

CABINET

12 JULY 2011

REPORT OF THE CABINET MEMBER FOR REGENERATION

Title: Barking Riverside Community Management Company	For Decision
<p>Summary:</p> <p>Barking Riverside is a new development in the south of the Borough, adjacent to the River Thames. The initial phases have detailed planning consent for 3,400 homes and a new local centre, the Rivergate Centre. The Rivergate Centre includes the George Carey Primary School, a nursery, a Church and café together with some community offices. The Rivergate Centre is under construction and will be completed by September 2011. The first 350 homes are also under construction, with the first occupations expected in September 2011. As a result of this activity there will be both outside space and “public” buildings that need managing. In the planning of Barking Riverside it was decided that instead of the Council undertaking this function, a management company would be set up to manage the assets of the development.</p> <p>The Barking Riverside Community Management Company (BRCMC) is a Community Infrastructure Company (CIC) that is due to be set up in partnership with Barking Riverside Limited (BRL) and the Council. The Company will manage the assets on the Barking Riverside development and any open space and roads which are not adopted by the Council. It will provide community services and information for new residents. The Cabinet agreed to the formation of the BRCMC (then the BR Community Development Trust) in a report on 20 February 2007. However, due to delays, the BRCMC has not yet been established and previous Members who have been recommended to sit on the Board of Directors have never carried out any duties with regards to the BRCMC.</p> <p>The shadow BRCMC is required to be operational by September 2011 in order to ensure that it is functioning prior to the first resident moving in, and for when the Rivergate Centre opens. It does not exist as a company at present and a working group is currently finalising the documents required for the formation of this company.</p> <p>The purpose of this report is to seek Cabinet approval to a proposed change to the formation of the company, from a Development Trust to a Community Infrastructure Company (CIC) and to confirm the Council Board members.</p> <p>Previously the Cabinet had agreed that the two board members would be two elected Members from the Council. This report recommends that, in addition to the two elected Members (one Cabinet Member and one Thames Ward Member) from the Council, an officer at Corporate level is included as a non-voting board member.</p> <p>Finally the report also seeks Cabinet approval for the identified key lengths of new highway that will be adopted by the Council and not by the CMC. These roads will be bus routes, or suitable for bus routes and adjoin existing adopted roads in the area. Unlike the smaller estate roads in the development, they are not therefore considered appropriate for management by the BRCMC.</p>	

Wards Affected: Thames**Recommendation(s)**

The Cabinet is asked to:

- (i) Agree to the establishment and incorporation of the Barking Riverside Community Management (Community Interest Company) (or such other name as the company may be registered as).
- (ii) Agree to the establishment of a Shadow Board of Directors of the Barking Riverside Community Management Committee (in accordance with the structure outlined in this report) pending the establishment and incorporation of the Barking Riverside Community Management (Community Interest Company).
- (iii) Recommend the Assembly appoints a Cabinet Member and a Thames Ward Councillor (and the two other Thames Ward Councillors as the Councillor substitute representatives) as the Council's Member representatives on the Board of Directors of the Shadow Barking Riverside Community Management Committee and that these same representatives be appointed to the full Barking Riverside Community Management (Community Interest Company) (or howsoever such company may be named on incorporation) when it is incorporated and operative.
- (iv) Recommend Assembly appoints the Corporate Director Customer Services, with the Divisional Director for Environment and Enforcement as their substitute representative as the Council's Officer non-voting Board observer on the Shadow Board of Directors of the shadow Barking Riverside Community Management Committee and that these same officer representatives be appointed to the full Barking Riverside Community Management (Community Interest Company) (or howsoever it may be named on incorporation) when it is incorporated and operative.
- (v) Agree that the Council adopts the roads listed in the Appendix 1 to this report (attached).

Reason(s)

The BRCMC will ensure that the new community facilities, housing and population growth at Barking Riverside is managed in a way that will provide a sustainable and safe community for new residents while allowing LBBB to continue providing the same level of service to the remainder of the Borough. This will assist the Council in achieving its Community Priorities of a 'Safe, Clean, Fair and Respectful' Borough.

Comments of the Chief Financial Officer

There are no direct financial implications associated with increasing the size of the Council's representation on the Board of Directors of the BRCMC. In terms of the Council adopting the roads, as set out in Appendix 1, the cost of maintaining these roads will in future need to be borne by the Council from within its existing budgets.

Legal Comments

The proposal set out in this report is to appoint two Members and an officer to sit on a shadow board to be known as the Barking Riverside Community Management Committee. This body is intended as a shadow board pending the establishment and incorporation of the Barking Riverside Community Management (Community Interest Company) which it is intended to create to perform the functions set out in paragraph 2.1 of the report. The Board is transitional and it is intended that the shadow Board and members will eventually become the full Board of Directors of the Barking Riverside Community Management (Community Interest Company) (or howsoever it may be named on incorporation) when it is incorporated and operative.

A Community Interest Company (CIC) is a type of limited company usually used to establish businesses with a social purpose (social enterprises) or to carry on purposes for the benefit of the community. To be established as a CIC the body will have to satisfy a "community interest test" i.e it must satisfy the CIC Regulator that the activities of the company will be for the benefit of the community and also explain how this will be achieved.

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1. Background

- 1.1 Barking Riverside is the largest regeneration project in the Borough and once completed will comprise 10,800 new homes, three new primary schools, a secondary school, office and commercial space, open space and leisure facilities, community facilities and access to 2km of river frontage.
- 1.2 Stages 1 and 2 (up to 3,400 homes, one local centre with primary school) have detailed planning permission. The District Centre in Stage 2, including a secondary school, has Outline Planning Permission and would need a further detailed design permission to go forward. This takes Barking Riverside up to a key development threshold for the future. At 1,500 homes an agreement must be signed with TfL to ensure the DLR extension to Dagenham Dock will be constructed. However the Council have some discretion as to whether they waive this condition in order to keep the development moving. By 4,000 units the DLR must be up and running.
- 1.3 Construction on the first phase of Stage 1 commenced in 2010. Four residential plots are being developed (three by Bellway Homes Essex and one by Mace on behalf of the London Thames Gateway Development Corporation (LTGDC)). These four plots will result in 350 homes, a mix of two blocks of 1, 2 and 3 bedroom flats and predominantly 3 and 4 bedroom terraced houses.

- 1.4 Through planning permissions, the s106 agreement and communication with the developers by Council officers, these four plots will have a minimum of 10% wheelchair accessible units, all units are Lifetime Homes compliant, the homes will be built to a very high environmental standard, with solar panels and green roofs. LTGDC are aiming to provide a few homes at Code 6 (rather than Code 4, this would be extremely innovative and would be good for marketing the area). All of these homes will be an exemplar new development for the Borough.
- 1.5 Alongside the four residential plots, the first local centre, the Rivergate Centre, is being built. This comprises of the George Carey Church of England Primary School, a nursery, Rivergate Church (run by a partnership of the Salvation Army, Church of England and Methodist Church), café and community facilities. The building is owned by BRL who will lease the different parts of it to the tenants. The construction is on programme and the school is planning to open for the new school year in September.

2. Barking Riverside Community Management Company

- 2.1 Before the first home is occupied Barking Riverside Limited (BRL), a 50/50 Joint Venture delivery vehicle of Bellway Homes and the Homes and Communities Agency and the Council will establish a Barking Riverside Community Management Committee (BRCMC).

Some of the key responsibilities of the BRCMC are to:

- Own, manage and maintain the assets on the development.
- Develop residents participation in the management of the open space
- Hold and maintain non-adopted highway, verges and pavements adjoining adopted streets and manage visitors parking
- Hold and maintain non adopted play areas
- Participate in the Transport Steering Group
- Ensure that buildings within its control and management are maintained to a high standard and at an appropriate cost particularly community buildings

- 2.2 The BRCMC is an integral part of the s106 and planning obligations on BRL. It will be funded by estate charges, conveyance fees and commercial rents. The remainder of the funding will come from BRL up to a point when the BRCMC is expected to be self-sustaining (expected after the first seven years). The BRCMC will build up a contingency fund from the charges which will go to reducing the financial input from BRL along with providing for repairs and maintenance.

- 2.3 The BRCMC was originally envisaged (and is set out as such in the s106 for the development) as a Barking Riverside Community Development Trust. Over time, and as a result of, discussions between the developer BRL and the Council, this has transitioned into the proposal to create the BRCMC. The Community Management Company will be a CIC (Community Interest Company). The CIC is considered to be a more appropriate legal model given the aims and objectives of the organisation. As the BRCDT was never established as a Trust or a Development Company, it is logical to refer to it now as the BRCMC to reflect the CIC status. Apart from the name, all other requirements of the s106 for the development are being met through the formation of the BRCMC. The Cabinet is recommended to approve this change in name as part of this report.

- 2.4 The BRCMC will be run by a Board of Directors, consisting of members from the Council and initially, members from BRL. Once there is representation from the four neighbourhoods in Barking Riverside (10,800 homes) the BRL members will step down from the board, and the BRCMC will be a partnership between the Council and residents.
- 2.5 The BRCMC will have two phases, a 'Shadow' phase and a 'Full' phase. The Shadow phase is the phase of the BRCMC prior to resident representation as formally appointed Board Directors, and will be the phase the BRCMC occupies for the first years. At this stage it is estimated it may take up to 7 years before the first resident representation appears on the board as Directors registered with Companies House. Upon a neighbourhood being formed (75% occupied) a resident will be voted in from that neighbourhood to occupy a seat on the Board. Once all four neighbourhoods are occupied, this will be when the organisation becomes the 'full' BRCMC and the 'shadow' BRCMC board ceases to exist. The Council will always be represented on the Board.
- 2.6 The shadow BRCMC must be established by the end of August 2011 to meet the terms of the s106.
- 2.7 Under the terms of the s106 the Shadow Board of the BRCMC is specified as a total of four directors, two from the Council and two from BRL. In a report to Cabinet in November 2009, the Cabinet agreed to advise Assembly to appoint two Members to the Board of Directors. As the BRCMC has yet to be established, these two Members did not assume their places on the Board of Directors. The election in May 2010 has prompted this report, as new Members are now required to be appointed.
- 2.8 Throughout the progress of this report, an 'Elevate' Board model has been examined, as there are merits to having Council Member representation along with Officer representation, from an Officer at Corporate Director level. An Officer at Corporate level will have the much needed experience in specifying service contracts, tendering and awarding contracts along with performance management and monitoring of services. It is felt that the BRCMC board will benefit from the inclusion of this officer. Following consultation with Members, this model was broadly accepted, but to ensure that Member representation was not diluted, Members asked for the Board of the BRCMC to be extended to 6 Directors, with two Members and one Council Officer at Corporate Director level representing the Council.
- 2.9 This model was discussed with BRL who strongly objected to this proposal. The reasons for this are that a 6 member Board of Directors would be impossible for the joint venture of BRL to achieve. BRL has two partners, the HCA and Bellway Homes, so a third director would off-set the balance that the joint venture would bring to the Board of Directors. They identified that to increase the number of seats to 8 (4 for the Council and 4 for BRL) would be difficult for BRL as they do not have the resources to fill that number of seats.
- 2.10 To resolve this issue, it is recommended the Council appoint two Council Members to the Board of Directors and a Corporate Director as an active observer, or a Board Member without voting rights. BRL is willing to accept this arrangement.

- 2.11 Members recommended that the two representatives should be one Cabinet Member and one Thames Ward Member with named substitutes for both, being the two remaining Thames Ward Members.
- 2.12 There have been ongoing meetings between LBBD, BRL, the Homes and Communities Agency (HCA), London Thames Gateway Development Corporation (LTGDC) and Southern Housing Group (SHG) on the establishment and running of the BRCMC. These meetings include discussions over costs and prices of services and who will run the services. This working group will continue to function up to the formation of the Shadow BRCMC and even then will likely continue to provide an advisory role for the Board. The members of the working group have a day to day knowledge of Barking Riverside and can provide technical, financial and operational knowledge along with support for this development.

3. Adoption of Roads and Open Space:

- 3.1 The Council has agreed to adopt some of the roads that will be constructed at Barking Riverside. The plan attached as Appendix 1 shows these roads in pink. These roads are key highway links that will be used by TfL buses now or possibly in the future and they adjoin existing adopted highways.
- 3.2 All other roads, car parks, footpaths and street furniture will be adopted by the BRCMC. Some of the roads are 'home zone' roads, which are a shared surface between traffic and pedestrians.
- 3.3 The Council will not adopt any open space on the site. This is evidenced by a letter attached as Appendix 2. It is considered that the BRCMC will have sufficient resources to maintain and manage the open space on the site. This is a mix of formal leisure resources such as tennis courts, to ponds for attenuation purposes and pedestrian and cycle tracks.

4. Proposal

- 4.1 It is proposed that the Council's representation on the shadow BMC MC consist of the following:
- A Cabinet Member
 - A Thames Ward Member
 - Corporate Director Customer Services Department as a non-voting board observer.
- 4.2 It is felt that the board would benefit from the inclusion of an officer from the Council at Corporate level to provide experience with dealing with service delivery, performance and monitoring of the BRCMC roles and responsibilities. However, to ensure that the balance of the board is maintained, the Council Officer will not have voting status and will be an observer.
- 4.3 At the same time, it is important not to diminish the role of elected members, which is why it is recommended that two Members also sit on the Board of the BRCMC.
- 4.4 The two Members will have named substitutes, being the two remaining Thames Ward Members.

- 4.5 Also Cabinet is asked to consider and agree the roads proposed for adoption in the first phase of construction. These are key infrastructure links that will be used for bus routes and adjoin existing adopted roads.

5. Financial Issues

- 5.1 The Cabinet is requested to refer to paragraph 2.1 of the Cabinet report agreed 22 December 2009 as the financial implications are set out in this report and there has been no change to the structure or business plan of the CMC.
- 5.2 The Council will not be supplying land, finance or guarantees to the shadow BRCMC. The shadow BRCMC will be funded and under-written by Barking Riverside Limited (BRL). However, those Council Members / Officers appointed to the board will have fiduciary duties to the shadow BRCMC.

6. Legal Issues

- 6.1 The legal implications have been set out in the Legal Comments section above.

7. Other Implications

7.1 Risk Management

The membership on the BRCMC will be renewed annually and ensure that current Councillors are members of the Board of Directors of the BRCMC. To make sure that the Members and Council Officer who are appointed to the board of the shadow BRCMC are insured, the Council's insurance section will be advised prior to the formation of the shadow BRCMC.

8. Options appraisal

- 8.1 There is no option within this report to revisit the function or requirement of the BRCMC as this is a Council imposed requirement within the s106. There is no financial responsibility on the Council as one half of the BRCMC and the business plan will be agreed by the Chief Executive.
- 8.2 There is an option to recommend two Members for the shadow BRCMC board, thereby keeping the board at 4 members and not having an officer from the Council in attendance. However, it is felt that through experience of other estate management functions within the Borough, along with the level of knowledge an officer at Corporate level will bring, that a third representative from the Council is required.
- 8.3 There is the option to increase the Board of Director membership from 4 directors to 6 or 8 (with a 50/50 split maintained between the Council and BRL). However, due to BRL being a joint venture between two parties, an odd number of representatives (three) would be inappropriate for them to achieve and an increase in numbers (four) would be too many members for BRL to provide.
- 8.4 With regards to the adoption of the roads, the Council does not have the option to not adopt roads that will be used by Transport for London for bus routes, and for

consistency within the new development, the roads that will be adopted are the principle roads.

- 8.5 The Council can not adopt all the roads being built as the roads within the housing areas are 'home zone' roads, and are not built to adoptable standard. The BRCCMC will have the ability to manage and maintain these roads and therefore the responsibility for these roads will lie with the BRCCMC. The management of these roads will also provide a possible revenue stream for the BRCCMC through parking enforcement, which will support the financial plan.
- 8.6 The Council has the option to adopt the open space if a Leisure Trust is formed. If this happens, the BRCCMC will offer all the open space on the site back to the Council for management. However, the Council has no obligation to take these spaces on for management now or in the future.

9. Background Papers Used in the Preparation of the Report:

Barking Riverside Community Development Trust (CDT): Cabinet report 20 February 2007 (Minute 142)

Barking Riverside Community Development Trust (CDT): Executive report 22 December 2009 (Minute 101).

10. List of appendices:

1. Map of roads to be adopted
2. Letter confirming the Council will not be adopting any open space dated 2 March 2010