

CABINET

15 November 2016

Title: Proposal to Establish Barking and Dagenham Regeneration Company (Be First)	
Report of the Cabinet Member for Finance, Growth and Investment	
Open Report with Exempt Appendix 1 (relevant legislation: paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972 as amended)	For Decision
Wards Affected: All	Key Decision: Yes
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Accountable Strategic Director: John East, Strategic Director Growth and Homes	
Summary <p>This report seeks Cabinet agreement to a proposal to establish a new Council-owned company to manage the delivery of the borough's regeneration agenda, provisionally named 'Be First', in line with Recommendation 8 of the report of the independent Growth Commission. The aim of Be First is to accelerate the regeneration of the borough and deliver increased revenues and returns to the Council by using greater flexibilities to attract high-quality staff and create joint ventures with developers than would be available to an in-house Council function.</p> <p>Be First will be a 100% Council-owned company that is operationally independent of the Council, operating in the same way as a commercial organisation, and being accountable to members through a Shareholder Executive Board. It will encompass all aspects of regeneration and place-shaping for the borough, including not only housing, commercial buildings and infrastructure but also green spaces and other community assets, employment, prosperity and community well-being.</p> <p>Compared with continuing with an in-house operation, Be First will provide greater focus and clarity of purpose, build capacity and capability for effective delivery and inject dynamism and pace through more efficient and effective ways of working whilst maintaining public sector community focus. It is estimated that, compared with a continuation of the current in-house operation, Be First will deliver an additional £18.6m (discounted) benefit to the Council over the next 10 years as well as delivering or enabling socio-economic benefits in areas such as skills, household earnings, employment and community well-being.</p>	
Recommendation(s) <p>The Cabinet is recommended to:</p> <p>(i) Agree the establishment of Be First in accordance with the proposals set out in the report and detailed in the draft full business case at Appendix 1 to the report;</p>	

- (ii) Delegate authority to the Strategic Director of Growth and Homes, in conjunction with the Cabinet Member for Finance, Investment and Growth, the Strategic Director of Finance and Investment and the Director of Law and Governance, to implement all steps leading to the establishment of Be First in line with the proposals;
- (iii) Delegate authority to the Director of Law and Governance to execute all the legal agreements, contracts and any other documents on behalf of the Council to implement the setting up of Be First; and
- (iv) Delegate authority to the Chief Executive, in consultation with the Leader, to select the individuals to be appointed to the Shareholder Executive Board of Be First.

Reason(s)

This proposal is in line with Recommendation 8 of the independent Growth Commission's report published in February 2016 and will generate additional income and value for money for the council compared with an alternative 'in house' approach. It is therefore aligned to both the 'Growing the Borough' and 'Well run organisation' objectives.

1. Introduction and Background

- 1.1 In its report published in February 2016 the independent Barking & Dagenham Growth Commission recommended a Borough-wide regeneration vehicle to manage the delivery of the Borough's housing and regeneration plans. A report on a number of options for such a vehicle, with a recommendation on the preferred option, was approved by the Ambition 2020 Board in August 2016. This regeneration vehicle is provisionally named 'Be First'.

2. Proposal and Issues

- 2.1 This report sets out a proposal to establish a new council-owned company to manage the delivery of the borough's regeneration agenda, provisionally named 'Be First'. The achievement of the Council's long term strategic goals, in particular to build 35,000 new homes by 2035, will require a step change in delivery performance that will require substantial increases in both capacity and capability if these targets are to be met. The purpose of Be First is to provide increased flexibility to attract such staff and establish development vehicles with the private sector in order to accelerate the borough's regeneration programme.
- 2.2 Be First will transform the borough and deliver long-term economic growth and prosperity for the people of B&D through housing growth and greater diversity of tenure, investment in transport and other infrastructure, attracting inward investment, business growth and job creation, and promoting improved skills and productivity. In addition, Be First will deliver significant financial benefits to the council by bringing forward returns in Council Tax, NNDR and New Homes Bonus. Over the next 10 years, Be First is expected to deliver a net present value (NPV) to the Council of £18.6m compared with a continuation of an in-house solution.

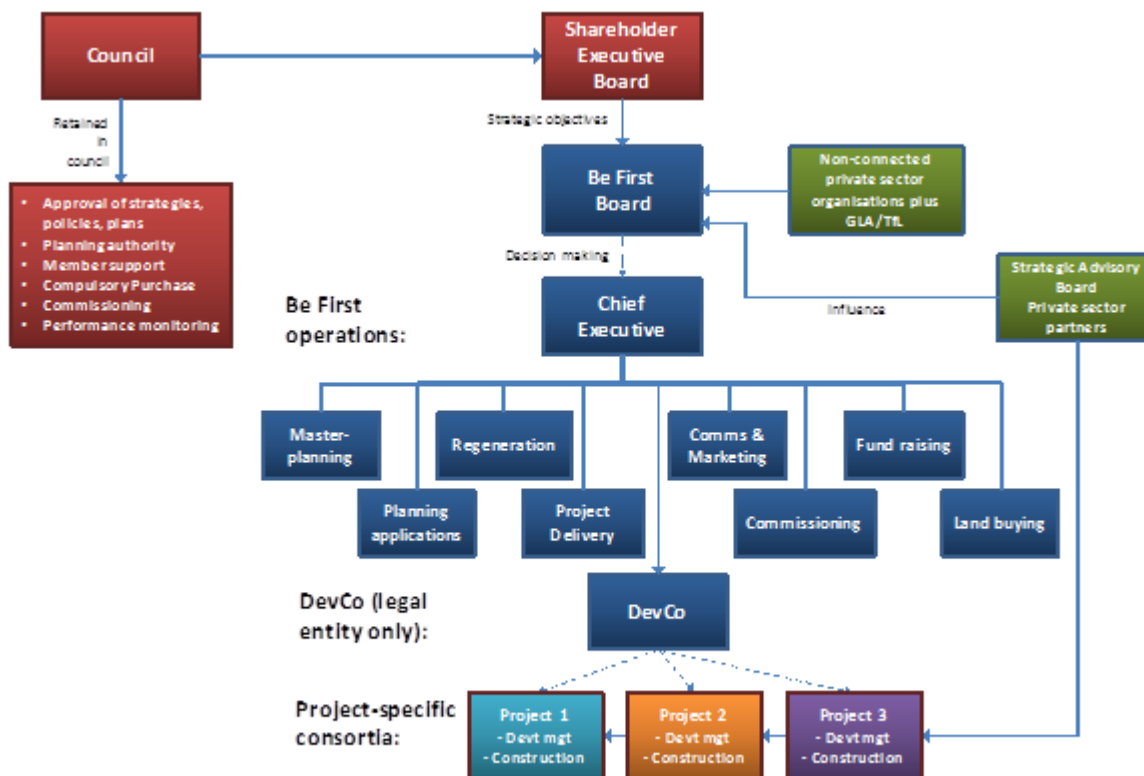
- 2.3 If the current situation continues it is unlikely that the Council's goals for regeneration will be delivered to currently expected timescales. In particular, the cumulative number of housing units built in future years will fall well short of target, with consequent impact on projected Council Tax and New Homes Bonus receipts by the Council. It is therefore necessary to have the flexibility to develop attractive packages that will attract the right people to come and work in Barking & Dagenham.
- 2.4 Be First will be a 100% Council-owned company that is operationally independent of the Council, operating in the same way as a commercial organisation, being accountable to members for its performance and conduct through a Shareholder Executive Board. It will encompass all aspects of regeneration and place-shaping for the borough, including not only housing, commercial buildings and infrastructure but also green spaces and other community assets, employment, prosperity and community well-being. It is expected to bring forward Council Tax, NNDR and New Homes Bonus receipts and generate greater return on council investment than a continuation of a wholly in-house solution and will also generate profits from external work that will be returned to the council via dividends.
- 2.5 Compared with continuing with an in-house operation, Be First will provide greater focus and clarity of purpose, build capacity and capability for effective delivery and inject dynamism and pace through more efficient and effective ways of working whilst maintaining public sector community focus.

Operating Model

- 2.6 The scope of Be First will include all activities currently undertaken by the current Development Planning, Economic Development and Capital Commissioning and Delivery functions within the Growth and Homes Directorate, encompassing around 75 staff. The scope of Be First will exclude the ownership of assets and ad hoc and cyclical maintenance of council assets, although it will include large-scale regeneration of council-owned assets, eg Decent Homes projects.
- 2.7 LBBD will retain responsibility for the determination of planning applications and Compulsory Purchase Orders, for the approval of strategic objectives, business plans, strategies and policies proposed by Be First, for the approval of statutory fees and charges, and for the commissioning of services and new projects or other initiatives to be undertaken by Be First. Members will be supported in these area by a small, strategic client function sitting within the council. The Development Control Board (DCB) will continue to function as at present.
- 2.8 Within the framework set by the Borough Manifesto, the initial strategic direction over Be First will be set through a 10-year Management Agreement with LBBD that will include high level strategic objectives based on those listed in the Growth Commission report (eg 35,000 new homes by 2035). The Management Agreement will include provision for its termination in the event that Be First fails to succeed in its stated objectives, and for the payment of any outstanding loans from the Council.
- 2.9 Be First will execute its operations under a rolling 5-year business plan, refreshed and approved annually by the Shareholder Executive Board, that sets out how Be First will make progress towards its strategic objectives, which will be refreshed every 5 years. From time to time Be First will submit proposals for strategies, plans

and policies covering any of the aspects within its remit to the Shareholder Executive Board for approval.

Figure 1: High level legal structure.



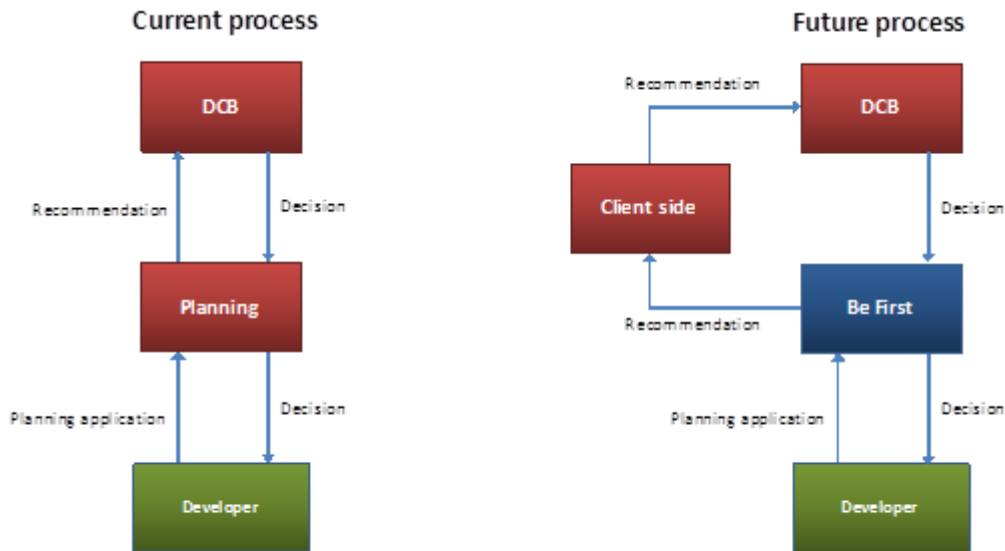
2.10 Figure 1 shows the high level legal structure for Be First. Be First will be a ‘Teckal’ company subject to public law (including procurement procedures and FOI) but able to trade externally up to 20% of its turnover.

2.11 LBBDD will exert strategic control over Be First via a Shareholder Executive Board, comprising 3 or 4 elected members drawn from the council’s Cabinet, together with key officers. Through the Shareholder Executive Board, Members will set long-term strategic objectives, for example on numbers of new homes, numbers of new jobs, and tenure mix, will monitor achievement of these objectives on a regular basis, approve annual 5-year business plans and deal with any reserved matters. The LBBDD Strategic Director Growth and Homes will retain responsibility for overall strategy and objectives.

2.12 The Council will establish a small but strategic ‘intelligent client’ function that will advise members on proposals put before them for approval, sign off planning applications under delegated powers, monitor progress towards the achievement of the Council’s strategic objectives by Be First, commission services and specific pieces of work by Be First and ensure that a joined-up approach is adopted between Be First and other subsidiaries set up by the Council and other departments of the Council. The size and composition of this team will be determined during the implementation phase, but is likely to be around 2-3FTE in total.

- 2.13 Members will retain control over planning decisions through the Development Control Board, and will be supported by the client side in the council. A comparison of the current and proposed planning approval processes is shown in Figure 2 below.

Figure 2: Comparison of current and proposed planning approval processes.



- 2.14 Be First will have its own Board of Directors that will be responsible for the operation of the new company. The Board will comprise well-qualified personnel with considerable relevant experience from the external construction/regeneration industry together with at least 1 elected member and 1 officer. Discussions are ongoing with GLA and TfL with a view to either or both of them having representation on the Be First Board.
- 2.15 A Strategic Advisory Board will be established to allow developers and investors currently involved in schemes within the borough to engage with but not exercise control over the strategic shape and decision-making of Be First. This Board will consist of private sector investment and development partners and will make recommendations and observations to the Be First Board to inform their decision-making.
- 2.16 Be First will be headed by an experienced CEO with significant experience of working with the construction/regeneration sector, employed directly by Be First. It will deal with all planning, development and regeneration activities, together with marketing, raising of investment funds etc. Be First will support the development of planning proposals for large-scale projects by the council and developers, and make recommendations to the Council client function and/or DCB for the determination of such applications.
- 2.17 The majority of the current staff in LBB Development Planning, Economic Development and Capital Commissioning and Delivery will transfer under TUPE regulations into Be First. These will be supplemented with additional staff as necessary to deliver the volume and nature of work from the evolving regeneration programme. Additional staff will also be recruited to fulfil new or enlarged roles in

areas such as investment and purchasing negotiations, marketing and communications. The aim will be to develop a high-quality, responsive culture amongst staff. A performance-based remuneration system will be introduced for new recruits and will be available on a voluntary basis for staff who transfer from LBBB.

- 2.18 Separate consortia or special purpose vehicles (SPVs) will be established to deliver specific projects. These may be stand-alone public sector, joint ventures between Be First and the private sector, or solely private sector. Each SPV will be responsible for delivering the scheme to agreed standards and timescales and Be First will seek to secure business from private sector partners in delivering planning services for a fee.
- 2.19 A separate subsidiary of Be First ('DevCo') will be established as a subsidiary company of Be First purely as a legal entity outside public sector procurement constraints to give greater freedoms in establishing SPVs. The potential advantage of this status is that it can be more responsive to opportunities presented by developers and other land owners in the borough and have greater flexibility to form project specific JV's with investors/developers. There are a number of legal and financial factors to be considered in establishing Devco and these will be addressed in its implementation.
- 2.20 As indicated above, Be First will prepare a rolling 5-year Business Plan that will be submitted for approval to the Shareholder Executive Board on an annual basis. This will set out how Be First will achieve the strategic objectives defined by the council, some of which will need to be fulfilled in partnership with other council functions.
- 2.21 The profits from Be First may be reinvested in the business and/or returned to the council in the form of dividends. The proportion of retained to distributed profits will be agreed between LBBB and Be First from time to time through the Shareholder Executive Board.
- 2.22 A key part of Be First's remit is to attract investment into the borough, which it will achieve at a number of levels. It will:
- Promote the borough as an attractive and affordable place to live and work through external communications and marketing
 - Develop regeneration master plans and design standards that support this claim
 - Develop financially attractive propositions to put to investors and developers, based on tangible packages of work ('schemes')
 - Work with GLA, TfL and others to ensure that the necessary infrastructure is developed on timescales that support the implementation of schemes, and that GLA's strategic objectives are taken into account. Be First will make proposals for investment to GLA and TfL, designed to enable and accelerate the progress of the execution of the portfolio of schemes.
- 2.23 Once a scheme has been built it will be handed over and will start to generate revenue streams for investors (through sales and rents) and LBBB (through Council Tax, Business Rates, New Homes Bonus and returns on its investments). Over time, LBBB will expect to see the progressive achievement of its strategic socio-

economic objectives, including increased jobs and prosperity, and improved skills and educational achievement.

- 2.24 Funding of setup costs and initial working capital for Be First will come from a loan from LBBD. Dependence on council funding will reduce over time as Be First becomes self-sufficient through the levying of fees for services. Be First is expected to become cash-positive in 2018/19. Any loans to Be First from the council will be made in line with the constraints of the Local Government Act 2003 and related statutory and CIPFA guidance, and state aid compliance restrictions, which require any loans to a company for commercial reasons to be made at market rates.

Business Case

- 2.25 The draft full business case for Be First is at **Appendix 1** - this document contains commercially confidential information and has been deemed exempt from publication under paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended), as the public interest in maintaining the exemption outweighs the public interest in disclosing the information. The key benefits of Be First to the Council are:

- Greater certainty around the achievement of the strategic outcomes set out by the Growth Commission and incorporated in the Council's plans, including building new homes, creating additional jobs, improving household incomes and socio-economic indicators such as improved skills levels and community well-being
- Additional income to the council from Council Tax, non-domestic rates and New Homes Bonus receipts
- Improved returns on Council investments in property and other assets
- Dividends from Be First's operations

Taken together, the identified financial benefits will meet around 20% of the Council's projected funding gap by 2020.

- 2.26 The business case is addressed from the strategic, financial and community viewpoints. The Strategic Business Case for Be First starts from the fact that, against a background of increasingly stringent government restrictions on local government funding, the council will progressively be unable to meet the demands for services from its citizens unless it generates new revenue streams. Regeneration and growth provide significant opportunities to generate additional revenues to the council from both returns on investments and increased Council Tax, NNDR and other levies, for example New Homes Bonus.
- 2.27 The achievement of the Council's long term strategic goals, in particular to build 35,000 new homes by 2035, will require a step change in delivery performance, from 500-600 units per year in recent years to over 2,000 units per year by 2018. This will require substantial increases in both capacity and capability if these targets are to be met.
- 2.28 The council is currently constrained by national pay scales in being able to secure sufficient high-quality staff to meet the demands of the existing regeneration programme in a buoyant external market for planning, regeneration and project management skills. As a result there are shortages in capacity and it is proving

difficult and time-consuming to attract sufficient well-qualified people (many of whom work in the private sector) to fill vacancies. This is already inhibiting progress in progressing regeneration schemes in the borough. In addition, the regeneration agenda requires new skills, for example land buying, which are scarce in the external market. The best people in this field are less interested in job security and pensions than in interesting, commercially-based work and competitive salaries, and it is difficult to offer this in a local authority context.

- 2.29 If the current situation continues it is unlikely that the Growth Commission's goals will be delivered to currently expected timescales and the cumulative number of housing units built in future years will fall well short of target, with consequent impact on projected Council Tax and New Homes Bonus receipts, and returns on investment, by the Council. It is therefore necessary to have the flexibility to develop attractive packages that will attract the right people to work in Barking & Dagenham to meet the required rate of home building of over 2,000 units per year from 2018/19 onwards.
- 2.30 Be First will have the freedom to set its own pay rates and structures in line with norms in the external market, enabling it to attract the necessary numbers of well-qualified staff out of their current positions to fill existing and future resourcing needs to support a larger forward programme of regeneration. By attracting the right people Be First will also be able to deliver planning services for private sector developers at market-level fees.
- 2.31 As a separate company Be First will have greater freedoms and flexibility to create partnerships with private sector organisations and act more rapidly to specific opportunities, for example in the strategic purchase of land. If successful, Be First will be able deliver four times the number of homes as at present at a lower net cost to the council.
- 2.32 Be First will bring augmented marketing and communications to promote the borough's strengths and opportunities to investors and developers, and in a more general sense to promote Barking and Dagenham as a great place live, work and play. It will also promote Be First as a fast-moving, dynamic entity that will be responsive to the needs of investors and developers, and that over time will have a strong track record of delivering returns to such bodies. The focus on strategic marketing will attract more investment into the borough than would otherwise be the case. This, together with the capacity, flexibility and responsiveness afforded by Be First, will drive an acceleration in the pace of regeneration. Be First will also promote the case for more investment in transport and other infrastructure as part of a holistic approach to regeneration.
- 2.33 The accelerated pace of regeneration will not be limited to construction. Greater investment and capacity will allow funds to be generated for programmes to increase the education and skills base of those in the borough, and to attract higher-skilled (and therefore higher-earning) people to move into the borough. This will also have beneficial effects on health and well-being indicators.
- 2.34 The Financial Business Case is made by:

- a) comparing the incremental financial benefit to LBBB of establishing Be First compared with the alternative option of continuing with an enhanced version of the existing in-house services, and
- b) by evaluating whether Be First will be financially viable in its own right.

2.35 The financial benefits of Be First to the council are summarised in Table 1 below. By reducing or removing the risk of slippage inherent in the current programme of regeneration, Be First will bring forward returns in Council Tax, NNDR and New Homes Bonus. Over the next 10 years, Be First is expected to deliver a net present value (NPV) to the Council of £18m compared with the 'Enhanced in house' approach.

Table 1: 10 year Cost/income comparison of Enhanced In House v Be First

Revenue Type	Undiscounted £m		Discounted £m	
	Enhanced In-House	Be First	Enhanced In-House	Be First
Operating costs	59.9	96.4	41.2	66.2
Fee income	61.2	113.9	42.5	77.9
Total net operating cost	1.3	17.5	1.3	11.7
Council Tax	107.3	117.0	68.9	75.0
Business Rates	65.8	67.9	41.3	42.6
New Homes Bonus*	61.6	72.2	40.6	47.4
Intermediate Rental	187.2	193.4	119.7	123.8
Commercial Revenue	61.1	61.6	39.7	40.0
Total Added value	483.0	512.1	310.2	328.8
Be First net benefit	29.1		18.6	

*The government has undertaken a consultation process on the future calculation of the New Homes Bonus. The outcome of this has not yet been released but it is likely to impact on the amount of NHB received in future.

2.36 Compared with the current MTFS, Be First is expected to bring forward additional income to the Council as shown in Table 2 below. Note that Council Tax receipts will be partially offset by the costs of providing services to additional properties, and that the dividend shown is the maximum potential dividend to the council based on projected surplus generated by Be First after corporation tax..

Table 2: Additional income to LBBB from implementing Be First compared with MTFS

£m	2017/18	2018/19	2019/20	2020/21
Council Tax	0.8	3.5	6.3	9.3
New Homes Bonus	0.0	1.1	4.7	8.9
Dividend	0.0	0.0	3.2	4.7
Total	0.8	4.6	14.2	22.9

2.37 The Council's investment strategy currently includes a fledging investment portfolio of 621 units. As outlined in the Investment Strategy report on the agenda for

November Cabinet Be First will enhance the opportunity for this to be accelerated and create a long-term income stream, which is estimated at £750k next year and to grow to over £5m by 2020.

- 2.38 The financial viability of Be First as a stand-alone entity over the next 10 years is shown in Figure 3 below. This assessment allows for setup costs, ongoing operational costs and expected fee income based on a range of assumptions detailed in the main body of the paper. Be First is expected to break even in 2018 and over the period to 2025/26 generate a cumulative surplus of £17.5m.

Figure 3: Be First Income and Expenditure 2016/17 to 2025/26



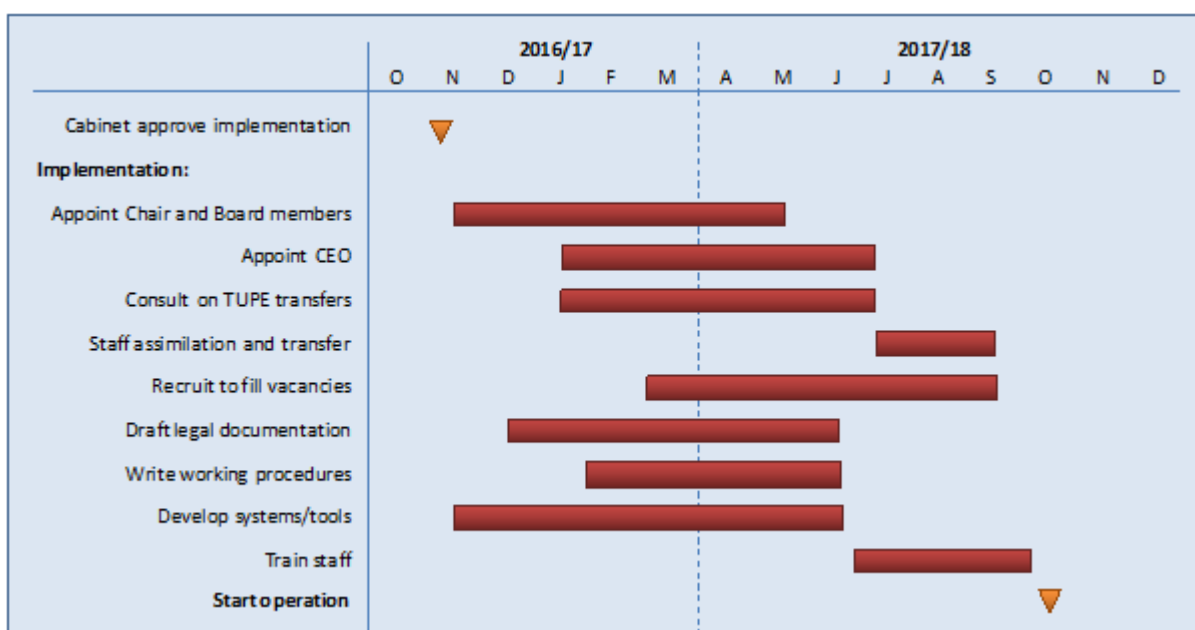
- 2.39 The Community Business Case is based on the fact that Be First’s remit will include the delivery or enablement of a range of community benefits to the population of the borough, including improved educational performance, higher skills and average earnings, community cohesion and health and well-being. Be First’s performance will be measured against a balanced scorecard of parameters that will encourage it to deliver the holistic regeneration agenda. The Growth Commission’s report provided targets against community measures that would place Barking and Dagenham at or above the average for London boroughs by 2035, and this will require a step change in performance. Be First will have a significant part to play in achieving these ambitious targets, by shaping a borough to which higher-skilled people are attracted to live and to stay, and by working with other parts of the council and external agencies to improve the skills, wealth and well-being of the current population.
- 2.40 Part of Be First’s marketing activity will be specifically aimed at understanding the needs of those skilled and aspiring people in London and surrounding areas that will make the desired contribution to the borough. This insight will be used to inform the design of the borough, including restaurants, bars, shops, open spaces and to attract facilities, events and cultural activities. In parallel, Be First will promote the borough as a great place to live, work and play to those groups of potential citizens that we want to attract. In addition, Be First may conduct or commission initiatives to improve socio-economic indicators for the current population. These are likely to involve close working with council services to improve educational attainment and working-age skills and to promote good citizenship.

Implementation

2.41 The implementation plan for Be First is shown in Figure 4 below. Following Cabinet approval of this proposal, substantial work will be conducted to set up Be First, including:

- Appointment of Be First Board of directors and CEO
- New staff structure, including role descriptions, finalised
- Completion of TUPE consultation and assimilation of existing staff into new structure
- Conclusion of all legal and financial processes to establish Be First, including the contractual arrangements between Be First and LBBDD

Figure 4: Be First Implementation Plan



2.42 The aim will be to have Be First up and running by 1st October 2017, with all governance, staffing, procedures and systems in place in line with the Target Operating Model. However, it is likely that there will be a transitional period of up to 2 years during which Be First will continue to take support services such as Finance, HR, Legal, Payroll, Procurement and IT from the council while it sets these up in its own right and the council adjusts its overhead base.

3. Options Appraisal

3.1 Options for the structure of a new regeneration company were set out in a paper that was considered by Ambition 2020 Board in August 2016. This paper evaluated a wide range of alternative models deployed in other local authorities and the Board endorsed the conclusion that the model described above would be the most advantageous option for Barking and Dagenham to adopt.

3.2 The main alternative to the Be First model would be an 'enhanced in-house' approach where the current in-house arrangements continue but with known improvements in efficiency and working practices to address the challenges of the forward regeneration programme. This scenario has been adopted as the baseline

for the business case outlined in section 2 above and described in full in Appendix 1.

4. Consultation

- 4.1 The proposal to establish a council-owned regeneration company was subject to public consultation as part of the Ambition 2020 consultation that took place between 20 April and 16 June 2016. 26 responses specific to the proposal to establish Be First were received, 81% of which were partially or wholly in favour, with only 4% (1 response) against.
- 4.2 The Target Operating Model and Full Draft Business Case were considered and approved by the Ambition 2020 Board at its meeting on 17 October 2016.
- 4.3 Presentations on the Be First proposal contained in this document were been made to Policy Forum on 4 October 2016 and an All Member Briefing on 26 October 2016.
- 4.4 General briefings to staff on Ambition 2020, including Be First, were made in roadshows conducted in April and May 2016. In addition, specific briefings have been given to staff affected by this proposal, most recently on 20 and 21 September 2016. Feedback from staff has been generally positive, with the main question raised being around the necessity to establish a separate organisation at all, which is addressed fully in the draft full business case at Appendix 1.

5. Financial Implications

Implications completed by: Kathy Freeman, Finance Director

- 5.1 The figures in this report have been reviewed by Finance and have also been incorporated into the Council's transformation and MTFS processes.
- 5.2 The financial model is based on projections of new builds by both the council and the private sector, delivering around 10,000 units by 2020/21. Any surplus generated by Be First will be related to the successful delivery of these units.
- 5.3 It has been assumed that Be First will pay Corporation Tax at the current rate of 20% on all surpluses, and it should be noted that this rate may change in future. The forecast surplus by 2021 is £5.9m which would potentially mean a Corporation Tax bill of £1.2m. Further work will need to be undertaken to ensure the most appropriate relationship is in place between the company and the Council. An example of this would be the placing of work undertaken to generate Planning fees and Land Charges.
- 5.4 The model assumes a continuation of the current New Homes Bonus regime, in which payments are made over 6 years based on national average Council Tax rates. The government has undertaken a consultation process on the future calculation of the New Homes Bonus. The outcome of this has not yet been released but it is likely to impact on the amount of NHB received in future. The government has indicated its wish to increase support for the Better Care Fund by top-slicing the national amount available for New Homes bonus. The consultation

includes exemplifications proposals to reduce the payment amounts by 43%. This could potentially reduce the amount of NHB generated by 3.8m by 2020.

6. Legal Implications

Implications completed by: Assaf Chaudry, Major Project Solicitor

- 6.1 This report is seeking approval to establish a wholly owned company to manage the delivery of the borough's regeneration agenda in accordance with the recommendations of the independent Growth Commission.
- 6.2 The power to establish Be First and DevCo can be done under "general power of competence" as set out in Section 1 of the Localism Act 2011. This section gives the local authority the power "...to do anything that individuals generally may do". This power is not limited by the need to evidence a benefit accruing to the local authority's area, nor is it limited in geographical scope. However, existing and future restrictions contained in the legislation continue to apply.
- 6.3 Be First will be established as a Teckal company which will be a wholly owned company of the Council. The advantage of a wholly owned company is the ability to award contracts directly, avoiding the procurement regime, assuming the arrangements satisfy the requirements of the Teckal exception test which are set out below:
- The contracting authority exercises over the legal person concerned a control similar to that which it exercises over its own departments.
 - More than 80% of the activities of the controlled legal person are carried out in the performance of tasks entrusted to it by the controlling contracting authority or by other legal persons controlled by that contracting authority.
 - There is no direct private capital participation in the controlled company.
- 6.4 The Council will exercise the required level of control to satisfy the Teckal test by exercising a decisive influence over both strategic objectives and significant decisions of Be First. This will be done as a shareholder of the wholly owned company. The Shareholders Executive Board will be responsible for approving the business plan to be delivered by Be First and have the right to remove directors if appropriate. The Council will have other roles such as the Commissioner Role – ensuring quality of service and value for money is obtained from Be First but more significantly it will have a funder's role – it may decide to lend. The power to fund Be First can be done under the Local Government Act 2003 subject to complying with the Treasury guidance and State Aid rules.
- 6.5 Since the Transfer of undertaking provisions (TUPE) is to apply on the transfer of these services to Be First, the Council will have the obligations of the duty to inform and the duty to consult which need to be undertaken during the implementation phase of Be First.
- 6.6 It has been agreed that Cabinet Members will be provided with periodic updates during the process of implementation of Be First.

7. Other Implications

- 7.1 **Risk Management** – Risk management implications are covered in section 9 of the draft full business case at Appendix 1.
- 7.2 **Contractual Issues** – If approved, Be First will operate under a long-term contract with LBBD. This will be prepared during the implementation phase with advice from both internal and external lawyers.
- 7.3 **Staffing Issues** – The establishment of Be First will involve TUPE transfer of council staff into the new organisation on their current terms and conditions, the recruitment of a board of directors and CEO, and the recruitment of additional staff to fill capacity and capability gaps. Consultation with staff has started and unions will be engaged immediately following the approval of this proposal. Consultation will continue through the TUPE process. External support from recruitment agencies specialising in relevant resources will be engaged to support the recruitment of Be First Board members and additional staff.
- 7.4 **Corporate Policy and Customer Impact** – The proposal to establish Be First is in line with the independent Growth Commission's recommendations and the Ambition 2020 strategy. An Equalities Impact Assessment (EIA) that identifies the impact on the community as a whole and specific protected groups and is attached at **Appendix 2**. Additional EIAs will be drawn up for schemes within the regeneration programme as they are brought forward for planning approval.
- 7.5 **Property / Asset Issues** – Whilst focusing on regeneration and being responsible for the execution of the Council's Capital programme, Be First will not take ownership of any Council property or land assets.

Public Background Papers Used in the Preparation of the Report:

- Report of the Independent Growth Commission: 'No-one left behind: in pursuit of growth for the benefit of everyone', February 2016

List of appendices:

- **Appendix 1:** 'Be First' Draft Full Business Case, October 2016 (Exempt document)
- **Appendix 2:** 'Be First' Equalities Impact Statement, October 2016