegate authority to the Director of Law and Governance to execute all of the legal agreements, contracts, loans, shareholder agreement, long leases in respect of the Energy Centre and Becontree and Abbey Leisure Centres and any other documents required for the delivery of the Scheme or the Business Plan on behalf of the Council or B&D Energy Limited as may be applicable.

105. Institutional Funding Proposal - ApartHotel Investment

The Cabinet Member for Finance, Performance and Core Services presented a report on a proposal, as part of the Council's Investment and Acquisition Strategy (IAS), to enter into an investment arrangement with an Institutional Investor and an Aparthotel operator regarding a new hotel development in Aldgate, east London.

The Cabinet Member referred to a similar project in respect of a Travelodge hotel development in Poplar that the Cabinet had approved by Minute 68 (11 December 2018) and outlined the key elements of the proposed agreements for the current proposal, including the liabilities and responsibilities of each party. The Council had commissioned specialist property consultants to advise on the project and the due diligence and risk analysis work that had been undertaken showed that the proposal met the criteria and objectives of the IAS. With regard to the Council's responsibilities under the 50-year Head Lease in the event of the Aparthotel operator not renewing at the expiry of the initial 25-year Sub-Lease, the Cabinet Member confirmed that the development's design would lend itself to a range of other possible future uses, including affordable housing, which significantly mitigated the Council's risks in that respect.

The Cabinet **resolved** to:

- (i) Agree the draft Heads of Terms between the Council and the Institutional Investor as detailed in Appendix 1 to the report;
- (ii) Agree that the Council enter an Agreement to Lease with the Institutional Investor and the Aparthotel Operator on state aid compliant market terms;
- (iii) Agree that the Council enter a 50-year Head Lease with the Institutional Investor on state aid compliant market terms;
- (iv) Agree that the Council grant a 25-year sub-lease with an option to renew to a specialist Aparthotel operator;
- (v) Delegate authority to the Chief Operating Officer, in consultation with Director of Law and Governance and the Cabinet Member for Finance, Performance and Core Services, to negotiate final heads of terms, final commercial and lease terms and agree the contract and ancillary legal documents to fully implement and effect the proposals set out in the report;
- (vi) Authorise the Director of Law and Governance, or an authorised delegate on her behalf, to execute all the legal agreements, contracts and other documents on behalf of the Council; and
- (vii) Delegate authority to the Chief Operating Officer, in consultation with Director of Law and Governance, to incorporate a special purpose vehicle (whether a company or Limited Liability Partnership) if considered necessary and appropriate, such incorporation to include such shareholders or members' agreement as may be required.

106. Debt Management Performance and Write-Offs 2018/19 (Quarter 3)

The Cabinet Member for Finance, Performance and Core Services introduced the performance report for the third quarter of the 2018/19 financial year in respect of the debt management functions carried out on behalf of the Council by the Revenues and Benefits service within Elevate East London.

The Cabinet Member referred to the financial pressures faced by many local residents which had impacted on some collection rates and suggested that the rollout of the Government's Universal Credit scheme would force many more families and individuals into debt. With regard to Leaseholders' debt collection performance, it was noted that steps were being taken to bring performance back on target.

The Cabinet **resolved** to:

- (i) Note the performance of the debt management function carried out by the Revenues and Benefits service operated by Elevate East London, including the performance of enforcement agents; and
- (ii) Note the debt write-offs for the third quarter of 2018/19.

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CABINET**23 April 2019**

Title: Contract for Generic Advice and Enhanced Welfare Rights Service	
Report of the Cabinet Member for Social Care and Health Integration	
Open Report	For Decision
Wards Affected: All	Key Decision: No
Report Author: Lewis Sheldrake, Commissioning Manager	Contact Details: Tel: 0208 724 8109 E-mail: lewis.sheldrake@lbbd.gov.uk
Accountable Director: Mark Tyson, Commissioning Director; Adults Care and Support / Mark Fowler, Director of Community Solutions	
Accountable Strategic Leadership Directors: Elaine Allegretti, Director of People and Resilience / Tom Hook, Director of Policy and Participation	
Summary:	
<p>Section 4 of the Care Act 2014, places statutory duties on the local authority to establish and maintain an information and advice service. Importantly, this duty relates to the whole population of the local authority area, not just those with care and support needs or in some other way already known within the system. The Council currently commissions a Generic Advice and Enhanced Welfare Rights Service, delivered by the Citizens Advice Bureau. The current contract expires on 30 September 2019 dates with no further option to extend.</p> <p>The Council must ensure that information and advice services cover more than just basic information about care and support and include the wide range of care and support related areas including prevention of care and support needs, finances, health, housing, employment and what to do in cases of abuse or neglect of an adult.</p> <p>This report presents proposals for a competitive tender process for a Generic Advice and Enhanced Welfare Rights Service which meets statutory duties, complements the Community Solutions Lifecycle Model and aligns with the Council's vision by promoting wellbeing and independence at all stages to reduce the risk of people reaching a crisis point. Consortium bids will be welcomed facilitated through a Lead Provider Model.</p> <p>The current contract does not permit any further options to extend. To ensure service continuity during the procurement process, it is also proposed to directly award a six-month contract to the current provider from 01 October 2019 to 31 March 2020.</p>	
Recommendation(s)	
The Cabinet is recommended to:	

- (i) Agree the procurement of a contract for a strategic partner to provide a Generic Advice and Enhanced Welfare Rights Service commencing 1 April 2020, in accordance with the strategy set out in the report;
- (ii) Approve the direct award of a six-month contract commencing 1 October 2019 to the current service provider, the Citizen's Advice Bureau; and
- (iii) Authorise the Director of People and Resilience, in consultation with Cabinet Member for Social Care and Health Integration, the Director of Law and Governance and the Chief Operating Officer, to conduct the procurement and award and enter into the contract(s) and all other necessary or ancillary agreements including activating extension provisions within the contract with the successful bidder, in accordance with the strategy set out in the report.

Reason(s)

To assist the Council in realising its vision of 'No-one left behind' and meet the Council priority of "Empowering People".

1. Introduction and Background

- 1.1 By Minute 65 (19 December 2012), the Cabinet agreed to the procurement of the Generic Advice, Hate Crime and Hate Incident Reporting and Enhanced Welfare Rights Advice service. Following a tender exercise, the contract was awarded to Barking and Dagenham Citizens Advice Bureau for two years commencing on 01 April 2013 with the ability to extend for an additional two years, one year at a time with a final contract end date of 31 March 2017.
- 1.2 Following the exhaustion of all extension options relating to the original contract, a Procurement Strategy and Waiver Report was taken to the Procurement Board on 19 December 2016 gaining approval for the recommendation to waive the requirement to tender in accordance with the Council's Contract Rule 28.5. This facilitated the direct award of a one-year contract to the Citizens Advice Bureau for the provision of Generic Advice, Hate Crime and Hate Incident Reporting and Enhanced Welfare Rights Advice Service for the period from 01 April 2017 to 31 March 2018.
- 1.3 At the time this waiver report was being approved, the intention was to utilise the additional year to scope any future generic advice provision to align with and enhance the Community Solutions service offer. Through consultation with Community Solutions, it was subsequently determined that further time was required to enable a comprehensive service scoping exercise to be undertaken on which a future commissioning decision could be reliably based.
- 1.4 In view of this, a further paper was taken to Procurement Board on 11 December 2017, seeking approval to waive the requirement to tender in accordance with the Council's Contract Rule 28.5 and directly award a one year contract to the Citizens Advice Bureau for the provision of Generic Advice, Hate Crime and Hate Incident Reporting and Enhanced Welfare Rights Advice Service for the period from 01 April 2018 to 31 March 2019 with the option to extend for a further six months, three

months at a time bringing the contract end date to 30 September 2019. This was recommended for the following reasons:

- Remaining with the current provider was most expedient and provided service continuity for some of our most vulnerable residents at a time when the Council proceeds with the implementation and embedding of Community Solutions.
- The development of the Community Solutions service block required generic advice. Further time and development were required to facilitate a comprehensive service design to be undertaken on which a future commissioning decision can be reliably based. This also enabled the inclusion of operation insight provided by Community Solution following the recent commencement of the service.
- The approach proposed avoided the time implications and disruption to service associated in contracting with a new provider for a short-term contract.

1.5 Following approval of the Procurement Strategy outlined above, a Task and Finish Group was convened with Adults' Care and Support Commissioning and Community Solutions to undertake the redesign of the service which fulfils the statutory duties with regard to the provision of Information and Advice within the context of the Council's transformation programme and evolved service delivery model. This group sought to answer the following key questions:

- What type and scale of service is needed to meet needs of residents and the Council?
- How might a new service differ from what we currently have?
- How do we ensure continuity / consistency of IAG provision?
- Where would a future IAG service be most suitably based?
- How can we ensure IAG services are accessible to all residents?
- When should a service be accessible?
- What are the next steps to delivering a new service?
- Who needs to be involved?

1.6 Concurrently, an Information, Advice and Guidance Working Group has been established by Community Solutions and the Voluntary and Community Sector. The gap analysis conducted through this forum has helped inform the redesign of the Generic Advice and Enhanced Welfare Rights Service to ensure it meets the needs of residents.

1.7 Through the activities undertaken within the task and finish group the recommendation is to conduct a competitive tender process for a service which meets Statutory duties, complements the Community Solutions Lifecycle Model and aligns with the Council's vision by promoting wellbeing and independence at all stages to reduce the risk of people reaching a crisis point. Consortium bids facilitated through a Lead Provider Model will be welcomed if proposed by a bidder.

2. Proposed Procurement Strategy

2.1 Outline specification of the works, good or services being procured

2.1.1 The new contract will enable the Council, in part, to meet its statutory duty around the provision of information and advice within the Care Act 2014. The service will

enable residents to access information, advice and guidance to reduce the effects of social and financial exclusion caused by a broad range of factors including;

- Poverty
- Debt
- Homelessness and the risk of homelessness
- Educational disadvantage
- Family breakdown
- Discrimination
- Illness and disability
- Language barriers

- 2.1.2 This wide-ranging service will enable local residents over the age of 16 to help themselves, whilst ensuring that our most vulnerable residents are supported to access high quality information and advice which can prevent, reduce or delay health and social care needs from developing, along with the associated loss of independence.
- 2.1.3 The provider would be required to offer an Enhanced Complex Case Service to support Community Solutions in addressing the needs of residents in the most challenging of circumstances. This would ensure that a holistic 'wraparound' offer is provided in partnership which aligns with the vision of helping people to help themselves.
- 2.1.4 This service will include the establishment of an all-encompassing Financial IAG offer via the multi-disciplinary Homes and Money Hub and instils the necessary levels of accountability.
- 2.1.5 The Provider would lead on the coordination and training of the wider voluntary and community sector to ensure continuity in the quality and nature of IAG provision which supports a more sustainable model in the longer term.
- 2.1.6 The service would be located at two main 'hub' sites within the borough; Barking Learning Centre and Dagenham Library. The tenure costs associated with these sites would not be borne directly by the Provider and will be provided by the Council as part of the offer.
- 2.1.7 The Provider will deploy the service flexibly across the borough from a range of locations including Childrens' Centres and other community assets informed by need, which will ensure the maximalisation of available resources.
- 2.1.8 The new redesigned service aims to strengthen the interface between the commissioned service and the Council's digital services including alignment with the Customer Access Strategy. This approach will promote self-help and independence. Additionally, a telephone service will be offered for residents who do not need or require a face to face appointment.
- 2.1.9 The service will offer home visits for our most vulnerable residents who meet social care eligibility criteria. The people requiring this service are likely to be subject to the forthcoming changes to benefits and require support through the appeals process which will be within the scope of the service.

2.1.10 The provider will collect and interpret data captured on the underlying cause of issues presented by people accessing the service and will provide mechanisms to measure the impact of the service provided. This will be periodically reviewed as part of the contract monitoring process and fed into the appropriate teams within the council to inform policy and decision making.

2.2 Estimated contract value, including the value of any uplift or extension period

2.2.1 The cost of the service during the proposed direct award period is £157.5K for six months.

2.2.2 The estimated contract value for the delivery of the retendered service is £1,575,000 (annual value of £315K) which constitutes the following:

- £280,000 from Adults' Care and Support (transferred investment from Adult and Community Services)
- £34,894 from Troubled Families Phase 2 funding to support delivery in Children's Centres

2.2.3 As referenced above, two 'hub' sites will be provided by the council for the delivery of this service (annual value c£50K). These sites would be provided as part of the offer to the Provider, so they would not bear any accommodation costs directly.

2.3 Duration of the contract, including any options for extension

2.3.1 **Direct award short contract:** Six months for short contract from 01 October 2019 to 31 March 2020 with no option to extend.

2.3.2 **New service to be tendered:** A three-year contract from 1st April 2020 to 31 March 2023 with the option to extend for a further 2-year period on an annual basis to 31 March 2025 (3+1+1) at the sole discretion of the council.

2.4 Is the contract subject to (a) the (EU) Public Contracts Regulations 2015 or (b) Concession Contracts Regulations 2016? If Yes to (a) and contract is for services, are the services for social, health, education or other services subject to the Light Touch Regime

2.4.1 This procurement is subject to the Public Contracts Regulations 2015 and as a social care service is subject to the Light Touch Regime. However, because the estimated value of the contract is higher than the set threshold (currently EUR750,000), it needs to be opened to competition and be advertised in the Official Journal of the European Union (OJEU) as required by the Regulations.

2.5 Recommended procurement procedure and reasons for the recommendation

2.5.1 Directly award a six-month contract for the period from 01 October 2019 to 31 March 2020 to the Citizen's Advice Bureau.

2.5.2 A competitive open market tender is proposed to take place to procure a new service and award a contract to commence 1 April 2020 and run to 31 March 2023, with the option to extend for a further 2-year period to 31 March 2025 (3+1+1) at the sole discretion of the council.

- 2.5.3 The service will be procured in line with the Public Contract Regulations 2015 through a 'light touch regime' and line with the Councils contract rules. The tender opportunity will be advertised in OJEU, on the Council's e-tendering portal (Bravo), Contracts Finder and the Council's website. The process will widen the competition and ensure the Council gets best value for money for this service.

Procurement and Governance Timetable:

Activities/ Tasks	Date
Cabinet approval	23 April 2019
Issue ITT	Week commencing 3rd June 2019
Deadline for clarifications	26th July 2019
Return Tenders	2nd August 2019
Tender Evaluation including Moderation meeting and clarification (if required)	5th- 30th August 2019
Prepare contract award report/ get approval	2nd – 18th September 2019
Provisional Award (notify successful/ unsuccessful Tenderer's)	19th September 2019
Standstill period	20th Sept- 1st October 2019
Final award	2nd October 2019
Mobilisation including potential TUPE transfers	3rd October 2019- 31st March 2020
Contract commencement	1st April 2020

2.6 The contract delivery methodology and documentation to be adopted

- 2.6.1 The Council's standard terms and conditions will be used for the delivery of this service. Terms and conditions will also take account of changes in the law, which may be relevant for the work currently being undertaken to introduce new legislation in the form of Universal Credit.
- 2.6.2 The management responsibility for the contract lies with Adults Care and Support commissioning and the contract will be managed in line with a contract management plan to be set out within the final specification.
- 2.6.3 Service performance will be monitored through a series of Key Performance Indicators (KPIs) as detailed in the service specification that includes quantitative and qualitative data, service user feedback and activity on outstanding action plans reviewed at quarterly meetings.

2.7 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract

2.7.1 The outcome expected as a consequence of awarding the proposed contract is to improve the social, economic and health outcomes of the population across the borough by building an effective, responsive and high quality Generic Advice Service, which effectively meets the needs of our local community and offers a range of high quality information, advice and guidance which will target those most vulnerable in our borough.

2.7.2 The service specification will include the following high-level outcomes:

- Residents are able to access relevant information, advice and support quickly and easily
- Residents are helped to avoid getting into situations in which more intensive third-party action is required
- Residents are equipped to make informed personal choices about how to help themselves
- Residents are accurately referred to available services provided by appropriate staff
- Residents who would be eligible for social care services access appropriate support including welfare rights support and appeals

2.7.3 The service specification will make clear the expectation to include close partnership working with existing services, as part of an effort to focus on resilience building for individuals and their families.

2.8 Criteria against which the tenderers are to be selected and contract is to be awarded

2.8.1 It is proposed that a Quality/Price split of 70/30 is used in the assessment of tenders. For this service, there is a clear need to drive major innovation in quality of services. We are looking for a strategic partner who can adapt quickly to the changing needs in the borough and who have the skills, knowledge and experience to deliver against outcomes.

2.8.2 We require the 70/30 quality/price split in order to ensure good quality tenders. Value for money is clearly important, but in the case of generic advice and enhanced welfare rights leaning too heavily in favour of price leads to non-specialist service providers undercutting specialist providers in the sector, with poorer quality in terms of service delivery.

2.8.3 The scope of the contract will be published beforehand including the minimum requirements, award criteria and their weightings, and this will not be changed during the tender process. The whole process will be managed by corporate procurement and fully documented.

2.9 How the procurement will address and implement the Council's Social Value policies

2.9.1 The Council's social value responsibilities are taken through its vision: One borough; One community; London's growth opportunity.

- 2.9.2 Through the award of the contracts to the providers, the Council will ensure service continuity that meet the needs of the local population, including provision of information, advice and support on a range of issues.
- 2.9.3 Applications would be encouraged from providers able to demonstrate potential to muster additional social value across the council through the development of local employment opportunities as well as training and development of local volunteers and students/trainees.
- 2.9.4 Applications will be encouraged from providers able to demonstrate an ability to meet the Councils strategic aims to protect vulnerable people whilst developing sustaining services and building resilient communities. Those able to demonstrate an ability to interface with other services of a similar nature to resolve the causes and symptoms of referrals would also be welcomed.

2.10 **Contract Management methodology to be adopted**

- 2.10.1 The contract will contain specific service requirements and expected outcomes. Key performance indicators will be outlined in the service specification and agreed with the providers. Commissioners will undertake performance management of the service.
- 2.10.2 Contract monitoring meeting will take place each quarter to review performance reports and contribute to the continuous development of the service. In addition, annual reviews will be required to be completed by the provider, to include feedback on contract outcomes.
- 2.10.3 Should the contract be extended at the end of the first three years to continue for a further two, the provider and commissioners will undertake a best value review.

3. **Options Appraisal**

- 3.1 Other options considered as an alternative option to the above are as follows:
 - 3.1.1 **Do Nothing** - This option would not be recommended as these services are required to enable social inclusion and equality of opportunity for those with vulnerable backgrounds. There would also be a loss of opportunity to achieve better outcomes for residents across the scope of the service.
 - 3.1.2 **Extend and maintain existing contract arrangements** - The current contract does not permit further options to extend, which would necessitate a need to tender, unless the relating contract rules were waived.

4. **Waiver**

- 4.1 Approval is sought to directly award a six-month contract for the period from 01 October 2019 to 31 March 2020 to the Citizen's Advice Bureau whilst a competitive tender exercise is undertaken for the service beyond this period. This would be facilitated by waiving Contract Rule 28.5 requiring a formal procurement process to be followed on the basis of the grounds in rule 6 as identified below. The justification for the waiver is to be judged under the following relevant points of the

Contract Rules: 6.6.8: There are other circumstances which are genuinely exceptional.

- 4.2 It is recommended that contract rules requiring a competitive tender exercise to be carried out is waived due to exceptional circumstances on the basis that the provider is already engaged in the delivery of the Generic Advice Service and so should be able to ensure continuity of support for those in receipt of the service whilst a competitive tender exercise is undertaken. The justification for this is as follows:
- Additional time is required to develop a revised strategy for the services being provided, including the redesign of a specification which complements the Community Solutions Lifecycle Model and aligns with the Council's vision by promoting wellbeing and independence at all stages to reduce the risk of people reaching a crisis point.
 - The full tender exercise being proposed will be conducted in line with the governance process outlined at Section 2.16. The additional time provided through a direct award will accommodate any slippage to this plan and help mitigate associated risks.
 - The approach proposed within this document will avoid the time implications and disruption to service associated in contracting with a new provider for just a six-month contract.
 - Directly awarding the contract to Citizens Advice Bureau for a further six months rather than running a full tender exercise will prevent the Council from incurring the additional procurement and transition costs twice.
- 4.3 It is recommended that the no fault termination period for the direct award contract with the current provider be reduced to one month as opposed to the standard three-month period. This will enable the Council to have greater flexibility and will ensure that the additional time is limited to what is necessary, informed by the governance and procurement process, including the facilitation of TUPE transfers as applicable.

5. Consultation

- 5.1 As part of the need to re-tender Commissioners have reviewed the current service provision and pathways and undertaken analysis of referral activity etc. The council will be providing an open access, universally provided Generic Advice Service that will meet the needs of the population. The service will allow for targeted provision for those parts of the population that have greater or more specific needs.
- 5.2 The design principles and outline specification are informed by the work which helped shaped the Community Solutions model, combined with insight attained from the VCS through the IAG Working group and from ComSol through the Task and Finish Group. Combining this with the data attained through routine contract monitoring of the current service has helped highlight service gaps and brought a better understanding of the need to ensure the service specification targets provision accordingly.
- 5.3 The proposals in this report were considered and supported by the Peoples and Resilience Management Group (PRMG) at its meeting on 14 February 2019, as well as the Portfolio Meeting of the Cabinet Member for Social Care and Health

Integration on 19 February 2019, Procurement Board on 19 March 2019 and Corporate Strategy Group on 21 March 2019.

6. Corporate Procurement

Implications completed by: Adebimpe Winjobi, Senior Procurement and Programme Manager

- 6.1 This report seeks authority to waive the requirement to conduct a competitive procurement exercise for the provision of Generic Advice and Enhanced Welfare Rights Advice Service and directly award a six-month contract for the period from 01 October 2019 to 31 March 2020 to the Citizen's Advice Bureau in accordance with Contract Rule 6.6.8 which relates to genuinely exceptional circumstances as set out in this report.
- 6.2 This report is also seeking approval to procure a contract for the provision of the service. The service being procured falls within the description of services covered by the Light Touch Regime under the Public Contracts Regulations 2015. As the estimated value of the contract is higher than the set threshold (currently EUR 750,000), it needs to be opened up to competition and be advertised in the Official Journal of the European Union (OJEU) as required by the Regulations.
- 6.3 In keeping with the EU procurement principles, it is imperative that the contract is tendered in a competitive way and that the process undertaken is transparent, non-discriminatory and ensures the equal treatment of bidders. The proposed procurement route to tender this service via Open Procedure will widen the competition, provide best competition to get best value for money for the Council and will be compliant with the Council's Contract Rules and EU Regulations.
- 6.4 The report gives details of the procurement procedure, evaluation criteria, award criteria and the timetable for the procurement exercise. All the above show evidence of a fair tender exercise, in accordance with the PCR 2015, which must be adhered to in compliance with the Regulation.
- 6.5 Corporate procurement will provide the required support to commissioners throughout the entire process.

7. Financial Implications

Implications completed by: Abdul Kayoum, Finance Business Partner

- 7.1 The value of the contract is £1,575,000 (£315,000 annual value). This will be funded from existing budget provision which already funds the current service delivered by Citizens Advice Bureau. £280,000 from Adults Care Support and £35,000 from Troubled Families Phase 2 funding. There are no further financial implications.

8. Legal Implications

Implications completed by: Jonathan Bradshaw, Solicitor.

- 8.1 The proposal appears to satisfy the obligations in the Public Contract Regulations 2015 (Light Touch) and the Council Contract Rules. The result of the procurement exercise should be an economically advantageous arrangement, coupling a good provider with a competitive price.

9 Other Implications

- 9.1 **TUPE, other staffing and trade union implications** - Eligible staff currently employed in the service will, in the event of change in service provision, transfer their employment to the new provider under the Transfer of Undertakings (Protection of Employment) Regulations 2014. All TUPE information will be made available as part of the invitation to tender document. Responsibility for assessing TUPE requirements will remain with the bidding providers.
- 9.2 **Corporate Policy and Equality Impact** – The provision of high quality and timely Information, Advice and Guidance underpins a number of key priorities for the council and contributes to several targets in the Borough Manifesto. The Generic Advice and Enhanced Welfare Rights Service can help deliver the ‘Empowering People’ priority set out in the Corporate Plan, by enhancing the inclusion and equality of opportunity for people who are vulnerable due to a wide range of issues covered within the provision of this service. The specification will make clear the need to include resilience building within communities to assist with this focus. The procurement exercise will lead to better services contributing to delivering key outcomes. As such there are no negative impacts on any of the protected characteristics as set out in the Equality Act. Tender applicants will need to evidence the impact of their bid on all protected characteristics and how they plan to monitor and review the impact of service delivery on equality.
- 9.3 **Safeguarding Adults and Children** – The provider must have in place the necessary Safeguarding protocols, in line with Council Policy and must demonstrate a good working knowledge of the Working Together to Safeguard Children 2018 document and the 6 principles of adult safeguarding.
- 9.4 **Health Issues** - The provision of a Generic Advice and Enhanced Welfare Rights services can help improve the effectiveness of treatment and, in some cases, help early intervention or prevent the need for treatment and so ensuring the best use of resources. The proposal is in line with the outcomes and priorities of the joint Health and Wellbeing Strategy. The award of the contract should further enhance the quality of and access to a range of health-related services in the borough. The proposal will have a positive effect on our local community.

Public Background Papers Used in the Preparation of the Report:

- Equality Impact Assessment
(<https://modgov.lbbd.gov.uk/Internet/ieListDocuments.aspx?CId=180&MId=10025&Ver=4>)

List of Appendices: None

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CABINET**23 April 2019**

Title: Development of Land at 482-528 Rainham Road South, Dagenham	
Report of the Cabinet member for Regeneration and Social Housing	
Open Report	For Decision
Wards Affected: Eastbrook	Key Decision: Yes
Report Author: Mark Crane, Senior Development Manager, Be First	Contact Details: Tel: 020 8227 2350 E-mail: mark.crane@befirst.london
Accountable Director: Ed Skeates, Development Director, Be First	
Accountable Strategic Leadership Directors: Claire Symonds and Graeme Cooke	
Summary	
<p>482-528 Rainham Road South is a low-density council owned housing estate comprising 24 homes (1&2 bed flats), within 3 four storey buildings. The 0.56 hectare site is under-utilised, and has been identified as a development opportunity to increase and diversify the housing offer, and improve the public realm.</p> <p>Initial feasibility work has assessed the site and one of a number of options being considered and proposed for consultation with tenants under the Housing Act 1985 is to redevelop to provide c.64 new homes. Given its location close to Dagenham East tube station and other regeneration sites including the Dagenham Film Studios, the Travelodge/Costa site, and 291-301 Oxlow Lane, its redevelopment would support wider regeneration within the Dagenham East area. The site could be the first phase of new development along Rainham Road South, creating an avenue of high-quality housing and public realm along this road up to Dagenham East tube station.</p> <p>The property is currently occupied by 13 leaseholders and 11 tenants. It is considered that the additional 40 affordable homes and public realm, together with the wider regeneration impact that could be realised by the development, would outweigh the impact of relocating the existing tenants and leaseholders. The proposals will be consulted upon with tenants of the blocks impacted.</p> <p>Cabinet approval is also sought to the service of Initial Demolition Notices in order to suspend the requirement for the Council to complete Right to Buy applications for as long as the notices remain in force. A detailed process of consultation with residents will occur over the coming months on the options for the site with the results presented to a future Cabinet meeting with a recommendation on the way forward. The options set out in paragraph 2.2 consist of Do Nothing, Infill development or comprehensive redevelopment.</p> <p>Whilst the site is included within Be First's Business Plan, it is not included in the 2015-2021 Estate Renewal Programme.</p>	

Information on the housing needs of residents would be gathered, which would inform any decant strategy, so that the development and decant activities can be coordinated and sympathetically managed if the scheme goes ahead.

If the scheme moves ahead, the use of the Council's compulsory purchase powers may be required as a last resort. Following consultation, a future Cabinet report will be presented on the outcomes and preferred option and Cabinet will be asked to authorise the use by the Council of its Compulsory Purchase Order (CPO) making powers should they prove necessary to facilitate the future redevelopment of the site.

Should approval be granted there would be consultation with tenants and leaseholders, active engagement with residents in the design and planning process, so that they have an opportunity to input into the scheme design, in order to seek their support for the proposals prior to the submission of the planning application. Be First would prepare the detailed planning application to redevelop the site.

The initial feasibility work assessing the development potential of the site has been reviewed by the Investment Panel in its advisory capacity, who confirmed that subject to further consultation the recommended option achieves both regeneration objectives and the Council's financial metrics for such schemes.

The estimated total project costs are c.£19,700,000. It is intended that circa £13.738m would be met via borrowing with the General Fund from the Public Works Loan Board and the remainder through a combination of HRA funding (in respect of the buy-back of leasehold properties at Rainham Road South and decant costs for the 11 Council tenants), GLA Grant funding and Right to Buy receipts.

It is estimated that c.£2,677,000 of HRA funding would be required to purchase the 13 leasehold interests and fund the decant costs for the 11 tenants. This is in the HRA Business Plan capital allocation for the Estate Renewal Programme. The total allocation in 2019/20 is £11.5m, then £6m per annum in subsequent years.

It is intended that if the scheme proceeds it would utilise both GLA Grant and Right to Buy Receipts. It should be noted that a registered provider entity will be required for schemes utilising GLA grant in order to optimise funds to deliver the new affordable units. This is in accordance with the January 2019 in principle Cabinet approval to consider options to create a new Reside Registered Provider entity, in order to enable Reside to act as the Council's partner in the delivery of affordable homes in the borough.

The funding is proposed to be provided through a loan agreement between the Council and either a new Reside Registered Provider (or an existing entity within the Barking and Dagenham Reside structure) to develop and manage the new Affordable Housing units.

As it is envisaged that the ownership will be within the Reside structure, which is outside of the Housing Act, an appropriation of the land under section 122 of the Local Government Act 1972 from the Housing Revenue Account to the General Fund will be required.

Recommendation(s)

The Cabinet is recommended to:

- (i) Approve in principle the proposed redevelopment of the site incorporating 482-528 Rainham Road South, as shown edged red in the plan attached at Appendix 1 to the report, subject to consideration of the outcomes of consultation with affected residents.
- (ii) Approve consultation with affected tenants and leasehold interests in respect of 482-528 Rainham Road South pursuant to Section 105(1) of the Housing Act 1985 in respect of the proposed redevelopment (Option 3) and potential demolition of the premises and delegate approval of the details of any consultation to the Director of Inclusive Growth and/or a delegate on his behalf, in consultation with the Director of Law and Governance
- (iii) Agree the service of an Initial Demolition Notices on all secure tenants at the affected properties at the appropriate time, having regard to the outcomes of consultation, in order to suspend the requirement for the Council to complete Right to Buy applications for as long as the notices remain in force and delegate the approval and timing of final notices to the Director of Inclusive Growth, in consultation with the Director of Law and Governance;
- (iv) Agree in principle that, subject to the grant of an acceptable planning permission and receipt of satisfactory construction tender prices, the project be financed and held within the residential asset class of the Investment and Acquisition Strategy;
- (v) Agree in principle the inclusion of the project in the Council's Capital Programme in the total sum of £20,479,000, subject to the securing of planning permission and procurement of a contractor in accordance with the project outputs and budget;
- (vi) Agree in principle the Funding Strategy in section 3.7 of the report, including borrowing up to £13,738,000 within the General Fund from the Public Works Loan Board, to finance the development and ownership of the affordable rent homes via a loan agreement made between the Council and any suitable vehicle that the new units may be held in (e.g. a new B&D Reside Registered Provider or other vehicle); and
- (vii) Approve in principle the appropriation and accounting for its value of the land, as shown edged red in the plan at Appendix 1 to the report, under Section 122 of the Local Government Act 1972 from the Housing Revenue Account to the General Fund.

Reason(s)

The recommendations are aligned to four elements of the new Council vision and priorities, namely:

- Regeneration and development of the borough
- Housing Estate Regeneration
- Provision of affordable housing
- Community and social benefits

1. Introduction and Background

1.1 Rainham Road South is a low-density council owned housing estate dating back to the early 1960s. Whilst it was not included in the 2015-2021 Estate Renewal

Programme, the site has been identified as a development opportunity, that could support wider regeneration within Dagenham East.

- 1.2 The site is located close to Dagenham East tube station and other regeneration sites including 'Made in Dagenham' Film Studios, the Travel Lodge/Costa site, 'Digital Dagenham' datacentre and 291-301 Oxbow Lane (which is included within the 2015-2021 Estate Renewal Programme).
- 1.3 The site also forms part of a wider vision for Rainham Road South to create an avenue of new high-quality housing, retail and community uses, and public realm along the road, connecting to Dagenham East tube station.
- 1.4 Initial feasibility work has assessed that the site could provide c.64 new homes. Cabinet is requested to make an in-principle decision concerning the preferred option to deliver a comprehensive development and to authorise consultation with tenants under the Housing Act 1985. The proposed tenure mix of the preferred option is:
 - 29 shared ownership units
 - 15 Affordable Rent units
 - 20 London Affordable Rent (LAR) units
- 1.5 The scheme would deliver an additional 40 homes, together with a more diverse tenure mix, including an increase in the number of homes at Council Comparative Rents.
- 1.6 Rainham Road South is not included in the 2015-21 Estate Renewal Programme. In accordance with the Council's standard practice for securing vacant possession to deliver estate renewal projects Cabinet approval is also required to serve demolition notices at the appropriate time and having regard to the outcome of consultation with tenants.

2. Proposals

Options Analysis

- 2.1 Feasibility work was carried out exploring a range of development options.
- 2.2 Following a review of the design feasibility work by the Investment Panel, three options have been appraised which would be the subject of consultation:
 1. **Option1: Do Nothing.** Retain 24 affordable homes. This option is not recommended as it does not make the best use of the site, nor support the wider regeneration objectives for the area.
 2. **Option 2: Infill development.** This is not recommended as the current site is too constrained given the location of the existing blocks within the central part of the site. Any infill development would create significant overlooking and access issues.
 3. **Option 3: Comprehensive redevelopment.** (Preferred option) proposed for the following reasons:

- It optimises the site capacity and delivers a net additional affordable 40 homes.
- Provides a balanced housing tenure mix, with a more diverse housing offer in response to local housing need, including 9 additional LAR units.
- Provides a viable scheme that meets the Council's investment metric targets.
- Supports the wider regeneration vision of the area.

Financial Summary

2.3 The investment metrics for the preferred option are summarised as follows:

1 st year surplus	£124,000
IRR (Internal Rate of Return)	7.5%
Net Present Value (3.5% discount rate)	£17,950,000
Yield on Cost	4.6%
Profit on Cost	4%

2.4 To pursue the preferred option, HRA funding will be required to purchase the 13 leasehold interests, and fund the decant costs for the 11 tenancies, estimated at £2,677,000.

2.5 Total development costs are estimated at £20,479,000.

Planning Policy Considerations

Existing Residential Uses

2.6 Planning policy stipulates the development proposals should re-provide existing residential use, with at least equivalent residential floorspace. Emerging policy also expects existing affordable housing to be replaced by equivalent or higher quality accommodation and should generally produce an overall uplift in provision. The development proposals meet this policy requirement.

2.7 Emerging London Plan policy expects that all social rented floorspace is replaced on a like-for-like basis (including security of tenure and rent levels).

Design Considerations

2.8 Whilst policy guidance suggests 45 – 170 units could be accommodated on the site based on its PTAL 3 rating. The proposed development quantum (c.115 units per hectare) is within this range.

2.9 Proposals should limit the number of single aspect units with no north-facing single aspect units and preferably no family sized single aspect units.

2.10 As part of the next design phase, a transport consultant will be appointed to inform an appropriate level of car parking to be provided. The current proposals assume 42 car parking spaces.

2.11 More detailed massing and layout analysis will be undertaken as part of the next stage of the design and planning process.

Recommended Option

2.12 It is proposed that Option 3 is approved in principle to progress subject to consultation with tenants as this option will:

- Deliver a comprehensive scheme that will optimise the development and regeneration benefits of the site;
- Responds positively to the key planning policy requirements;
- Achieves the Council's financial metrics for redevelopment schemes of this nature.

2.13 The scheme will provide a range of benefits to residents living in the new homes, as well as the wider community, including:

- Improving the urban fabric and providing a more attractive environment along Rainham Road South
- Improved environmental and sustainability standards
- Improved public and private external space

2.14 Option 3 does require the leaseholder buyback of 13 properties, and the decanting of 11 households. Approval for Initial Demolition Notices is requested subject to delegation to do so at the appropriate time. The possession will be for Housing Act 1985 Sch 2 Ground 10, i.e.

The landlord intends, within a reasonable time of obtaining possession of the dwelling- to demolish or reconstruct the building or part of the building comprising the dwelling-house.

2.15 The Council will consult with tenants on the proposals and will work with tenants to identify their housing needs and help them find a suitable alternative property including offering 'right to return'.

2.16 The Council recognises that its Compulsory Purchase Order powers may prove necessary to deliver the development as a last resort, but every effort will be made to achieve land assembly and acquire interests by voluntary acquisition. The case for the use of compulsory purchase powers will demonstrate;

- i. There is a strong policy basis for the Scheme and that it fits within the planning policy framework for the area;
- ii. Deliverability- that the development is able to proceed and is deliverable, that the necessary resources and funding are available to achieve the purpose of the CPO within a reasonable time frame;
- iii. that the scheme is unlikely to be blocked by legal or physical impediments;
- iv. the extent to which the development will contribute to the achievement of the economic, social and/or environmental wellbeing of the area;
- v. whether the purpose for which the land is to be acquired could be achieved by any other means.

- 2.17 Government guidance is clear that negotiations can, and should, continue in parallel with the preparation and making of a CPO. The following section further explains the offer to leaseholders and tenants in efforts to assemble the land through voluntary acquisitions.
- 2.18 The progression of Option 3 will require consultation with the residents of 482-528 Rainham Road South and their response will be reported back to the Cabinet in due course for a final determination on Option 3.

3. Delivery Arrangements

Decant and Leaseholder buyback offer

- 3.1 Be First's portfolio of council-owned estate renewal schemes includes a large number that require the demolition and replacement of tenanted blocks. There is therefore a need to manage the development of these extremely sensitively with the early engagement of the effected residents and communities.
- 3.2 Should the scheme proceed, Be First and Council staff will work with the residents of 482 – 528 Rainham Road South to enable them to find a new home that meets their housing needs. Council tenants will be given high priority to bid for alternative accommodation through the Choice Homes scheme. This will give them access to alternative council homes as well as housing association properties that become available to let through the scheme.
- 3.3 For leaseholders, the Council will buy back their home at market value. The Council may also give financial assistance to leaseholders to buy an alternative home. Tenants and leaseholders who need to move as result of the regeneration proposals will be eligible for a home-loss payment if they have been living in their home for 12 months or more. Tenants and leaseholders will also receive payments towards the cost of moving home, such as removal costs.
- 3.4 Existing tenants of 482-528 Rainham Road South would have a Right to Return to the new Council Comparative Rent homes that are built. Because the new homes will be owned and managed by Reside, the tenancy terms and conditions will be different. As set out above, the rents of the new homes will be set at London Affordable Rent levels.

Programme

- 3.5 Subject to approval of the recommendations in this report, consultation will commence on the proposed options with the results presented to Cabinet in June/July 2019. If the recommended option is adopted, it is proposed the scheme is delivered by Be First, who will progress the project through the planning process, manage site preparation, the delivery of the works and management of the completed scheme. It is proposed that a contractor for the works is procured through the new Be First development framework.
- 3.6 Subject to feedback from the consultation stage, an indicative timetable is set out below:

Milestone	Date
Planning submission	December 2019
Planning approval	March 2020
Contract Award	April 2021
Start on Site	June 2021
Practical Completion works	May 2023
Fully occupied	September 2023

Funding

- 3.7 The estimated development costs are c.£20,479,000 to be funded through a combination of HRA funding, GLA Grant funding, Right to Buy receipts and borrowing, broken down as follows:

HRA	£2,677,000
GLA Grant	£1,712,000
Right to Buy	£2,352,000
Council borrowing	<u>£13,738,000</u>
Total	£20,479,000

- 3.8 HRA funding is required to purchase the 13 leasehold interests and fund the decant costs for the 11 tenants (estimated at £2,677,000). The remaining funding covers land acquisition, professional fees and construction costs.
- 3.9 It is proposed that the development and ownership of the new affordable homes is financed through borrowing up to £13,738,000 within the General Fund from the Public Works Loan Board. The funding is proposed to be provided through a loan agreement between the Council and the Reside Registered Provider (or an existing entity within the Barking and Dagenham Reside structure) to develop and manage the new Affordable Housing units.
- 3.10 The GLA grant funding comprises £812,000 for the Shared Ownership units and £900,000 for the London Affordable Rent (LAR) units to support the financial viability of the scheme.

4. Consultation

- 4.1 Ward Councillors have been invited to discuss the proposals. Initial discussions with Councillor Ramsay highlighted that whilst he is supportive of improving the quality and diversity of the housing offer, he expressed concerns about the disruption redevelopment of the site would have on the current residents, for whom suitable alternative housing would need to be found.
- 4.2 There has been no public consultation on this scheme to date. Subject to cabinet approval of the recommendations, consultation and engagement with existing residents on the paragraph 2.2 options will commence. Consultation will be carried out in accordance with the Council's duties under s.105 of the Housing Act 1985 with the results of the consultation presented to a future Cabinet meeting.
- 4.3 If the scheme progresses, tenants, leaseholders and the wider local community will be involved in the design and planning process, working closely with the design

team as the design develops prior to the planning application submission timetabled for December.

- 4.4 The Greater London Authority have a Resident Ballot Requirement (RBR) for Strategic Estate Regeneration projects benefitting from GLA funding. As Strategic Estate Regeneration projects are defined as demolition of homes on an existing social housing estate **and** construction of at least 150 new homes (of any tenure), this scheme does not require a Resident ballot as the number of homes proposed is significantly below this threshold.

5. Financial Implications

Implications completed by: David Dickinson, Investment Fund Manager

- 5.1 Rainham Road South forms part of the 44 schemes agreed as part of the Investment and Acquisitions Strategy.
- 5.2 The original Be First business plan (5 years) includes £0.68m of project costs incurred and therefore the proposed costs of £20.479m (with peak borrowing of £13.7m) represents a significant increase in borrowing costs. This includes predevelopment costs of c.£4.65m, which are significant. These costs will need to be included in the funding model and financing arranged.
- 5.3 The recommended option will provide 40 additional residential units and provides both a positive return over year one (£124k) and a yield on cost of 4.6% and is therefore an investable scheme.
- 5.4 As the completion date is in Q1 2023, this will provide an income stream into 2023/24 based on the current assumptions, which is one and a half years earlier than the original Investment and Acquisitions Strategy.
- 5.5 This investment relies on a significant amount of HRA and grant funding, broken down as follows:

£2.677m	HRA
£0.812m	GLA Shared Ownership
£0.900m	GLA LAR Grant
£2.352m	Right to Buy Receipts
£6.741m	Total Grant and HRA Costs

- 5.6 The decant costs funded through the HRA will require full oversight and should be linked to HRA Business Plan.

6. Commissioning Implications

Implications completed by Graeme Cooke, Director of Inclusive Growth

- 6.1 This site is less than 400 metres to Dagenham East station and the proposed Film and Media complex on the former Sanofi site. It is currently low density at 40 units per hectare and this scheme unlocks the site's true development potential by providing an additional 40 homes, helping to achieve the Business Plan target of building 1,600 affordable homes by March 2023.

- 6.2 It has a good mix of tenures including an 80% increase in the number of homes at Council Comparative Rents, which do most to address local housing need. This will help offset those lost through Right to Buy and the Council's ambition that there is no net loss of homes at CCR across the borough. This is achieved by using a mix of RTB and GLA grant enabled by splitting the design into separate blocks which allows the CCR homes to be placed into a future Reside RP. The GLA grant is dependent on a successful bid.
- 6.3 This site is not currently in the Estate Renewal programme, nor was it originally envisaged to be complete within the Be First Business Plan period. The current blocks need substantial investment to bring them up to decent homes standard. Therefore, redevelopment of the site for an additional 40 new affordable homes, including an additional 9 homes at CCR, which meets Investment Strategy return targets, will help deliver New Homes Bonus, Council Tax receipts and investment returns which were not originally planned in the next five years.

7. Legal Implications

Implications completed by: Suzan Yildiz, Deputy Head of Legal / Paul Feild, Senior Governance Lawyer, Legal

- 7.1 The Rainham Road land is currently occupied by tenants and leaseholders of the Council who have a legal right under Section 105(1) and (2) of the Housing Act 1985 to be consulted on matters of housing management which include any development proposal resulting in potential displacement of tenants or relocation of demolition. The proposal/Option 3 contemplates that that the housing development will be delivered by Be First (as development manager) and will ultimately be held by a suitable Reside vehicle (being either a new Registered Provider which may be registered by the Council/Reside or an existing entity within the Reside structure). The land needs to be appropriated from the Housing Revenue Account, which is considered further below. As this scheme is at an early stage, consultation will need to be carried out with residents and leaseholders affected. Cabinet is presently requested to approve consultation with tenants and the proposed Option 3 in principle. The ultimate decision to pursue Option 3 (along with any decisions to compulsorily acquire any interests) will be the subject of a further report to and made by Cabinet having regard to consultation responses.

Council Powers

- 7.2 The Council has power to pursue the preferred Option 3 to deliver the development scheme by virtue of the general power of competence under section 1 of the Localism Act 2011, which provides the Council with the power to do anything that individuals generally may do. Section 1(5) of the Localism Act provides that the general power of competence under section 1 is not limited by the existence of any other power of the authority which (to any extent) overlaps with the general power of competence. The use of the power in section 1 of the Localism Act 2011 is, akin to the use of any other powers, subject to Wednesbury reasonableness constraints and must be used for a proper purpose.
- 7.3 Whilst the general power of competence in section 1 of the Localism Act 2011 provides sufficient power for the Council to participate in the transaction and enter

into the relevant project documents further support is available under Section 111 of the Local Government Act 1972 which enables the Council to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any of its functions, whether or not involving expenditure, borrowing or lending money, or the acquisition or disposal of any rights or property.

- 7.4 In exercising the power of general competence and in making any investment decisions, the Council must also have regard to the following:
- i) Compliance with the Statutory Guidance on Local Government Investments;
 - ii) Fulfilling its fiduciary duty to tax payers;
 - iii) Obtaining best consideration for any disposal;
 - iv) Compliance with Section 24 of the Local Government Act 1988 in relation to giving financial assistance to any person (which either benefits from a general consent or requires express consent by the Secretary of State);
 - v) Compliance with any other relevant considerations such as state aid and procurement;

Consultation with tenants

- 7.5 Section 105 of the Housing Act 1985 requires the Council to consult with all secure (and demoted) tenants who are likely to be substantially affected by a matter of housing management, which includes development proposals and demolition of dwellings by the housing authority. Such consultation must inform the tenants of the proposals, provide an opportunity to make their views known to the Council within a specified period and consider the representations made to the Council. The report endorses Option 3 and approves consultation of affected tenants.
- 7.6 The courts have determined that to be effective consultation must be carried out at a formative stage of any proposals; sufficient reasons must be given for the proposals, together with adequate time, to allow intelligent consideration and response and any responses must be taken into account when making a final decision. A final decision to deliver Option 3 (and associated decisions, such as pursuing a CPO) will be taken by Cabinet having regard to the representations made by tenants.

Achieving Vacant Possession

- 7.7 The report and the interests plan details that at least part of the development site has existing residents, being tenants and leaseholders. In due course, negotiations will be necessary to acquire vacant possession through voluntary sale/buybacks if Option 3 is pursued. As a last resort Compulsory Purchase Orders can be considered under the Land Compensation Act. A decision to proceed with a Compulsory Purchase Order will require formal resolution by Cabinet and future report will need to make a compelling case in the public interest and fully demonstrate the grounds for proceeding with a CPO are met. Impacts on equalities and human rights implications for existing tenants/leaseholders and any other

affected parties are key considerations which will factor into decision making (this is considered further below).

- 7.8 Demolition Notices, which are proposed to be utilised to enable delivery of the scheme, would preclude Council tenants who are within the site boundary exercising their right to buy within sites earmarked for regeneration under the provisions of the Housing Act 2004. At the time of a demolition notice there must be a clear and firm intention to redevelop, therefore, care needs to be taken about the timing and service of Demolition Notices (consideration of which has been delegated to the Director of Inclusive Growth). The Council is empowered to serve, regeneration and redevelopment. There is a prescribed notification process:
- firstly, the service of an Initial Demolition Notice which is valid for up to five years and can be extended to a maximum of seven years, an Initial Demolition Notice will prevent named properties from being acquired from the Council through Right-to-Buy as the Council is not obliged to sell the properties to the tenants. If, exceptionally, the proposals to redevelop or demolish or the relevant boundary change following the service of a Demolition Notice, the Council can withdraw a notice by service of a revocation notice;
 - followed by the Final Demolition Notice which is valid for up to two years (with possible extension subject to Government permission).
- 7.9 The Council is required to notify tenants affected by the decision to demolish, and to give reasons and the intended timetable for demolition. Furthermore, it must inform tenants of the right to compensation and publicise decisions by placing a notice in a newspaper local to the area in which the property is situated, in any newspaper published by the landlord, and on the Council's website.
- 7.10 Final Demolition Notices cannot be served until the arrangements for acquisition and demolition scheme are finalised (i.e. a date is set). Typically planning permission is also obtained before the service of a Final Notice. This means that Compulsory Purchase issues for leasehold premises must also have been resolved before a Final Demolition Notice can be served.
- 7.11 The Council can make an application to the Secretary of State during the 24-month period for that period to be extended, but if no application is made, it will be unable to serve any further demolition notice in respect of these properties for five years without the Secretary of State's consent. On receipt of an application, the Secretary of State can direct that the period be extended, but he may specify further notification requirements that the Council must comply with in order for the exception to the Right to Buy to continue.
- 7.12 Finally, If the Council subsequently decides not to demolish the property, it must serve a revocation notice upon affected tenants as soon as is reasonably practicable. If it appears to the Secretary of State that a landlord has no intention of demolishing properties subject to a Final Demolition Notice, he may serve a revocation notice on affected tenants.

Human Rights Act 1998 Considerations

- 7.13 The Human Rights Act 1998 ('the HRA 1998') effectively incorporates the European Convention on Human Rights into UK law and requires all public authorities to have regard to Convention Rights. In making decisions officers and members, therefore, need to have regard to the Convention.
- 7.14 The service of a Demolition Notice on existing secure tenants potentially engages certain human rights protected under the HRA 1998. The HRA 1998 prohibits unlawful interference by public bodies with European Convention rights. The term 'engage' simply means that human rights may be affected or relevant.
- 7.15 The Demolition Notices should contain specific information relating to the Right to Buy to clarify any compensation that may be payable for certain reasonable expenditure, if incurred in respect of pre-existing Right to Buy claims/applications, but also to protect the Council from unnecessary compensation claims in the event that tenants incur unnecessary costs once notices have been served.
- 7.16 The rights that are of significance to the decision in this matter are those contained in Article 8 (right to respect for private and family life) and Article 1 of Protocol 1 (peaceful enjoyment of possessions). Article 8 provides that there should be no interference with the existence of the right except in accordance with the law and, as necessary in a democratic society in the interest of the economic wellbeing of the country, protection of health and the protection of the rights and freedoms of others. Article 1 of the 1st Protocol provides that no-one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law although it is qualified to the effect that it should not in any way impair the right of a state to enforce such laws as it deems necessary to control the uses of property in accordance with the general interest.
- 7.17 In determining the level of permissible interference with enjoyment the courts have held that any interference must achieve a fair balance between the general interests of the community and the protection of the rights of individuals. There must be reasonable proportionality between the means employed and the legitimate aim of regeneration. There must be reasonable proportionality between the means employed and the aim pursued. The availability of an effective remedy and compensation is relevant in assessing whether a fair balance has been struck.
- 7.18 Therefore, in reaching a decision, the Council needs to have regard to the extent to which the decision may impact upon the Human Rights of the residents who may have a demolition notice served upon them and to balance this against the overall benefits to the community, which the proposed redevelopment would bring. The committee will wish to be satisfied that interference with the rights under Article 8 and Article 1 of Protocol 1 is justified in all the circumstances and that a fair balance would be struck in the present case between the protection of the rights of individuals and the public interest.

Funding and Borrowing

- 7.19 Section 15 of the Local Government Act 2003 requires that the Council have regard to statutory guidance in relation to exercising its borrowing and investment powers. The relevant Statutory Guidance on Local Government Investments (3rd Edition,

issued on 1 April 2018). The Guidance is relevant to the extent that a loan may be necessary to the Reside Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) in order to facilitate delivery of the development. In accordance with the Guidance (paragraphs 33 and 34), A local authority may choose to make loans to local enterprises, local charities, wholly owned companies and joint ventures as part of a wider strategy for local economic growth even though those loans may not all be seen as prudent if adopting a narrow definition of prioritising security and liquidity provided that the overall Investment Strategy demonstrates that:

- i) The total financial exposure to such loans is proportionate;
- ii) An expected 'credit loss model' has been adopted to measure the credit risk of the overall loan portfolio;
- iii) Appropriate credit controls are in place to recover overdue re-payments; and
- iv) The Council has formally agreed the total level of loans by type and the total loan book is within self-assessed limits.

Loan and Grant Agreements

- 7.20 As observed in the body of the report is an intention to access loans and grants from the GLA. The power to do so has been identified above. Such arrangements will need to be examined to ensure that the terms are compliant with the aims of this project and as mentioned the terms will need to reflect commercial market terms to ensure that there are no State Aid implications.

State Aid

- 7.21 As local government is an emanation of the state the Council must comply with European law regarding State Aid. Therefore, local authorities cannot subsidise commercial transactions such as for example low cost finance or financial assistance to its own companies if such transactions are capable of distorting competition in the EU. In this transaction, State Aid law is relevant in the context of the funding being provided and the price at which the Council's land interest is disposed of to the Reside Registered Provider (see below). For the loan not to amount to State Aid, it must be made on 'market terms' in order to satisfy the "Market Economy Investor Principle" which means a proper valuation of the land must be

Appropriation of HRA Land & Use of RTB Receipts

- 7.22 It is envisaged in the report that ownership of the completed development / units will be within the Reside structure which is outside the Housing Act. There will need to be an appropriation of the land under Section 122 of the Local Government Act 1972 from the Housing Revenue Account to the General Fund.
- 7.23 In addition, in deciding whether a Reside vehicle is suitable, consideration must be given to the impact of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (as amended) which from April 2013 placed restrictions on the use of Right to Buy receipts in conjunction with other funding provided by the

GLA for the purposes of building affordable housing. In other words, Right to Buy receipts cannot be combined with funds provided by the GLA to build the required replacement unit/s if those funds have come from the GLA to build affordable housing. Officers and decision makers must be satisfied that combining funds in the manner envisaged is acceptable and within the rules. Although, consideration is given to relaxing the rules around use of RTBs this has not yet taken place.

- 7.24 Any disposal of the land to a Reside Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) must comply with the requirement for best consideration and/or within the parameters of any general consents available from the Secretary of State. This is likely to necessitate a loan on market facing terms and interest from the Council to the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) to facilitate such a transaction. Where the Council provides financial assistance to the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) by:
- a. granting or loaning it money,
 - b. acquiring share or loan capital in the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure),
 - c. guaranteeing the performance of any obligations owed to or by the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure),
or
 - d. indemnifying the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) in relation to any liabilities, losses or damages and the financial assistance is in connection with the provision of housing accommodation to be let by the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) , the Council must use its power under section 24 of the Local Government Act 1988 (the 1988 Act) to do so.
- 7.25 The exercise of this power is subject to consent by the Secretary of State. The details of such consents will need to be carefully considered to ensure any transactions and mechanism needed to facilitate delivery of the scheme are within those parameters.

Other Matters

- 7.26 As set out in the Risk Management section of the report there may be displacement of utilities and services such as an electricity substation, gas and water mains plus changes to highways and facilities, which may necessitate leases and licenses. These will be familiar matters in a development context, and should not, if managed, raise legal issues. Early planning and ensuring any Cabinet approvals pick up the need for any leases will minimise costs and risks of delays.

8. Other Implications

Corporate Policy and Equality Impact

- 8.1 An Equalities Impact Assessment (EIA) Screening Report has been carried out, which concluded that a full EIA is not required at this stage. Should the engagement

with affected residents bring to light any further equality issues, this position will be reviewed, and a full EIA will be carried out prior to the submission of the planning application if required.

- 8.2 The Equality and Diversity Strategy identifies the need to provide new housing and sustainable growth by improving the physical environment and widening the choice of housing. In order to achieve this, it highlights that the future planning of homes, infrastructure, and business is done holistically balancing physical regeneration and social regeneration.
- 8.3 The Borough Manifesto, which sets out the long-term vision for the borough, identifies Housing as a top priority with an aspiration to be a place with sufficient, accessible and varied housing.
- 8.4 The Rainham Road South project seeks to respond to these priorities by diversifying and improving the quality of the housing offer on the site, supported by improvements to the public realm in order to provide a sustainable community.
- 8.5 The development will provide a range of housing types and tenures, that will provide an opportunity local people to own their own property, as well as provide rented products that will be affordable to local people.
- 8.6 The development will also contribute towards the Councils' health and wellbeing priorities for example by:
- Improving the quality of housing.
 - Improving the quality and safety of open spaces, encouraging people to make more use of outside spaces for recreational purposes, and discouraging antisocial behaviour.
 - Achieving higher sustainability standards, for example through renewable energy and green roofs.
- 8.7 The existing residents in Rainham Road South will experience some disturbance, as they will need to be relocated to facilitate the new development. These impacts will be sought to be mitigated through a thorough engagement process, with an opportunity being provided to these residents to return to the site once the development is complete, should they wish to do so.
- 8.8 It is therefore considered that the net overall impact of the project is positive, with the benefits of the new development outweighing the impact on existing residents.

9. Risk Management

Securing Vacant Possession

- 9.1 The requirement to acquire the Leasehold interests required to bring forward the clearance of these sites will be delivered in accordance with the Boroughs agreed Leaseholder Buyback procedure. This procedure sets out the level of compensation in accordance with the Land and compensation Act. It centres on buy back by negotiation with use of CPO powers if necessary, to ensure that programmes are not delayed if agreement cannot be reached. A package of measures to assist Leaseholders who are unable to acquire alternative accommodation on the open

market are included in the agreed procedures and on a scheme by scheme basis we would look to provide other alternatives such as equity sharing arrangements for new homes within the developments.

- 9.2 Early engagement with residents will be carried out in order to coordinate the development and decant processes and allow sufficient time to conclude negotiations on the purchase of the leasehold interests.
- 9.3 There is a risk that the secure tenants will submit Right to Buy applications. We are not aware of any live Right to Buy applications at this time. In order to mitigate the risk of future applications being made, it is proposed that an Initial Demolition Notice is served on the existing tenants.

Securing Planning Permission

- 9.4 This is a sensitive site, that is currently occupied by residents. However, there is planning policy justification to support intensifying the use of the site through a higher density residential development. A thorough consultation process will be carried out to ensure that the final design optimises benefits for local residents.

Programme delays

- 9.5 Due to the site constraints and issues that will need to be overcome in order to enable development, there is a risk of programme delays. The programme will be continuously monitored throughout the various stages of the project, as discussions progress to resolve the risks highlighted in this report.

Cost overruns

- 9.6 An initial cost plan has been prepared based on the feasibility study. Whilst contingency has been allowed for unknown cost risks such as site remediation, service diversion and other external works costs, the cost plan will be continuously reviewed as further information is gathered through site surveys and discussions with utilities companies.

Public Background Papers Used in the Preparation of the Report: None

List of Appendices:

- Appendix 1 – Rainham Road South Red Line Site Plan

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Appendix 1. Rainham Road South Red Line Site Plan



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CABINET**23 April 2019**

Title: Development of Land at Rectory Road, Dagenham	
Report of the Cabinet Member for Regeneration and Social Housing	
Open Report	For Decision
Wards Affected: Village	Key Decision: Yes
Report Author: Mark Crane, Senior Development Manager, Be First	Contact Details: Tel: 020 8227 2350 E-mail: mark.crane@befirst.london
Accountable Director: Ed Skeates, Development Director, Be First	
Accountable Strategic Leadership Directors: Claire Symonds, Chief Operating Officer, and Graeme Cooke, Director of Inclusive Growth	
Summary	
<p>Cabinet approval was granted on 9 March 2016 to purchase the Royal British Legion (RBL) site on Rectory Road and, to facilitate their move, grant them a 10-year lease for the former Rectory Road library building. The Cabinet report stated, <i>“Having looked at the opportunities with the site and given its adjacency to other Council owned sites, the Royal British Legion site could either be developed by the Council in isolation for around 14-18 residential units or combined into a larger scheme with neighbouring Council owned land.”</i></p> <p>Adjacent to the RBL site is 1-18 Jervis Court, which is a Housing Revenue Account (HRA) block containing 18 units of which 4 have leaseholders.</p> <p>Subsequent to the Cabinet approval of 2016, further feasibility work has been undertaken (working with architects Mikhail Riches) to assess a range of development options for the site, analysing the costs and benefits of delivering a comprehensive development encompassing both the RBL and Jervis Court sites, compared with a standalone infill development on the RBL site.</p> <p>The study concluded that additional housing and community benefits could be realised by combining Jervis Court and its associated parking area with the RBL site, delivering a higher quality comprehensive development. Combining the RBL and Jervis Court sites (Option 3) is one of a number of options being considered and will be subject to consultation with tenants under the Housing Act 1985. It would provide a more efficient layout that would enable the use of both sites to be intensified in order to deliver additional affordable homes and better-quality open space for the local community. Given the current and historic use of the site for community purposes, it is also proposed that new community space is provided.</p> <p>It is estimated at this feasibility stage that up to c.56 homes could be delivered subject to planning, together with c.468m² of new community space. This would provide an additional 38 affordable homes above the current provision in Jervis Court of 18 units (14</p>	

tenants and 4 leaseholders)). 21 London Affordable Rent units could be included within the new development, a 50% increase in the number of Council Comparative Rent homes on the site.

Whilst Jervis Court is in reasonable condition, it is considered that the additional 38 affordable homes and community benefits that can be realised by including Jervis Court within the development would outweigh the impact of relocating the existing 18 households. The options set out in paragraph 2.2 will be consulted upon with tenants of the block impacted.

To ensure that the benefits of the scheme are maximised, and the impact on existing residents is minimised, early engagement on the development options / proposals and programme will be undertaken with the existing tenants / residents on site. Information on their housing needs will be gathered, which will inform the decant strategy, so that the development and decant activities can be coordinated and sympathetically managed.

In accordance with standard Council practice for estate renewal projects, it is proposed that Initial Demolition Notices are served on the existing tenants when a clear preferred option emerges to enable vacant possession of the site to be secured for redevelopment. Information on their housing needs will be gathered, which will inform the decant strategy, so that the development and decant activities can be coordinated and sympathetically managed.

It is intended that vacant possession should be achieved through discussion and agreement with the tenants and leaseholders, although the use of the Council's compulsory purchase powers may be required as a last resort. Following consultation, a future Cabinet report will be presented on the outcomes and preferred option and, should the combined RPL and Jervis Court be approved as the preferred option, Cabinet will be asked to authorise the use by the Council of its Compulsory Purchase Order (CPO) making powers, should they prove necessary to facilitate the future redevelopment of the site.

In addition to consultation with tenants under the Housing Act 1985, existing residents and the local community would be engaged at an early stage of the design and planning process should the preferred option be approved, so that they have an opportunity to input into the scheme design, in order to seek their support for the proposals prior to the submission of the planning application.

The initial feasibility work assessing the development potential of the site was reviewed by the Investment Panel and the view was taken that option 3, which includes Jervis Court, would achieve both regeneration objectives and the Council financial metrics for such schemes. The Investment Panel will also review the developed proposals prior to a final decision being taken by the Cabinet and following the consultation with affected residents.

If approved, Be First would prepare a detailed planning application to redevelop both the RBL and Jervis Court sites to deliver a residentially led mixed use scheme comprising c.56 affordable homes and c.468m² of new community space.

The estimated total project costs of progressing option 3 are c.£19,700,000. It is intended that circa £13.402m would be met via borrowing with the General Fund from the Public Works Loan Board and the remainder through a combination of HRA funding (in respect

of the buy-back of leasehold properties at Jervis Court and decant costs for the 14 Council tenants), GLA Grant funding and Right to Buy receipts.

It is estimated that c.£978,000 of HRA funding would be required to purchase the 4 leasehold interests and fund the decant costs for the 14 tenants. This is in the HRA Business Plan capital allocation for the Estate Renewal Programme. The total allocation in 2019/20 is £11.5m, then £6m per annum in subsequent years.

The intention is to utilise both GLA Grant and Right to Buy Receipts, it should be noted that a registered provider entity will be required for schemes utilising GLA grant in order to optimise funds to deliver the new affordable homes.

The funding is proposed to be provided through a loan agreement between the Council and any Reside Registered Provider it may set up (or an existing entity within the Barking & Dagenham Reside structure) to develop and manage the new Affordable Housing units.

As it is envisaged that the ownership will be within the Reside structure, which is outside of the Housing Act, an appropriation of the land under section 122 of the Local Government Act 1972 from the Housing Revenue Account to the General Fund would be required.

Recommendation(s)

The Cabinet is recommended to:

- (i) Approve in principle the proposed redevelopment of the former Royal British Legion site and Jervis Court (Option 3 in paragraph 2.2 of the report), as shown edged red in the plan at Appendix 1 to the report, subject to consideration of the outcomes of consultation with affected residents;
- (ii) Approve consultation with affected tenants and leasehold interests in respect of 1-18 Jervis Court pursuant to Section 105(1) of the Housing Act 1985 in respect of the proposed redevelopment (Option 3) and potential demolition of the premises and delegate approval of the details of any consultation to the Director of Inclusive Growth and/or a delegate on his behalf, in consultation with the Director of Law and Governance;
- (iii) Agree the service of Initial Demolition Notices on all secure tenants at the affected properties at the appropriate time having regard to the outcomes consultation, in order to suspend the requirement for the Council to complete Right to Buy applications for as long as the notices remain in force and delegate approval and timing of final notices to the Director of Inclusive Growth, in consultation with the Director of Law and Governance;
- (iv) Agree in principle that, subject to the grant of an acceptable planning permission and receipt of satisfactory construction tender prices, the project be financed and held within the residential asset class of the Investment and Acquisition Strategy;
- (v) Agree in principle the inclusion of the project in the Council's Capital Programme in the total sum of £19,700,000, subject to securing planning permission and procurement of a contractor in accordance with the project outputs and budget;

- (vi) Agree in principle the Funding Strategy set out in section 3.5 of the report, including borrowing up to £13,402,000 within the General Fund from the Public Works Loan Board, to finance the development and ownership of the affordable rent homes via a loan agreement made between the Council and any suitable vehicle that the new units may be held in (e.g. a new B&D Reside Registered Provider or other vehicle); and
- (vii) Approve in principle the appropriation of the land, as shown edged red in the plan at Appendix 2 to the report, under Section 122 of the Local Government Act 1972 from the Housing Revenue Account to the General Fund;

Reason(s)

The recommendations are aligned to five elements of the new Council vision and priorities namely:

- Regeneration and development of the borough
- Housing Estate Regeneration
- Provision of affordable housing
- Community and social benefits
- Development of an asset (Royal British Legion building) bought in 2016 for the purpose of redevelopment.

1. Introduction and Background

- 1.1 Cabinet approval was granted on 9 March 2016 to purchase the RBL site on Rectory Road, which is located within a 10-minute walk from Dagenham Heathway station. The site was purchased in 2016 for £700k, for the purposes of redevelopment.
- 1.2 At the time the RBL site was purchased it was acknowledged that there was an opportunity to merge this site with the adjacent Jervis Court in order to deliver a more comprehensive development encompassing a development site of 0.34 hectares. A site plan is provided in Appendix 1. However, it is recognised that this would impact on the 18 residents living in 1-18 Jervis Court, including 14 tenants and 4 leaseholders, who would need to be relocated in order to facilitate its redevelopment.
- 1.3 In order to establish whether the benefits of redeveloping Jervis Court would justify relocating the existing residents from the building, which is in reasonable condition, further feasibility work and options analysis was undertaken to assess the development potential of the RBL site in isolation, compared with a more comprehensive development encompassing both the RBL and Jervis Court sites. The options appraisal and recommendations have been considered by the Investment Panel as part of the Gateway 2 process. Further detail is provided in Section 2 of this report.
- 1.4 Jervis Court was not included in the 2015-21 Estate Renewal Programme. Therefore, Cabinet is requested to make an in-principle decision concerning the preferred option to deliver a comprehensive development comprising Jervis Court and to authorise consultation with tenants under the Housing Act 1985. In accordance with the Council's standard practice for securing vacant possession to

deliver estate renewal projects Cabinet approval is also required to serve demolition notices at the appropriate time and having regard to the outcome of consultation with tenants.

2. Proposals

Options Analysis

- 2.1 Feasibility work was carried out exploring a range of design options assessing the development potential of combining the RBL and Jervis Court sites compared with an infill development on the RBL site only. In addition, the implications of including a new community facility compared with an entirely residential scheme have been considered.
- 2.2 Following a review of the design feasibility work by the Investment Panel, four options have been appraised:
1. **Option 1: Do Nothing.** Retain 18 affordable homes and community use in former RBL building. Whilst minimising disruption to existing residents' lives, this is seen as failing to deliver the potential for additional affordable homes and the other benefits stated for the preferred option.
 2. **Option 2:** Infill development on the RBL site only, to deliver 14-18 additional affordable homes, whilst retaining the 18 affordable homes in Jervis Court (32-36 units). This option would mean the loss of a community facility and failure to deliver the full benefits of option 3 but again minimising disruption to existing residents.
 3. **Option 3 (Preferred Option):** Redevelop both the RBL and Jervis Court sites to deliver c.56 affordable homes (35 Affordable Rent and 21 London Affordable Rent) and 468m² of community space. Paragraphs 2.17 to 2.18 set out the benefits of this option. This option would involve the decanting of tenants and buybacks of leaseholders and the associated disruption.

Financial Summary

- 2.3 Option 3 represent a viable investment proposition and achieves the Council's financial return targets.
- 2.4 The investment metrics for the preferred option (Option 3) are summarised as follows:
- | | |
|--|-------------|
| 1 st year surplus | £177,000 |
| Internal Rate of Return | 6.7% |
| Net Present Value (3.5% discount rate) | £16,371,000 |
| Yield on Cost | 4.6% |
- 2.5 To pursue the preferred Option 3, HRA funding will be required to purchase the 4 leasehold interests, and fund the decant costs for the 14 tenancies, estimated at £978,000.
- 2.6 Total development costs are estimated at £19,700,000 for Option 3.

- 2.7 Consideration was given to include Private Sale and market rent units. However, this has been discounted as this was less financially viable.

Planning Policy Considerations

Community Uses

- 2.8 The planning history for the RBL site indicates that the property has been in community use (Class D1) since the 1950s. In the first instance, adopted planning policy seeks to protect such community uses and any loss will require robust justification, particularly given that this site is in active use. Further work would be needed to assess the need to retain the community use, in order to assess whether the loss of community use on the site can be supported in planning policy terms.
- 2.9 Specific policy criteria must be met to permit the loss of community facilities. This includes that the facility is replaced, or relocated somewhere more accessible, or that the facility is no longer needed and there are no reasonable prospect of alternative community uses (demonstrated by at least 12 months of marketing the space for community use).
- 2.10 Furthermore, planning policy encourages community uses to be provided as part of mixed-use development.
- 2.11 The proposed option responds to these policy requirements, by re-providing a community facility.

Existing Residential Uses

- 2.12 Planning policy stipulates the development proposals should re-provide existing residential use, with at least equivalent residential floorspace. Emerging policy also expects existing affordable housing to be replaced by equivalent or higher quality accommodation and should generally produce an overall uplift in provision. The development proposals meet this policy requirement.

Design Considerations

- 2.13 Whilst policy guidance suggests 11 – 32 units could be accommodated on the site based on its PTAL rating, the design feasibility work shows that additional development quantum is achievable, particularly along the northern boundary of the site immediately south of Church Elm Lane.
- 2.14 Proposals should limit the number of single aspect units with no north-facing single aspect units and preferably no family sized single aspect units.
- 2.15 As part of the next design phase, a transport consultant will be appointed to inform an appropriate level of car parking to be provided. Option 3 demonstrates that c.40 car parking spaces could be accommodated on the site.
- 2.16 More detailed massing and layout analysis will be undertaken as part of the next stage of the design and planning process.

Recommended Option

- 2.17 It is recommended that Option 3 is approved in principle to progress subject to consultation with tenants as this option will:
- Deliver a comprehensive scheme that will optimise the development and regeneration benefits of the site;
 - Responds positively to the key planning policy requirements, particularly in relation to the retention of the community use;
 - Achieves the Council's financial metrics for redevelopment schemes of this nature.
- 2.18 The scheme will provide a range of benefits to residents living in the new homes, as well as the wider community, including:
- Improving the urban fabric along Rectory Road
 - Providing better frontage onto Church Elm Lane
 - Improved environmental and sustainability standards (including lower energy bills)
 - Improved public and private external space (including private balconies)
 - New community facilities in a modern building
- 2.19 Option 3 does require the leaseholder buyback of 4 properties, and the decanting of 14 tenanted households. Approval for Initial Demolition Notices is requested subject to a delegation to do so at the appropriate time and having regard to consultation responses. The ground for possession for the tenanted household will be under Housing Act 1985, Sch 2 Ground 10, i.e.
- The landlord intends, within a reasonable time of obtaining possession of the dwelling- to demolish or reconstruct the building or part of the building comprising the dwelling-house.*
- 2.20 The Council will consult with tenants on the proposals and will work with tenants to identify their housing needs and help them find a suitable alternative property including offering right to return.
- 2.21 The Council recognises that its Compulsory Purchase Order powers are among the strongest powers enabling delivery of development proposals, and that their potential to impact on the human rights of the individuals affected by the proposals. The Council will make every effort to pursue redevelopment in consultation with tenants and through voluntary agreement with owners of individual interests. Following consultation with tenants, a further report will be presented to Cabinet to consider the case for the use of compulsory purchase powers which will demonstrate;
- the policy basis for the Scheme to demonstrate that the its fits with the planning policy framework for the area;
 - Deliverability- demonstrating that the development is able to proceed and is deliverable, that the necessary resources and funding are available to achieve the purpose of the CPO within a reasonable time frame;
 - that the scheme is unlikely to be blocked by legal or physical impediments;

- the extent to which the development will contribute to the achievement of the economic, social and/or environmental wellbeing of the area;
- whether the purpose for which the land is to be acquired could be achieved by any other means.

2.22 Government guidance is clear that negotiations can, and should, continue in parallel with the preparation and making of a CPO which will be a final resort. The following section further explains the offer to leaseholders and tenants.

2.23 In summary delivering Option 3 requires further consultation with the residents of Jervis Court and the consultation responses will be reported back to the Cabinet in due course for a final determination on delivering Option 3, the funding arrangements and the use of CPO powers.

3. Delivery Arrangements

Decant and Leaseholder buyback offer

3.1 Be First's portfolio of council-owned estate renewal schemes includes a large number that require the demolition and replacement of tenanted blocks. There is therefore a need to manage the development of these extremely sensitively with the early engagement of the affected residents and communities.

3.2 Should the preferred option be approved, Be First and Council staff will work with the residents of Jervis Court to enable them to find a new home that meets their housing needs. Council tenants will be given high priority to bid for alternative accommodation through the Choice Homes scheme. This will give them access to alternative council homes as well as housing association properties that become available to let through the scheme.

3.3 For leaseholders, the Council will buy back their home at market value. The Council may also give financial assistance to leaseholders to buy an alternative home. Tenants and leaseholders who need to move as result of the regeneration proposals will be eligible for a home-loss payment if they have been living in their home for 12 months or more. Tenants and leaseholders will also receive payments towards the cost of moving home, such as removal costs.

3.4 Existing tenants of Jervis Court will also have a Right to Return to the new Council Comparative Rent homes that are built. Because the new homes will be owned and managed by Reside, the tenancy terms and conditions will be different. As set out above, the rents of the new homes will be set at London Affordable Rent levels.

Programme

3.5 Subject to approval of the recommendations in this report, consultation will commence on the proposed options with the results presented to Cabinet circa June/July 2019. If the recommended option is adopted, it is proposed the scheme is delivered by Be First, who will progress the project through the planning process, manage site preparation, the delivery of the works and management of the completed scheme. It is proposed that a contractor for the works is procured through the new Be First development framework.

3.6 Subject to feedback from the consultation stage, an indicative timetable is set out below:

Milestone	Date
Planning submission	December 2019
Planning approval	March 2020
Contract Award	March 2021
Start on Site	May 2021
Practical Completion works	July 2023
Fully occupied	October 2023

Funding

3.7 The estimated development costs are c.£19,674,920 to be funded through a combination of HRA funding, GLA Grant funding, Right to Buy receipts and borrowing, broken down as follows:

HRA	£978,000
GLA Grant	£2,100,000
Right to Buy	£3,220,000
Council borrowing	<u>£13,402,000</u>
Total	£19,700,000

3.8 HRA funding is required to purchase the 4 leasehold interests and fund the decant costs for the 14 tenants (estimated at £978,000). The remaining funding covers land acquisition, professional fees and construction costs.

3.9 It is proposed that the development and ownership of the new affordable homes is financed through borrowing up to £13,402,000 within the General Fund from the Public Works Loan Board. The funding is proposed to be provided through a loan agreement between the Council and the Reside Registered Provider (or an existing appropriate entity within the Barking & Dagenham Reside structure) established to develop and manage the new Affordable Housing units. Definitive funding arrangements would be made in tandem with a final decision to pursue Option 3 and any CPO.

4. Consultation

4.1 There has been no public consultation on this scheme to date. Subject to Cabinet approval of the recommendations, early consultation and engagement with existing tenants and residents will be carried out, advising them of the Council's development plans and programme, and to understand their housing needs. The responses will inform the Cabinet's final decision on the proposals and the decant strategy for tenants and leaseholders, such that the development and decant activities can be coordinated and sympathetically managed. Consultation will be carried out in accordance with the Council's duties under s.105(1) of the Housing Act 1985.

4.2 If the scheme progresses, tenants, leaseholders and the wider local community will be involved in the design and planning process, working closely with the design team as the design develops prior to the planning application submission timetabled for December.

- 4.3 The Greater London Authority have a Resident Ballot Requirement (RBR) for Strategic Estate Regeneration projects benefitting from GLA funding. As Strategic Estate Regeneration projects are defined as demolition of homes on an existing social housing estate **and** construction of at least 150 new homes (of any tenure), this scheme does not require a Resident ballot as the number of homes proposed is significantly below this threshold.

5. Financial Implications

Implications completed by: David Dickinson, Investment Fund Manager

- 5.1 This scheme was not on the original list of 44 Investment Schemes and will require additional PWLB borrowing of £13,402,000. If the scheme proceeds it is forecast to be operational by 2023/24.
- 5.2 Be First have confirmed that they have sufficient resources to manage the development of RBL in addition to the other schemes that have already been agreed or are in the pipeline. It is essential that this remains the case and that other schemes are not delayed as a result. If there are insufficient resources then it is essential that Be First, where possible, prioritise the development of the more profitable schemes, which may include prioritising RBL.
- 5.3 The preferred scheme (Option 3) will provide 38 additional residential units and provides both a positive return over year one (£177k) and year six (£47k) and is therefore an investable scheme. The scheme will provide 21 London Affordable Rent (LAR) units and 35 affordable rent units.
- 5.4 The scheme requires a significant amount of grant income including £3.220m Right to Buy receipts and £2.1m of GLA grant for the LAR units.
- 5.5 The predevelopment costs of c.£5.1m are significant and, prior to expenditure on enabling works and relocation/buyout costs, further work is required on addressing the issues raised in the Commissioning Implications section.

6. Commissioning Implications

Implications completed by: Graeme Cooke, Director of Inclusive Growth

- 6.1 The principle of incorporating Jervis Court to at least double the development capacity of the site is supported. Previously it was estimated the redevelopment of the British Legion site could provide net 14-18 new homes.
- 6.2 This proposal provides a net gain of 38 homes taking into account the 18 homes that will be demolished. This includes a net gain of 7 Council Comparative Rented homes. However, this is a sensitive site, particularly as the condition of Jervis Court is acceptable.
- 6.3 There are 18 households who will need to be relocated. Further work is required to understand the housing needs and preferences of the residents who live in Jervis Court before the rehousing process begins in line with the Council's rehousing offer.

- 6.4 Further work is also required in relation to the future of the community centre, and establishing the new social infrastructure that will be built as part of the scheme.
- 6.5 Given the above, comprehensive and early engagement, particularly with the residents of Jervis Court, is essential and they must be involved in the design of the site.

7. Legal Implications

Implications completed by: Suzan Yildiz, Deputy Head of Legal / Paul Feild, Senior Governance Lawyer, Legal

- 7.1 The preferred Option 3 proposes to include within the development land Jervis Court and the British Legion site. The Jervis Court land is currently occupied by tenants and leaseholders of the Council who have a legal right under Section 105(1) and (2) of the Housing Act 1985 to be consulted on matters of housing management which include any development proposal resulting in potential displacement of tenants or relocation of demolition. The proposal/Option 3 contemplates that the housing development comprising 56 affordable units will be delivered by Be First (as development manager) and will ultimately be held by a suitable Reside vehicle (being either a new Registered Provider which may be registered by the Council/Reside or an existing entity within the Reside structure). The Jervis Court land needs to be appropriated from the Housing Revenue Account, which is considered further below. As this scheme is at an early stage, consultation will need to be carried out with residents and leaseholders affected. Cabinet is presently requested to approve consultation with tenants and the proposed Option 3 in principle. The ultimate decision to pursue Option 3 (along with any decisions to compulsorily acquire any interests) will be the subject of a further report to and made by Cabinet having regard to consultation responses.

Council Powers

- 7.2 The Council has power to pursue the preferred Option 3 to deliver the development scheme by virtue of the general power of competence under section 1 of the Localism Act 2011, which provides the Council with the power to do anything that individuals generally may do. Section 1(5) of the Localism Act provides that the general power of competence under section 1 is not limited by the existence of any other power of the authority which (to any extent) overlaps with the general power of competence. The use of the power in section 1 of the Localism Act 2011 is, akin to the use of any other powers, subject to Wednesbury reasonableness constraints and must be used for a proper purpose.
- 7.3 Whilst the general power of competence in section 1 of the Localism Act 2011 provides sufficient power for the Council to participate in the transaction and enter into the relevant project documents further support is available under Section 111 of the Local Government Act 1972 which enables the Council to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any of its functions, whether or not involving expenditure, borrowing or lending money, or the acquisition or disposal of any rights or property.
- 7.4 In exercising the power of general competence and in making any investment decisions, the Council must also have regard to the following:

- i. Compliance with the Statutory Guidance on Local Government Investments;
- ii. Fulfilling its fiduciary duty to tax payers;
- iii. Obtaining best consideration for any disposal;
- iv. Compliance with Section 24 of the Local Government Act 1988 in relation to giving financial assistance to any person (which either benefits from a general consent or requires express consent by the Secretary of State);
- v. Compliance with any other relevant considerations such as state aid and procurement;

Consultation with tenants

- 7.5 Section 105 of the Housing Act 1985 requires the Council to consult with all secure (and demoted) tenants who are likely to be substantially affected by a matter of housing management, which includes development proposals and demolition of dwellings by the housing authority. Such consultation must inform the tenants of the proposals, provide an opportunity to make their views known to the Council within a specified period and consider the representations made to the Council. The report endorses Option 3 (incorporating Jervis Court into the development proposals) and approves consultation of affected tenants.
- 7.6 The courts have determined that to be effective consultation must be carried out at a formative stage of any proposals; sufficient reasons must be given for the proposals, together with adequate time, to allow intelligent consideration and response and any responses must be taken into account when making a final decision. A final decision to deliver Option 3 (and associated decisions, such as pursuing a CPO) will be taken by Cabinet having regard to the representations made by tenants.

Achieving Vacant Possession

- 7.7 The report and the interests plan details that at least part of the development site has existing residents, being tenants and leaseholders. In due course, negotiations will be necessary to acquire vacant possession through voluntary sale/buybacks if Option 3 is pursued. As a last resort Compulsory Purchase Orders can be considered under the Land Compensation Act. A decision to proceed with a Compulsory Purchase Order will require formal resolution by Cabinet and future report will need to make a compelling case in the public interest and fully demonstrate the grounds for proceeding with a CPO are met. Impacts on equalities and human rights implications for existing tenants/leaseholders and any other affected parties are key considerations which will factor into decision making (this is considered further below).
- 7.8 Demolition Notices, which are proposed to be utilised to enable delivery of the scheme, would preclude Council tenants who are within the site boundary exercising their right to buy within sites earmarked for regeneration under the provisions of the Housing Act 2004. At the time of a demolition notice there must be a clear and firm intention to redevelop, therefore, care needs to be taken about the

timing and service of Demolition Notices (consideration of which has been delegated to the Director of Inclusive Growth). The Council is empowered to serve *Demolition Notices* where areas have been identified for estate renewal, regeneration and redevelopment. There is a prescribed notification process:

- firstly, the service of an Initial Demolition Notice which is valid for up to five years and can be extended to a maximum of seven years, an Initial Demolition Notice will prevent named properties from being acquired from the Council through Right-to-Buy as the Council is not obliged to sell the properties to the tenants. If, exceptionally, the proposals to redevelop or demolish or the relevant boundary change following the service of a Demolition Notice, the Council can withdraw a notice by service of a revocation notice;
- followed by the Final Demolition Notice which is valid for up to two years (with possible extension subject to Government permission).

7.9 The Council is required to notify tenants affected by the decision to demolish, and to give reasons and the intended timetable for demolition. Furthermore, it must inform tenants of the right to compensation and publicise decisions by placing a notice in a newspaper local to the area in which the property is situated, in any newspaper published by the landlord, and on the Council's website.

7.10 Final Demolition Notices cannot be served until the arrangements for acquisition and demolition scheme are finalised (i.e. a date is set). Typically planning permission is also obtained before the service of a Final Notice. This means that Compulsory Purchase issues for leasehold premises must also have been resolved before a Final Demolition Notice can be served.

7.11 The Council can make an application to the Secretary of State during the 24-month period for that period to be extended, but if no application is made, it will be unable to serve any further demolition notice in respect of these properties for five years without the Secretary of State's consent. On receipt of an application, the Secretary of State can direct that the period be extended, but he may specify further notification requirements that the Council must comply with in order for the exception to the Right to Buy to continue.

7.12 Finally, If the Council subsequently decides not to demolish the property, it must serve a revocation notice upon affected tenants as soon as is reasonably practicable. If it appears to the Secretary of State that a landlord has no intention of demolishing properties subject to a Final Demolition Notice, he may serve a revocation notice on affected tenants.

Human Rights Act 1998 Considerations

7.13 The Human Rights Act 1998 ('the HRA 1998') effectively incorporates the European Convention on Human Rights into UK law and requires all public authorities to have regard to Convention Rights. In making decisions officers and members, therefore, need to have regard to the Convention.

7.14 The service of a Demolition Notice on existing secure tenants potentially engages certain human rights protected under the HRA 1998. The HRA 1998 prohibits

unlawful interference by public bodies with European Convention rights. The term 'engage' simply means that human rights may be affected or relevant.

- 7.15 The Demolition Notices should contain specific information relating to the Right to Buy to clarify any compensation that may be payable for certain reasonable expenditure, if incurred in respect of pre-existing Right to Buy claims/applications, but also to protect the Council from unnecessary compensation claims in the event that tenants incur unnecessary costs once notices have been served.
- 7.16 The rights that are of significance to the decision in this matter are those contained in Article 8 (right to respect for private and family life) and Article 1 of Protocol 1 (peaceful enjoyment of possessions). Article 8 provides that there should be no interference with the existence of the right except in accordance with the law and, as necessary in a democratic society in the interest of the economic wellbeing of the country, protection of health and the protection of the rights and freedoms of others. Article 1 of the 1st Protocol provides that no-one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law although it is qualified to the effect that it should not in any way impair the right of a state to enforce such laws as it deems necessary to control the uses of property in accordance with the general interest.
- 7.17 In determining the level of permissible interference with enjoyment the courts have held that any interference must achieve a fair balance between the general interests of the community and the protection of the rights of individuals. There must be reasonable proportionality between the means employed and the legitimate aim of regeneration. There must be reasonable proportionality between the means employed and the aim pursued. The availability of an effective remedy and compensation is relevant in assessing whether a fair balance has been struck.
- 7.18 Therefore, in reaching a decision, the Council needs to have regard to the extent to which the decision may impact upon the Human Rights of the residents who may have a demolition notice served upon them and to balance this against the overall benefits to the community, which the proposed redevelopment would bring. The committee will wish to be satisfied that interference with the rights under Article 8 and Article 1 of Protocol 1 is justified in all the circumstances and that a fair balance would be struck in the present case between the protection of the rights of individuals and the public interest.

Funding and Borrowing

- 7.19 Section 15 of the Local Government Act 2003 requires that the Council have regard to statutory guidance in relation to exercising its borrowing and investment powers. The relevant Statutory Guidance on Local Government Investments (3rd Edition, issued on 1 April 2018). The Guidance is relevant to the extent that a loan may be necessary to the Reside Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) in order to facilitate delivery of the development. In accordance with the Guidance (paragraphs 33 and 34), A local authority may choose to make loans to local enterprises, local charities, wholly owned companies and joint ventures as part of a wider strategy for local economic growth even though those loans may not all be seen as prudent if adopting a narrow definition of prioritising security and liquidity provided that the overall Investment Strategy demonstrates that:

- i. The total financial exposure to such loans is proportionate;
- ii. An expected 'credit loss model' has been adopted to measure the credit risk of the overall loan portfolio;
- iii. Appropriate credit controls are in place to recover overdue re-payments; and
- iv. The Council has formally agreed the total level of loans by type and the total loan book is within self-assessed limits.

Loan and Grant Agreements

- 7.20 As observed in the body of the report is an intention to access loans and grants from the GLA. The power to do so has been identified above. Such arrangements will need to be examined to ensure that the terms are compliant with the aims of this project and as mentioned the terms will need to reflect commercial market terms to ensure that there are no State Aid implications.

State Aid

- 7.21 As local government is an emanation of the state the Council must comply with European law regarding State Aid. Therefore, local authorities cannot subsidise commercial transactions such as for example low cost finance or financial assistance to its own companies if such transactions are capable of distorting competition in the EU. In this transaction, State Aid law is relevant in the context of the funding being provided and the price at which the Council's land interest is disposed of to the Reside Registered Provider (see below). For the loan not to amount to State Aid, it must be made on 'market terms' in order to satisfy the "Market Economy Investor Principle" which means a proper valuation of the land must be

Appropriation of HRA Land & Use of RTB Receipts

- 7.22 It is envisaged in the report that ownership of the completed development / units will be within the Reside structure which is outside the Housing Act. There will need to be an appropriation of the land under Section 122 of the Local Government Act 1972 from the Housing Revenue Account to the General Fund.
- 7.23 In addition, in deciding whether a Reside vehicle is suitable, consideration must be given to the impact of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (as amended) which from April 2013 placed restrictions on the use of Right to Buy receipts in conjunction with other funding provided by the GLA for the purposes of building affordable housing. In other words, Right to Buy receipts cannot be combined with funds provided by the GLA to build the required replacement unit/s if those funds have come from the GLA to build affordable housing. Officers and decision makers must be satisfied that combining funds in the manner envisaged is acceptable and within the rules. Although, consideration is given to relaxing the rules around use of RTBs this has not yet taken place.
- 7.24 Any disposal of the land to a Reside Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) must comply with the requirement for

best consideration and/or within the parameters of any general consents available from the Secretary of State. This is likely to necessitate a loan on market facing terms and interest from the Council to the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) to facilitate such a transaction. Where the Council provides financial assistance to the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) by:

- (a) granting or loaning it money,
- (b) acquiring share or loan capital in the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure),
- (c) guaranteeing the performance of any obligations owed to or by the Registered Provider (or an existing entity within the B&D Reside structure), or
- (d) indemnifying the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) in relation to any liabilities, losses or damages and the financial assistance is in connection with the provision of housing accommodation to be let by the Registered Provider (or an existing entity within the Barking & Dagenham Reside structure) , the Council must use its power under section 24 of the Local Government Act 1988 (the 1988 Act) to do so.

7.25 The exercise of this power is subject to consent by the Secretary of State. The details of such consents will need to be carefully considered to ensure any transactions and mechanism needed to facilitate delivery of the scheme are within those parameters.

Other Matters

7.26 As set out in the Risk Management section of the report there may be displacement of utilities and services such as an electricity substation, gas and water mains plus changes to highways and facilities, which may necessitate leases and licenses. These will be familiar matters in a development context, and should not, if managed, raise legal issues. Early planning and ensuring any Cabinet approvals pick up the need for any leases will minimise costs and risks of delays.

8. Other Implications

Corporate Policy and Equality Impact

- 8.1 An Equalities Impact Assessment (EIA) Screening Report has been carried out, which concluded that a full EIA is not required at this stage. Should the engagement with affected residents bring to light any further equality issues, this position will be reviewed, and a full EIA will be carried out prior to the submission of the planning application if required.
- 8.2 The Equality and Diversity Strategy identifies the need to provide new housing and sustainable growth by improving the physical environment and widening the choice of housing. In order to achieve this, it highlights that the future planning of homes, infrastructure, and business is done holistically balancing physical regeneration and social regeneration.

- 8.3 The Borough Manifesto, which sets out the long-term vision for the borough, identifies Housing as a top priority with an aspiration to be a place with sufficient, accessible and varied housing.
- 8.4 The RBL project seeks to respond to these priorities by diversifying and improving the quality of the housing offer on the site, supported by improvements to the public realm and provision of new modern community space in order to provide a sustainable community.
- 8.5 The recommended development will provide a range of housing types and tenures, that will provide an opportunity local people to own their own property, as well as provide rented products that will be affordable to local people.
- 8.6 The development will also contribute towards the Councils' health and wellbeing priorities for example by:
- Improving the quality of housing.
 - Improving the quality and safety of open spaces, encouraging people to make more use of outside spaces for recreational purposes, and discouraging antisocial behaviour.
 - Achieving higher sustainability standards, for example through renewable energy and green roofs.
- 8.7 If the preferred option is approved, the existing residents in Jervis Court will experience some disturbance, as they will need to be relocated to facilitate the new development. These impacts will be sought to be mitigated through a thorough engagement process, with an opportunity being provided to these residents to return to the site once the development is complete, should they wish to do so.
- 8.8 It is therefore considered that the overall impact of the project is positive, with the benefits of the new development outweighing the impact on existing residents.

9. Risk Management

Ground Conditions

- 9.1 As the British Legion land has formerly being used for non-residential uses and is now earmarked for residential development and use, the risk of land contamination needs to be identified and managed. An environmental survey of the site will be undertaken to establish the level of ground contamination and remediation required to enable the RBL site to be redeveloped for residential use.

Existing Services

- 9.2 Due to the current and historic uses of the site, there are likely to be underground services that will require relocation. In addition, there is an existing substation on the site that will need to be relocated, which could delay the construction programme and increase costs. Early engagement with the utilities company will be carried out in order to agree a programme and cost for relocating the substation and carrying out service diversions.

Securing Vacant Possession

- 9.3 The requirement to acquire the Leasehold interests required to bring forward the clearance of these sites will be delivered in accordance with the Boroughs agreed Leaseholder Buyback procedure. This procedure sets out the level of compensation in accordance with the Land and compensation Act. It centres on buy back by negotiation with use of CPO powers if necessary, to ensure that programmes are not delayed if agreement cannot be reached. A package of measures to assist Leaseholders who are unable to acquire alternative accommodation on the open market are included in the agreed procedures and on a scheme by scheme basis we would look to provide other alternatives such as equity sharing arrangements for new homes within the developments.
- 9.4 Early engagement with residents will be carried out in order to coordinate the development and decant processes and allow sufficient time to conclude negotiations on the purchase of the leasehold interests.
- 9.5 There is a risk that the secure tenants will submit Right to Buy applications. We are not aware of any live Right to Buy applications at this time. In order to mitigate the risk of future applications being made, it is proposed that an Initial Demolition Notice is served on the existing tenants.

Securing Planning Permission

- 9.6 This is a sensitive site, that is currently occupied by residents and a community organisation. However, there is planning policy justification to support intensifying the use of the site through a residentially led mixed use development, including community space. A thorough consultation process will be carried out to ensure that the final design optimises benefits for local residents, and the scheme is delivered in a sympathetic way, responding to the needs of the existing residents on site.

Programme delays

- 9.7 Due to the site constraints and issues that will need to be overcome in order to secure planning permission enable development, there is a risk of programme delays. The programme will be continuously monitored throughout the various stages of the project, as discussions progress to resolve the risks highlighted in this report.

Cost overruns

- 9.8 An initial cost plan has been prepared based on the feasibility study. Whilst contingency has been allowed for site remediation, service diversion and other external works costs, the cost plan will be continuously reviewed as further information is gathered through site surveys and discussions with utilities companies.

Public Background Papers Used in the Preparation of the Report: None

List of Appendices:

- Appendix 1 - Site Plan
- Appendix 2 – HRA Land Appropriation Plan

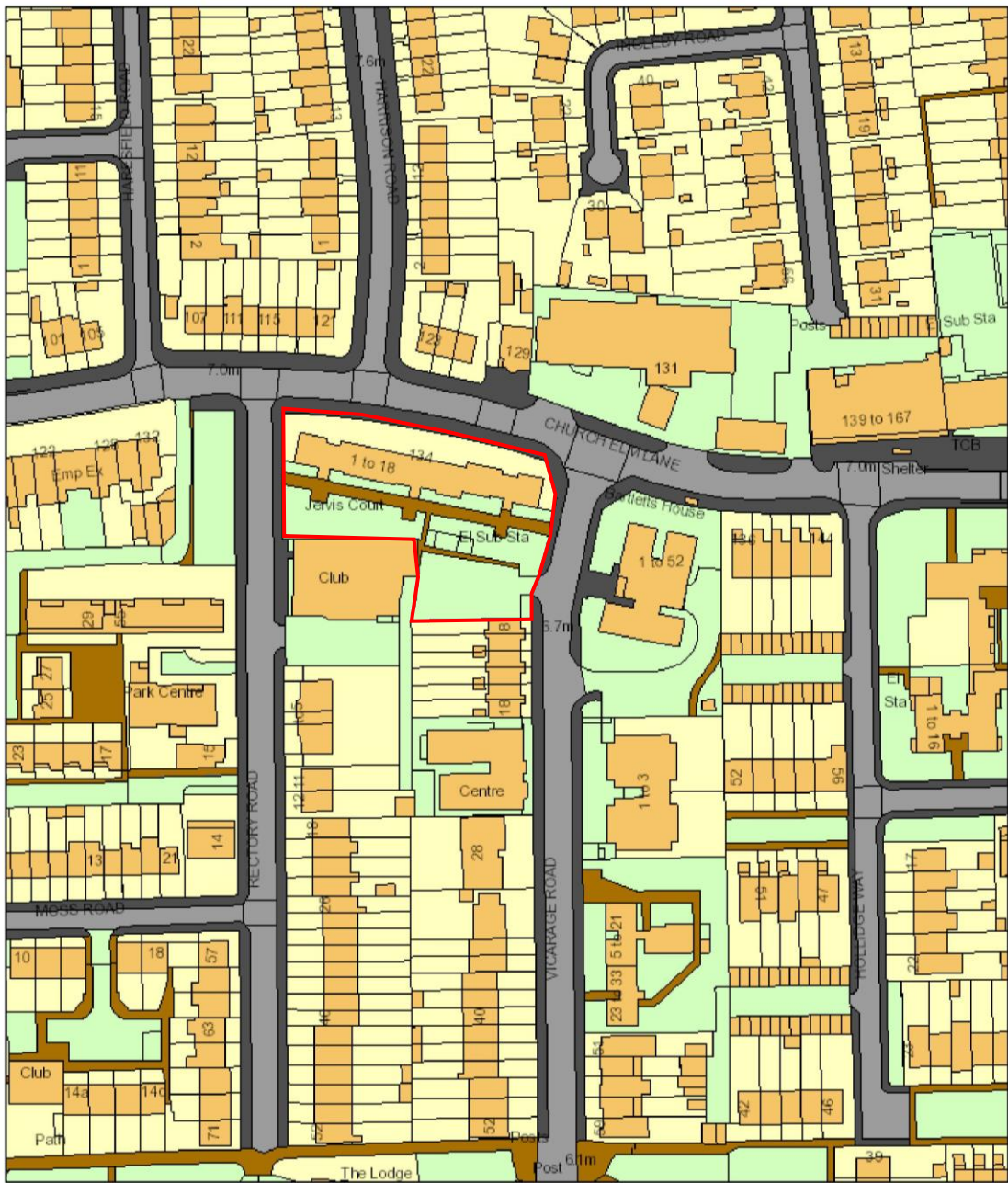
Appendix 1. Site Plan

Aerial Photo looking North, and red line boundary



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Appendix 2. Appropriation of HRA land Plan



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