

	<p align="center"><b>London Borough of Hammersmith &amp; Fulham</b></p> <p align="center"><b>CABINET</b></p> <p align="center"><b>6 JULY 2015</b></p>
<p align="center"><b>APPROVAL TO ESTABLISH A FRAMEWORK FOR THE PROVISION OF NEW TEMPORARY ACCOMMODATION AND ASSOCIATED MANAGEMENT SERVICES</b></p>	
<p><b>Report of the Cabinet Member for Economic Development and Regeneration : Councillor Andrew Jones, Cabinet Member for Housing : Councillor Lisa Homan and Cabinet Member for Social Inclusion : Councillor Sue Fennimore</b></p>	
<p><b>Open Report.</b></p> <p>A separate report on the exempt Cabinet agenda provides exempt information in connection with the tendering evaluation.</p>	
<p><b>Classification:</b> For Decision</p> <p><b>Key Decision:</b> Yes</p>	
<p><b>Wards Affected:</b> All Wards</p>	
<p><b>Accountable Directors:</b> Mike England, Lead Director for Housing; Kathleen Corbett, Lead Director for Housing</p>	
<p><b>Report Author:</b> Matthew Doman, Development Manager</p>	<p><b>Contact Details:</b> 0208 753 4547 matthew.doman@lbhf.gov.uk</p>

## 1. EXECUTIVE SUMMARY

- 1.1. The Administration has established improving services to homeless people as a major priority and this was a key feature of its manifesto. Homelessness and lack of access to good quality accommodation has a major impact on many aspects of the quality of life for residents of the Borough, including their health, mental health, educational attainment and the prospect of gaining and sustaining employment.
- 1.2. The lack of security of a suitable home excludes people from being able to participate fully and effectively in the social and economic life of the Borough. For this reason it is an early and major focus for the Council's Social Inclusion Strategy.

- 1.3. Like other London Boroughs the Council is facing a severe shortage of permanent affordable housing. As a result there are currently over 1200 households in different forms of temporary accommodation, most within the Borough but a significant and growing proportion in other London Boroughs. Although the commitment of the Administration to the provision of more permanent affordable housing will contribute to improving the position, a substantial portfolio of temporary accommodation will be required for the foreseeable future.
- 1.4. At worst, and where there is no alternative, the Council is forced to make use of unsuitable Bed and Breakfast accommodation on a short term basis. However, most of the temporary accommodation used is owned by private landlords. It is procured in a number of different ways; partly through an in-house team and partly through agents or 3<sup>rd</sup> parties, some of which operate under a joint arrangement established by a number of West London boroughs, including LBHF. Procurement is becoming increasingly difficult. This is due partly to the effect of Government restrictions on Housing Benefit and partly to the very high level of private sector rents in the Borough, which make it increasingly attractive for landlords to let their properties on the open market rather than to residents nominated by the Council.
- 1.5. As a result, the Council is inevitably reacting to the market rather than being in a position to plan its procurement. The properties are procured for the short term and the fact that increasingly they are outside the Borough places enormous strains on the families concerned and their ability to plan their lives, the education of their children and their future employment.
- 1.6. This report represents an innovative attempt to break into this deteriorating position and introduce a more planned approach to providing better quality accommodation, on a more secure, longer-term basis, in or close to Hammersmith & Fulham. In particular it will allow the Council to reduce or eliminate the use of Bed & Breakfast accommodation for families with children.
- 1.7. Two different forms of accommodation are proposed. First, interim accommodation provided on local authority land. This would be provided to residents on a shorter-term basis and would be a better-quality and more cost-effective alternative to Bed & Breakfast. Second, the procurement for longer-term occupation of existing accommodation currently in 3<sup>rd</sup> party ownership.
- 1.8. Specifically, the report seeks authority to establish a framework agreement for the provision of new temporary accommodation. Lot 1 is to undertake

the development of new residential accommodation on nominated local-authority owned sites. Lot 2 is to source and provide existing residential/short-term accommodation on sites identified by the contractor, which may be located in the borough, or potentially elsewhere. The report also seeks authority to undertake a mini-competition for Lot 2 for the procurement of an additional 50 suitable units for use as temporary accommodation.

- 1.9. Through this framework the Council will be able to benefit from access to private sector and institutional finance to deliver financially viable schemes.
- 1.10. Procurement of new temporary accommodation can be provided on a full turn-key basis and will include development management services and full facilities management.
- 1.11. The framework will be in operation for a four year period from the date of establishment.
- 1.12. Officers have considered the practical and financial implications of the Council undertaking directly the development and acquisition envisaged within the procurement frameworks. These are set out in paragraphs 5.24-5.25 and 8.10 – 8.15.

## **2. RECOMMENDATIONS**

- 2.1 That approval is given to establish a framework for the provision of new temporary accommodation and management services. The framework is divided into two lots: Lot 1 involves the construction and management of accommodation on Council owned land; Lot 2 involves the framework panel sourcing and procuring existing properties from the open market and leasing them to the Council for the provision of short term accommodation.
- 2.2 To approve the appointment of Tando Property Services Limited and Hill Holdings Limited to the framework for the provision of services under Lot 1.
- 2.3 To approve the appointment of Tando Property Services Limited, Hill Holdings Limited and Mears Ltd to the framework for the provision of services under Lot 2.
- 2.4 To approve feasibility work for the redevelopment of Lavender Court as it has been identified as outdated and the site is under-developed and can accommodate a significantly higher number of residential units.

- 2.5 To approve the undertaking of a mini-completion under Lot 2 for the provision of additional 50 units suitable for the provision temporary accommodation.
- 2.6 To delegate authority to the Cabinet Member for Economic Development and Regeneration, in conjunction with the Cabinet Member for Finance, the Lead Director of Housing and the Director of Planning, Regeneration and Growth to agree any outstanding terms or amendments to the legal documents in advance of the establishment of the framework agreement.
- 2.7 To delegate authority to the Cabinet Member for Economic Development and Regeneration, in conjunction with the Cabinet Member for Finance and the Lead Director of Housing to approve the initiation of future framework mini-competitions for procurement of additional temporary accommodation to meet the Council's requirements.
- 2.8 That approval is given to incur additional professional fees to establish the framework agreement as set out below:
- An additional £10,000 for legal work to be undertaken by Sharpe Pritchard
  - An additional £5,000 for procurement management work to be undertaken by Lambert Smith Hampton
  - Contingency of £5,000
- 2.9 That approval is given for additional professional fees of up to £20,000 for ongoing legal, property and technical advice to the Council post the establishment of the framework agreement.
- 2.10 To note the considerations which would arise if the Council were to undertake directly the development and acquisition which are the subject of this report; these are set out in paragraphs 5.24 - 5.25 and 8.10 to 8.15.

### **3. REASONS FOR DECISION**

- 3.1 To enable the improvement of the quality and range of accommodation that the Council is able to offer people in need of temporary accommodation and in particular to reduce or eliminate the use of Bed and Breakfast.
- 3.2 To enable the Council to procure and manage new temporary accommodation in an efficient way without the need to undertake a full OJEU procurement exercise each time, which would be time-consuming and costly.

- 3.3 Enabling the provision of additional accommodation will reduce the reliance on private sector leasing and reduce costs.
- 3.4 To enable the redevelopment of existing Council owned sites for temporary accommodation without the need to raise funds directly.

#### **4. INTRODUCTION AND BACKGROUND**

##### *Establishing Need and Demand*

- 4.1 The Administration has established improving services to homeless people as a major priority. Homelessness and lack of access to good quality accommodation has a major impact on many aspects of the quality of life for residents of the Borough, including health, mental health, educational attainment and the prospect of gaining and sustaining employment.
- 4.2 The Council has found it increasingly difficult to procure temporary accommodation from private sector landlords. This is due partly to the state of the private housing market, where landlords have been able to demand rents higher than the Council can afford to pay, and partly because of the uncertainty around forthcoming changes to the benefit system. In combination with some increase in demand, this has led the use of unsuitable and expensive temporary accommodation such as Bed & Breakfast hotels.
- 4.3 The Council has major statutory obligations around homelessness which in turn have major financial implications for the Authority through the provision of temporary accommodation. There are currently over 1200 households in different forms of temporary accommodation, most within the Borough but a significant and growing proportion in other London Boroughs. Although the commitment of the Administration to the provision of more affordable housing will contribute to improving the position, a substantial portfolio of temporary accommodation will be required for the foreseeable future. The difficulty of securing temporary accommodation within the borough places great strains on the families concerned, who may be faced with disruption to their social and community networks, their education and their employment
- 4.4 There is likely to be a growth in temporary accommodation costs over the next few years if current trends and policies continue. When combined with the budget reductions facing the Council over the next few years, it is clear that there is a major challenge to be addressed in containing and reducing costs on temporary accommodation while still providing good quality accommodation in, or as close as possible to the Borough.

- 4.5 In 2013/14 there were a total of 1536 homelessness approaches in LBHF. The approaches in 2013/14 resulted in 509 formal homelessness applications. Of these, 385 (76%) were accepted. Acceptances are rising. The 385 in 2013/14 is up from 283 in 2012/13 and 202 in 2011/12. The explanation appears to be the level of rents in the private sector and the impact of welfare reform on benefit levels.
- 4.6 Some London Boroughs have started to use “nightly lets”, spot purchasing from private landlords on the same financial basis as B&B. LBHF has resisted this up to this point on the grounds of cost and because it serves to undermine the ability to source private sector accommodation on a long-term basis at levels affordable to residents. This report seeks to put in place arrangements for the procurement of temporary accommodation which is of better quality, in or close to the borough and which is available on a secure, long-term and planned basis.

#### *Establishment of a Framework for Temporary Accommodation*

- 4.7 The establishment of a framework for the delivery of temporary accommodation will enable the Council to procure much needed accommodation in the future without the need to undertake a full OJEU procurement exercise each time new provision is required. This will significantly speed up the process and reduce costs.
- 4.8 Through the establishment of a framework the Council will be able to secure new temporary accommodation on either suitable local authority owned land or existing residential property currently in third party ownership. It is intended that the location of the new temporary accommodation will be within or close to the borough.
- 4.9 The framework will also enable the Council to benefit from access to private sector and institutional finance to deliver financially viable schemes. Procurement of new temporary accommodation will be on full turn-key basis with development management services and full facilities management provided.
- 4.10 The framework will be split into two Lots that will allow for the supply of new temporary accommodation through two different delivery mechanisms. These are:
- 4.11 Lot 1: To undertake development of new residential accommodation for short term occupancy on nominated Local Authority owned sites or third party sites which may be located in Hammersmith & Fulham or on sites in other locations subject to agreement, with full turnkey development management and facilities management services. The framework will also

be open to the Royal Borough of Kensington & Chelsea and Westminster City Council should they choose to use it for sites in their own area.

- 4.12 Lot 2: To source and provide existing residential/short term accommodation on sites identified by the contractor, which may be located in the Borough or potentially elsewhere. This Lot is expected to be used where the accommodation is required to a faster timetable than could be delivered under Lot 1. Again, this framework would be available to RBKC and WCC should they wish to use it.

#### Tenancy Management

- 4.13 In addition to the development and building management services required the Council may require partners to provide tenancy management services. This will be an optional arrangement assessed on a site by site basis.

#### Framework Procurement

- 4.14 The objective of establishing the framework is to engage development/investment partners to:

- Undertake development of new short term accommodation on suitable local authority owned/third party land;
- Access additional supply through the acquisition and/or conversion of existing residential properties (within tri-borough and surrounding areas) to short term accommodation;
- Develop viable financial models to deliver additional supply by accessing private sector and institutional funding;
- Secure a full turn-key development service including design, planning, engineering, project management, etc;
- Undertake full management of new facilities.

- 4.15 Cabinet approval for the establishment of a framework agreement for the provision of temporary accommodation was granted on the 9th December 2013. Following this decision a regulated procurement exercise commenced (via competitive dialogue) to identify private sector partners to establish a framework.

- 4.16 The Council began the procurement exercise by publishing a notice in the Official Journal of the European Union (OJEU) on 3rd March 2014 and placing an advertisement in the Estate Gazette seeking expressions of interest from the market. A total of four Pre Qualifying Questionnaires (PQQ) were returned for Lot 1 and six PQQ for Lot 2 .
- 4.17 PQQ submitted were assessed and following Cabinet Member approval on 20th May 2014 the bidders listed below were invited to participate in competitive dialogue:

Lot 1

- Genesis Housing Association
- Hill Holdings Limited
- Mill Community Homes Limited
- Tando Property Services Limited

Lot 2

- Genesis Housing Association
- Hill Holdings Limited
- Mears Limited
- Tando Property Services Limited

- 4.18 Prior to entering in to competitive dialogue Mill Community Homes Limited withdrew from Lot 1 citing that they were no longer interested in participating in the procurement. Genesis withdrew from Lot 2 during the dialogue process.
- 4.19 Dialogue was designed to be an elaborative process and was undertaken over the course of three sessions. The first session held in July 2014 provided introductions and set out the full scope of what was expected. Subsequent sessions in August 2014 and September 2014 provided the opportunity for the Council and each bidder to review progress, make comments and provide clarifications.
- 4.20 Once it was established that bidders were clear on what was expected dialogue was closed and bids invited for submission on 14th November 2014.
- 4.21 Genesis Housing Association withdrew from Lot 1 prior to submitting a bid explaining that upon reflection their board of trustees no longer thought that being party to the framework aligned with their strategic objectives.



- 4.22 Evaluation was undertaken in December 2014 and the evaluation panel comprised Council officers and a representative of Lambert Smith Hampton (LSH). Sharpe Pritchard undertook the legal assessment and attended clarification meetings. Below are the results of the evaluation.

#### Tender Evaluation

- 4.23 Bids were evaluated on three key criteria with 50% awarded for the quality of the proposals, 40% for the financial proposals and 10% allocated for legal assessment.

#### Lot 1

- 4.24 Bidders were asked for responses to a number of Quality and Financial Questions and to submit proposals for the redevelopment of the existing facility at Lavender Court for assessment purposes.
- 4.25 The scoring methodology allowed for scores between 0-10 and instruction that if a bidder failed to score 3 or above in any of their responses the Council would have the ability to reject the bid.

#### Lot 2

- 4.26 Bidders were asked for responses to a number of Quality and Financial Questions and to submit proposals for a scheme suitable for the provision of temporary accommodation.
- 4.27 The scoring methodology allowed for scores between 0-10 and instruction that if a bidder failed to score 3 in any of their responses the Council would have the ability to reject the bid.

## **5. PROPOSALS**

#### Lot 1

- 5.1 The creation of the framework will allow for the undertaking of mini-competitions for the development of local authority-owned sites for use as good quality temporary accommodation. This report recommends the appointment of Tando Property Services Limited and Hill Holdings Limited to the framework for Lot 1. The Council has identified Lavender Court for the development of residential accommodation for short-term occupancy. This building is situated in the north of the borough and close to the A40 which is a major link road to central London. It was built in the 1960s and currently provides 23 units (62 beds) of hostel accommodation for the residents of the borough. The building is outdated and does not make best

use of the site. This report seeks approval of feasibility work for the redevelopment of Lavender Court.

### Lot 2 Bidder Details and Proposals

#### Hill Holdings Limited

##### *Experience*

- 5.2 Hill Holdings Ltd is a Top 20 UK Housebuilder that has a track record of developing homes for registered providers and local authorities. Hill has a team of experienced professionals providing expertise in land acquisition, design, planning, funding, construction and management.
- 5.3 Hill has established a partnership with Pinnacle PSG for the provision of building and tenancy management services

##### *Proposals*

- 5.4 Hill are proposing to source and secure land opportunities and provide bespoke new build or refurbished solutions suitable for the provision of temporary accommodation.

#### Mears Limited

##### *Experience*

- 5.5 Mears Limited provide reactive, planned and major works to over 700,000 social housing units every year. Mears Housing Management works with local authorities and housing associations to deliver services, including the provision of new housing supply, and manages 2,500 homes for over 20 local authorities in England.
- 5.6 Mears have an experienced team headed by a Managing Director with over 25 years' experience in the social housing and temporary accommodation sector.

##### *Proposals*

- 5.7 Mears' proposal is to acquire and assemble a portfolio of existing homes in and around west London for immediate occupancy. Mears would acquire individual units, refurbish them to an agreed standard and lease each home to the Borough for occupation. Under this proposal ownership of the property would pass to the Council at the end of the lease.

### Tando Property Services Limited

#### *Experience*

- 5.8 Tando Property Services is a Joint Venture Company between Omega Lettings and Theori Investments and delivers developments across a range of sectors. Tando manage 4,500 properties for both public and private sector clients for both long term and short tenants.
- 5.9 Tando has an experienced team that specialise in procuring properties for use as Temporary Accommodation. They will also work in partnership with Mears New Homes Limited to provide new build opportunities.

#### *Proposals*

- 5.10 Tando Property Services has proposed using two different approaches, these are:
- To source and secure land opportunities and provide bespoke new build or refurbished solutions.
  - To acquire existing units from the private market for immediate occupancy.

### Future Sites and Call Offs

#### Lot 1 Procurement Process

- 5.11 The Council will establish that there is a specific need to provide temporary accommodation and identify land that is suitable for redevelopment. A design brief and tender documents will be put together and a mini-competition will be run between the framework contractors in order to procure the works. The successful bidder will be expected to fund and manage the development and manage the building once complete.
- 5.12 Sites can be transferred to bidders on a freehold or leasehold basis and will be appraised on what arrangement will provide the most advantageous position and best achieve value for money for the Council.

#### Lot 2 Future Procurement Process

- 5.13 The Council will establish that there is a specific need to provide temporary accommodation and undertake a mini-competition with the framework contractors. Bidders will be advised on the Council's requirements and are

expected to return bids proposing how they can achieve the objectives. Bids will be assessed for quality and value for money and contractual terms will be negotiated and agreed with successful bidders. It is anticipated that this process will result in a more diverse and immediate supply of accommodation. This report seeks approval for the undertaking of a mini-competition under Lot 2 for the securing of 50 units suitable for the provision of temporary accommodation.

### Direct Delivery

5.14 The Council can undertake the redevelopment of its own sites directly by undertaking design work and procuring the works via a competition held between framework partners. In delivery terms the following would need to be taken into account:

- Direct Delivery would require the appointment of a team of consultants. This would include an Employers Agent/ Quantity Surveyor, Architect, Structural Engineer, Code for Sustainable Homes assessor, ecologist and rights to light surveyor.
- The Council does however have access to existing consultant frameworks, primarily SCAPE and HCA, and should be able to select consultants at established framework fee levels or via a competitive exercise and analysis of fee proposals.
- The pre-planning work will be the same if the Council undertakes the project directly or chooses to procure under the Lot 1 process. Namely undertaking design work, consultation, site investigation and surveys in order to develop a scheme and submit a planning application. The planning process will follow the same path regardless of how the project is taken forward.
- Upon achieving planning permission the construction works will need to be procured. This could potentially be done via Lot 1 or potentially the Single Contractor Framework should Cabinet approve its establishment. (Report to be presented in July 2015)
- As the value of the works would exceed the OJEU threshold other procurement options would be to investigate if the Council could access an existing contractor framework and hold a mini-competition; or to undertake a full OJEU procurement exercise in order to select a contractor and award the Contract.

5.15 If the Council was to undertake the procurement activities required under Lot 2 the following must be taken into account:

- Should the Council decide to procure existing units at volume from the open market it would need to recruit a team of individuals with experience of acquiring units at scale in order to match Mears proposal. This would have significant cost and time implications.
- Robust processes would need to be put in place with the Council's Legal, Finance and Valuation departments and a contractor would need to be appointed to undertake refurbishment works to bring the units up to an acceptable standard.
- A fast track approval process would need to be in place to ensure that offers can be made and property can be acquired as delays would make it very difficult to secure units.
- Should a team be established to undertake this role it would have to source other new business opportunities such as land and build package deals with developers or the acquisition of land to be developed directly if it is to perform the same function as proposed in Lot 2.
- In order to undertake this work directly the Council will require access to funds in order to purchase units and undertake refurbishment works. (See Finance comments)
- The council would also be responsible for the management and maintenance of the building.

## **6. EQUALITY IMPLICATIONS**

6.1 This report recommends that approval is given to establish a framework for the provision of new temporary accommodation and management services. As part of that exercise, the needs of service users who are likely to be in need of (and to receive) temporary accommodation will need to be considered. This is likely to be service users that are likely to have the following protected characteristics:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion/belief (including non-belief)
- Sex

- Sexual orientation

6.2 The recommendation itself is unlikely to engage the public sector equality duty ('PSED') as per S149 of the Equality Act 2010 but proposals at a later date will need to consider the PSED in line with any decisions that are proposed.

6.3 An initial EIA has been completed and has drawn the conclusion that the long term impacts of the proposal (of which this paper's recommendations are the starting point) will be positive overall.

6.4 The EIA has identified no negative impacts on any protective group and below is a summary of positive impacts that are both generally beneficial and positive in impact on particular protective groups

6.5 Age

- The positive benefit for vulnerable families and individuals in need temporary accommodation.
- That people of all ages will have access to suitable well, designed accommodation.
- Where possible accommodation will be provided in Borough to enable families to retain access to the local services they currently use e.g. schools, doctors surgeries etc.

6.6 Disability

- That all new homes will be required to be built to life time homes and London Housing Design Guide Standards
- That properties will be design to have flexibility to reflect changing needs
- Where possible accommodation will be provided in Borough to enable individuals to retain access to the local services, such as medical facilities, and support networks.

6.7 Race

- 60% of those in temporary accommodation are from BME or mixed backgrounds, improving the quality and supply of accommodation will have a positive impact on the living environment.

6.8 Sex

- 81% of main applicants for temporary accommodation are by women so the provision of suitable and safe accommodation will have a positive impact.

Implications reviewed by: David Bennett. Head of Change Delivery (Acting) Innovation and Change Management Division. 0208 753 1628

## **7. LEGAL IMPLICATIONS**

- 7.1 Legal advice on the procurement process has been provided by the project's legal advisors, Sharpe Pritchard.
- 7.2 The Director of Law for the Shared Legal Services is satisfied that due process has been followed and accordingly endorses the recommendation
- 7.3 Implications completed by: Kar-Yee Chan, Solicitor (Contracts), Shared Legal Services, 020 8753 2772

## **8. FINANCIAL AND RESOURCES IMPLICATIONS**

- 8.1 This report recommends the appointment of a framework for the provision of new temporary accommodation and management services. The framework is divided into two lots: Lot 1 involves the construction and management of accommodation on Council owned land; Lot 2 involves the framework panel sourcing and procuring existing properties from the open market and leasing them to the Council for the provision of short term accommodation. 8.2 For both lots all successful bidders have identified funding partners through which we can achieve the lease position outlined above and provided appropriate letters of support from them with the exception of Hill Holdings who have yet to provide the required letter. Hill Holdings will however be required to provide this documentation before they are allowed to tender for any call-off works under the Framework.
- 8.2 The proposed additional professional fees of £40k can be contained within the previously approved funding of £127.5k as only £80k has been spent to date. Therefore no further approval is required. All of the spend to date and the proposed £40k additional spend do not fulfil the criteria of capital expenditure. As such it is revenue spend that will be funded from the s106 funds identified in the preceding report to this one (21/04/2014).

### Lot 1

*Accounting for Leases and the Housing Revenue Account (HRA) Capital Financing Requirement (CFR)*

- 8.3 It is anticipated that the terms of agreements entered into under Lot 1 will necessitate their treatment as finance leases and therefore the cost of construction and lease liability will need to be reflected in the HRA CFR, which is the measure used by Government to measure the HRA debt cap.

While there is £34m capacity within the HRA business plan there are a number of on-going reviews which are likely to absorb the majority of this capacity

It should be noted that the latest revision of the HRA business plan is currently in progress and the exact position on these CFR pressures should become clear over the summer. Should the Council ever reach a point where it looks likely that the HRA debt cap will be breached either rents would have to be increased and /or significant cuts in services, especially planned investment into existing Council Homes would need to be made.

- 8.4 The capital element of annual lease payments in subsequent years will be shown in the debt repayment section of the CFR funded from revenue contributions. This reflects the nature of the leasing arrangement where the total cost will be covered by the rent charged.

*Impact on Medium Term Financial Strategy / savings*

- 8.5 The delivery of additional temporary accommodation will reduce the need for the use of unsuitable and expensive Bed and Breakfast hotels and contribute towards MTFS targets and savings. The precise impact will be assessed on a case-by-case basis as mini-competitions under the framework progress.

Risks are expanded on further in section 9 of this report.

Lot 2

- 8.6 Financial implications will need to be considered in detail when tender returns are received for each mini competition and further Cabinet Reports will be required on those occasions.

*Indicative Financial Implications*

- 8.7 The leases under this framework agreement should be treated as a finance lease and therefore the lease liability which will include the costs of construction/purchase will need to be reflected in the General Fund CFR which would attract a charge to the General Fund Revenue Account of 4% for the Minimum Revenue Provision. Officers are considering how this may be reflected as an element of the cost of rental and further details will be set out in future Cabinet Reports. The implications of this will need to be considered carefully when assessing the financial viability of the current and any future proposed procurement under this lot and carefully compared with the alternative of direct delivery.



- 8.8 In terms of General Fund savings the exact numbers will have to be considered as each procurement under the framework progresses but in general, at today's prices it is anticipated that an additional 50 homes provided under this framework would result in a saving of circa £58k to the General Fund if it is assumed that the procured properties replaced other private sector leasing arrangements. If, however, there is a deterioration in the temporary accommodation position and, say, 25 of the units were seen as an alternative to the use of B&B, the annual saving to the General Fund would be circa £279k.

#### Alternative delivery methods

- 8.9 In any decision the costs and risks of the preferred option need to be weighed against the costs and risks of alternative options. In the case of this proposal as well as an alternative "do nothing" option, the Council could choose for both Lots to develop / acquire properties itself. It could directly fund the work using a combination of Public Works Loan Board borrowing, internal borrowing, Right to Buy 1-4-1 receipts (up to 30% of costs) and commuted S106 funds. The financial implications of this are set out below.

#### Lot 1 – Direct delivery by the Council

- 8.10 Direct development on Housing land would result in an increase in the HRA Capital Financing Requirement (CFR) save to the extent that the costs of direct development were funded by Right to Buy 1-4-1 receipts and by section 106 commuted sums. The exact magnitude would depend on the final contracted cost of the development and may be higher as it is possible that a specialist supplier is able to procure such development more efficiently than the Council.
- 8.11 As set out in paragraph 8.4 above any project which would increase the HRA CFR has to be considered in the context of the Council's other development programmes and cash flow risks. Careful management and prioritisation will be required to ensure the debt cap is not breached, which may include some re-phasing of the capital repairs programme for Housing.

#### Lot 2

- 8.12 Both procurement via the framework and direct purchasing / development would result in an increase in the Capital Financing Requirement (CFR) of approximately £14.1 million for 55 properties (95 bed spaces) although the exact increase will only be determined as each procurement under the

framework is completed and will depend on the type and mix of homes acquired.

- 8.13 As set out above the on-going reviews of major programmes are likely to result in the Council reaching its HRA debt cap. Therefore any direct development / purchasing of this nature would need to be funded by the General Fund. There would be a Minimum Revenue Provision (MRP) payable at 4% of the resultant increase in the CFR in addition to the normal management / maintenance costs. Furthermore, there would also be extra interest costs which would arise if the project could not be funded by internal borrowing, or interest income foregone if internal borrowing was utilised.
- 8.14 The Council would also incur additional costs as a team would need to be put in place to acquire and refurbish the homes. It would be important to build up sufficient operational capability to carry out the acquisition of additional property efficiently and effectively.
- 8.15 Direct purchase and refurbishment by the Council of existing property is likely to be more tax efficient than procurement via the proposed structure. This is primarily because the Council is able to reclaim all its VAT provided it stays within the partial exemption rules. Provided all subsequent supplies made by us are pursuant to our statutory housing function then any associated transactions will be non-business with no partial exemption impact – i.e. VAT could be recovered as normal. However, if some properties were used for alternative purposes – for example if surplus capacity was let out on a market basis, or partially market basis, this would give rise to an exempt activity requiring associated expenditure to be included in the partial exemption calculation. Furthermore, in the event that a property was sold, any capital works undertaken would likely need to be included in the partial exemption calculation. In the event that any exempt activities are undertaken or introduced into the project the Council would need to take great care in ensuring that spend on these areas could be easily decoupled from the non-business element otherwise there is a risk that the entire project could be interpreted as an exempt activity.
- 8.16 Direct acquisition by the Council is also likely to be more tax efficient for Stamp Duty Land Tax than the structure proposed by Mears plexus.

## **9. RISK MANAGEMENT**

9.1 The key risks are as follows:

- a) Legal Challenge to procurement process.** A legal challenge could potentially be made to the contract award. The Council has run a

transparent process through the London Tenders Portal and legal advice was sought at every stage of the procurement process.

- b) Unable to fully occupy the building following completion of the development.** The income to pay the rent will mainly come from the payments collected from individual tenants. If the building is not fully occupied there will be a shortfall in income and a contribution will be required to pay the rent to the Head Lessee. There is however the ability to convert the units to general needs or open market housing.

Implications completed: by Matthew Doman, Development Manager, x4547

## **10. PROCUREMENT AND IT STRATEGY IMPLICATIONS**

- 10.1 The Corporate Procurement Team has been advising the project officers in connection with this procurement. The proposals are in compliance with the Public Contracts Regulations and H&F's Contract Standing Orders.
- 10.2 As the proposed framework agreement will be available to both Westminster City Council and the Royal Borough of Kensington & Chelsea the Shared Services Contracts Award Board has been consulted before being recommended for approval by the Cabinets.
- 10.3 Implications verified/completed by: Robert Hillman, Procurement Consultant x1538.

### **LOCAL GOVERNMENT ACT 2000**

#### **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	None		