

REPORT FOR: **CABINET**

Date of Meeting:	14 July 2015
Subject:	Property Purchase Initiative to increase the supply of good quality Temporary Accommodation
Key Decision:	Yes
Responsible Officer:	Lynne Pennington, Divisional Director of Housing Services
Portfolio Holder:	Councillor Glen Hearnden, Portfolio Holder for Housing Councillor Keith Ferry, Deputy Leader and Portfolio Holder for Business, Planning and Regeneration Councillor Sachin Shah, Portfolio Holder for Finance and Major Contracts
Exempt:	No, except for appendix 1 to this report which is exempt under paragraph 3 of Schedule 12a of the Local Government Act 1972 (as amended) in that it includes information relating to the financial or business affairs of any particular person (including the authority holding that information)
Decision subject to Call-in:	Yes
Wards affected:	All
Enclosures:	PART II (Exempt) - Appendix 1: Business model Appendix 2: Site Plan for 33 Whitefriars Avenue

Section 1 – Summary and Recommendations

This report sets out a proposal to purchase properties to be used as temporary accommodation as an alternative to expensive and less suitable Bed and Breakfast accommodation.

Recommendations:

Cabinet is requested to:

1. Authorise the Director of Housing Services to acquire up to 100 properties on the open market for the purpose of providing temporary accommodation, at a maximum cost of £30m to include the purchase price, all costs associated with the acquisition and initial repairs and refurbishment as set out in the report. The current assumption is that these properties will be held outside of the Council in a Limited Liability Partnership (LLP) that would be set up to hold investment property on behalf of the Council. The intention is that the LLP would purchase the properties directly, but in the event of any delay in establishing the LLP, it is anticipated that the Council would proceed with the purchase of appropriate properties on the basis that they would then be transferred into the ownership of the LLP once it is established;
2. Recommend to Council to approve an addition to the Capital Programme of a total of £30m to enable the Council to proceed with the purchase and repair of properties as set out above. An initial spend profile assumes a spend of £7.5m in 2015-16, £15m in 2016-17 and the final £7.5m in 2017-18, though this may vary depending on how quickly appropriate properties can be sourced;
3. As set out in the body of the report, the transfer of the properties under this initiative to the LLP is assumed to be financed entirely by partnership capital, with 95% being funded by Council, with the balance being funded by the holding company set up to deliver the Council's trading activities. Cabinet is therefore requested to authorise the Director of Finance in consultation with the Finance and Major Contracts Portfolio Holder to invest an amount not exceeding £30m in the LLP, with 95% of this being assumed to be partnership capital from the Council, and 5% assumed to be partnership capital of the Holding company.
4. Authorise the Director of Housing Services, following consultation with the Housing Portfolio Holder, to acquire properties at a premium, as set out in Appendix 1, above the price set out in the valuation report to enable flexibility in negotiation of price in a rising housing market provided the overall costs of acquiring the 100 properties are contained within the maximum authorised cost of £30m;
5. Note the indicative cash flows produced by the Business Model attached at Appendix 1, which currently show that the LLP is likely to generate annual profits the majority of which (95% under the current

proposal) would be attributable to the Council, and therefore be exempt from corporation tax. The 5% proportion attributable to the Holding company would be income that would be subject to corporation tax.

6. Delegate authority to the Director of Housing in consultation with the Corporate Director of Resources to determine the most efficient way to manage the property acquisition programme and invite and evaluate tenders and award contracts for any services, including repairs and maintenance contracts, necessary for the programme within the agreed budget;
7. Authorise the Corporate Director Environment and Enterprise/Community Services to transfer the freehold of 33 Whitefriars Avenue from the General Fund to the Housing Revenue Account for the consideration of £275,000.

Reason: To enable a Property Acquisition Programme to provide good quality temporary accommodation to be progressed and start to deliver Bed and Breakfast savings as soon as possible.

Section 2 – Report

2.1 Like all other London Boroughs, Harrow has experienced a dramatic rise in the number of people presenting as homeless, despite excellent performance in preventing homelessness, for a number of reasons including:

- Government Welfare Reform and Local Housing Allowance caps limit the number of private rented properties locally that are affordable. Less than 1 property in 10 in Harrow is now affordable to families on Housing Benefit. With further changes to benefit caps and wider welfare cuts imminent there will be further pressures on working households and little growth in the delivery of more affordable homes for some years. The numbers of working homeless households looks set to grow;
- The lack of housing supply in London has led to higher competition for private rented housing and increased rental costs as the high cost of home ownership means this option is no longer affordable for many households;
- Affordable housing supply continues effectively to reduce due to a combination of the Right to Buy and slow pace of new affordable supply. Whilst the council has plans in place to build new council homes and increase the supply of affordable housing particularly in the Housing Zone, these plans will take years to bear fruit and not replace like with like.

2.1.1 Two years ago the Council had 70 families housed temporarily in Bed and Breakfast accommodation. Today there are 176 families in Bed and Breakfast. The same pressures driving the rise in homelessness are also making it increasingly difficult to find a suitable supply of private rented and leased accommodation to prevent households becoming homeless and move them into once they become homeless.

2.1.2 As the use of Bed and Breakfast accommodation has increased, so has the cost. This is because the Housing Benefit subsidy system discourages the use of Bed and Breakfast by limiting the recoverable subsidy payments. Less housing benefit subsidy is receivable for larger families. In the last 2 years the average net cost to the council has risen from about £7,000 per unit per year to about £10,000 per unit per year. This is projected to increase in 2015/16 unless cheaper and more suitable types of temporary accommodation can be found.

2.2 Options considered

2.2.1 A number of options to increase the supply of temporary accommodation as an alternative to expensive Bed and Breakfast accommodation are being taken forward and/or considered. These include:

- Through the Council's Help2Let scheme we work with landlords to increase the number of privately rented properties available to households in housing need. This includes offering incentives and payments to privately lease properties as well as grants to enable landlords to bring properties up to a lettable condition in return for nomination rights. However due to the overall shortage of supply it is becoming increasingly difficult to source private rented properties locally and on current projections we do not consider these options alone will be sufficient to meet demand and reliance on expensive Bed and Breakfast accommodation;
- Using council properties that become empty, particularly on estates identified for regeneration, for short-term temporary use. However this option is time-limited and does not tackle the overall shortage of supply;
- Purchase and letting of properties. This option has the advantage of providing a secure and new supply source of temporary accommodation and can be relatively quick to implement;
- Building temporary recyclable homes on vacant council land. This option relies on finding suitable land which would need to be provided at no cost. It will take time to implement as planning permission etc would be required similar to building permanent housing.

2.2.2 This report presents the business case to proceed with the option to purchase properties for letting as temporary accommodation. It offers many benefits as follows:

- It increases the supply of temporary accommodation stock within or near to the borough and reduces uncertainty of availability. We will be less reliant on the vagaries of supply in the lower quartile private rented market;
- It is a far superior housing solution for families in housing need providing good quality housing in or near to Harrow;
- It delivers a substantial saving on projected Bed and Breakfast costs;
- It is a relatively quick option to deliver. We estimate that 100 homes can be purchased within 2 years from commencement of the programme and that the first properties could be acquired within 3 months which means Bed and Breakfast savings can be realised from Q3 of 2015/16;
- There will be long-term capital asset value which can be realised in future years for the ultimate benefit of the council, and legal and taxation advice received suggests that the LLP structure should mean that on cessation of the business or disposal of the assets, there would be no tax implications

arising in respect of the 95% share held by the Council, and that the 5% share held by the Holding company would be subject to tax in the normal way;

- It should be noted however, that in the event of the cessation of the LLP's business, there may be early repayment penalties to be met in respect of the loan, depending on the treasury management position of the Council at the time;
- It assists with mitigating the risk of families in Bed and Breakfast for more than 6 weeks and for legal challenge of placing families far away from what is considered a reasonable distance from Harrow, both of which could lead to reputational damage and the need to compensate individuals;
- The exit route is straightforward and simple.

2.2.3 The Business plan of the LLP generates profits over time on a stand-alone basis, and substantial Bed and Breakfast savings are projected which form part of the benefit to the Council of this proposal. Legal and taxation advice received suggests that the use of a Limited Liability Partnership would be tax-transparent, putting the Council in the same tax position as it is currently, and therefore should be the most tax-efficient vehicle to own both the properties purchased under this initiative and those developed for letting in the Private Rented Sector (PRS) on behalf of the Council. In practice this is likely to be a partnership with the Council owning 95% of the partnership, with the other 5% being owned by a wholly-owned company which was a subsidiary of the Council. This would mean that the Council's share of any profits or losses would be exempt from corporation tax, and that the Holding company's share of the profits resulting from this proposal would be taxable.

2.2.4 At this point no options have been rejected as it will be necessary to use a variety of solutions to manage homelessness demand and the costs arising from it.

2.3 Background

2.3.1 This report recommends the purchase of 100 properties on the open market as a means to provide additional good quality temporary accommodation. The detailed business model set out in Appendix 1 demonstrates that even with cautious assumptions around initial and ongoing management and maintenance costs and projected Bed and Breakfast savings that the proposal is financially viable.

2.3.2 The business model assumes the purchase of 100 properties in the following mix: 30 x 1 bed flats, 50 x 2 bed flats or houses, 20 x 3 bed flats or houses. This mix may vary depending on availability and price of properties. The sales market for Harrow and neighbouring areas such as Watford have been reviewed which indicates there are suitable properties available at the following target prices:

1 bed: £195,000 - £250,000

2 bed: £225,000 - £300,000

3 bed: £295,000 - £400,000

4 bed: £400,000 - £475,000

Property availability at the time of this report is set out in the table below:

1b Flats	To £250K	60
2b Flats	To £300K	72
3b Flats	To £400K	11
2b Houses	To £400K	19
3b Houses	To £400K	40
4b Houses	To £400K	1 (BISF)

2.3.3 Acquisition costs have been assumed at £2,500 per property. This is to cover finding and negotiating purchases plus additional costs for valuation, surveys and legal costs. There are 2 potential options for resourcing the acquisition of properties:

- Option 1: Appoint temporary staff to find and negotiate the purchase of properties and use existing in-house resources for valuation and legal work.
- Option 2: Outsource to a private company, RSL/RP or other local authority.

At the current time Option 1 is preferred since it will be quicker to appoint temporary staff and use available in-house resources for the valuation and legal work to enable a quick turnaround of purchases, than prepare and tender services to be outsourced.

2.3.4 Initial repair/refurbishment costs of £5,000 per property have been assumed. The business model assumes major repairs expenditure of £1,000 per property per annum from year 6 onwards. We have assumed that the initial repairs and on-going maintenance will be carried out by Housing Services existing voids and repairs contractors. However, if this impacts on services to existing council tenants we would need to establish a separate panel of contactors for this work and delegated authority is therefore requested to enable this to be taken forward if necessary.

2.3.5 Rent levels have been assumed at:

1 bedroom (self-contained)	£195.00 per week
2 bedrooms	£237.00 per week
3 bedrooms	£299.00 per week
4 bedrooms	£361.00 per week

This is the worst case position based on April 2015 LHA rates subsidy.

These are considered prudent assumptions taking into account potential changes to Housing Benefit subsidy.

2.3.6 The 100 properties will be purchased and then transferred into an LLP set up by the Council. A report detailing the Commercialisation Strategy went to Cabinet in June. A further Cabinet report is to be submitted to Cabinet, setting out the details relating to the proposed structures, and seeks permission to establish a holding company, subsidiary companies and an LLP for the purposes covered in this report. In the event of any delays in establishing the LLP structure, the intention would be for the Council to proceed with the purchase of appropriate properties on the basis that they would then be transferred into the ownership of the LLP once it is established.

2.3.7 It is proposed that the on-going management of these properties would fit comfortably within the proposed Private Lettings Agency (PLA) commercial vehicle which was approved by Cabinet on the 17 June. The management of these

properties has been factored into the PLA business plan. For the purposes of the financial modelling, conservative assumptions have been made about voids, bad debts and management and maintenance costs.

2.3.8 The total capital required for the purchase of 100 properties has been modelled as £28.2m, but this has been rounded up to £30m for the purposes of gaining the necessary approvals. The Council is assumed to borrow from the Public works Loans Board to fund the purchase of the properties at the 50 year PWLB rate of 3.27% (as at the 16 April 2015). The loan is assumed to be on an interest-only basis, and would be repayable at the end of the 50 years or on cessation of the business. This is subject to legal clearance and terms and conditions which will be brought to Council in September 2015 for approval. The Council will in any event set aside amounts for repayment of the debt over the period of the loan, and by the end of the 50-year term would have set aside sufficient to completely repay the loan.

Property Acquisition Programme for Permanent housing

2.3.9 Cabinet has previously approved the acquisition of 20 properties to be held within the Housing Revenue account (HRA). These would be let as permanent housing or used initially as temporary accommodation if they fall within potential regeneration estates. A budget of £6.2m for this initiative is already approved within the HRA capital programme.

2.3.10 33 Whitefriars Avenue (site plan attached at Appendix 2) is a 3 bedroom end of terrace former caretaker's house that is surplus to operational requirements. The property is suitable to be included in the HRA asset portfolio and to be used as either permanent or temporary housing to meet priority housing needs. It is therefore proposed to transfer the ownership of the property from the council's General Fund to the HRA for the consideration of £275,000 as valued by Corporate Estate.

2.3.11 The HRA will finance this using one for one Right to buy receipts and reserves for which the budget has already been approved.

Staffing/Workforce

2.3.12 There are no staffing/workforce implications. The costs of employing additional temporary staff to acquire and manage the properties are factored into the business plan assumptions as part of the acquisition costs.

3. Performance Issues

3.1 Homelessness numbers are reaching new highs due to the crisis in housing availability in Harrow and the wider region; although the council is still performing well in terms of prevention, the unprecedented demand and supply situation meant there were 167 families in Bed and Breakfast at the end of Q4 2014/15, which was higher than estimated. The approved budget was therefore insufficient to meet our statutory duty.

3.2 The key performance indicator is set out below – homelessness acceptances have nearly doubled to 289 compared with last year.

Performance Indicator	Target for 2014/15	Q4 Performance	Comments
Total no of households to whom we have accepted a full homeless housing duty (eligible and priority need)	220	289 High Red	Homeless acceptances increased as projected due to Welfare Reform etc as there are insufficient alternative housing options. This accounts for the rise in use of and cost of Bed and Breakfast

3.3 If the proposal to purchase properties does not go ahead, the council will have little option but to use expensive Bed and Breakfast as temporary accommodation for increasing numbers of families. As well as being of lower quality to a self-contained flat or house, increasingly this will be outside Harrow and surrounding areas which will also increase the risk of legal challenge.

4. Environmental Implications

Improvements will be made to the properties acquired under this programme to bring them up to the lettable standards for temporary accommodation. Works may include for example replacement of boilers with energy efficient models where necessary to meet current regulations. Additionally it may be possible to include these properties within any council-led schemes to install Photovoltaic(PV) systems. This may therefore have the impact of improving properties and contributing to climate change objectives, benefits which would otherwise not be realised within the same timescales.

5. Risk Management Implications

Risk included on Directorate risk register? No

Separate risk register in place? Yes

The business plan makes cautious assumptions to demonstrate the benefits of the proposed acquisition of property for use as temporary accommodation. Doing nothing has far riskier outcomes with regard to legal challenge as more people are placed in Bed and Breakfast far outside the local area and substantial increasing costs to the council's General Fund. The key risks identified and the approach to mitigation are as follows:

Risk	Mitigation
Unable to source a suitable supply of properties at the target prices to purchase in Harrow	Areas outside Harrow to be considered such as Watford
Property Acquisition scheme revenue costs prove to be more expensive than Bed and Breakfast, including as a result of changes in the Housing Benefit subsidy which reduces the amount of subsidy payable on the assumed rental income.	Dispose of properties and offset with capital growth or turn to market private rent
Proposed legislative changes to be introduced by the new Government especially proposals to extend the Right to Buy	Lobbying with other local authorities (eg London Councils), ultimately properties can be sold or turned to market private rent if absolutely necessary
Reputational risk and resistance from home owners	Target purchase of ex LA properties, avoid over concentration in particular streets/areas, procure over a 2 year period.
House Price inflation lower than modelled	This will not affect the projected revenue savings but would reduce the projected capital growth. It is unlikely there will be zero house price inflation over the life of the business plan.
Entering into the market will further stimulate an already busy market	The relative size of the proposed portfolio is low when compared to current annual property turnover on the market. The properties will be acquired over a 2 year period (three financial years) and the impact will therefore be of limited significance.

6. Legal Implications

6.1 Part 7 of the Housing Act 1996 imposes statutory duties on the Council to provide temporary accommodation to homeless applicants in a number of situations. These include when it is assessing a homeless application of a person who it has reason to believe may be eligible for assistance, may be homeless and may be in priority need and when it has completed an assessment and concluded that an applicant is owed the full housing duty.

6.2 Section 206 Housing Act 1996 states that a local housing authority may discharge their housing functions under Part 7 of the Act only in the following ways—

- (a) by securing that suitable accommodation provided by them is available,
- (b) by securing that he obtains suitable accommodation from some other person, or
- (c) by giving him such advice and assistance as will secure that suitable accommodation is available from some other person.

6.3 Section 208(1) Housing Act 1996 provides that so far as reasonably practicable a local housing authority shall in discharging their housing functions under Part 7 of the Act secure that accommodation is available for the occupation of the applicant in their district.

6.4 Section 210(1) states that in determining whether accommodation is suitable for a person, the local housing authority shall have regard to Parts 9 and 10 of the Housing Act 1985 (slum clearance and overcrowding) and Parts 1 to 4 of the Housing Act 2004 (houses in multiple occupation). The Secretary of State may, by order, specify circumstances in which accommodation is or is not to be regarded as suitable for a person, and matters to be taken into account or disregarded in determining whether accommodation is suitable for a person.

The Secretary of State has done so by the following Orders:

Article 2 of Homelessness (Suitability of Accommodation) Order 1996 provides that in determining whether accommodation is suitable for a person there shall be taken into account whether or not the accommodation is affordable for that person. Articles 3 & 4 of the Homelessness (Suitability of Accommodation) (England) Order 2003 provide that B&B accommodation is not to be regarded as suitable for an applicant with a family except where no accommodation other than B&B accommodation is available for occupation and the applicant occupies B&B accommodation for a period, or a total of periods, which does not exceed 6weeks.

The Homelessness (Suitability of Accommodation) (England) Order 2012 states that in determining whether accommodation is suitable for a person, the local housing authority must take into account the location of the accommodation, including—

- (a) where the accommodation is situated outside the district of the local housing authority, the distance of the accommodation from the district of the authority;
- (b) the significance of any disruption which would be caused by the location of the accommodation to the employment, caring responsibilities or education of the person or members of the person's household;
- (c) the proximity and accessibility of the accommodation to medical facilities and other support which—
 - (i) are currently used by or provided to the person or members of the person's household; and
 - (ii) are essential to the well-being of the person or members of the person's household; and
- (d) the proximity and accessibility of the accommodation to local services, amenities and transport.

6.5 The Department of Communities and Local Government has also published Supplementary Guidance on the homelessness changes in the Localism Act 2011 and on the Homelessness (Suitability of Accommodation) (England) Order 2012. The combined effect of the above homelessness legislation is that accommodation provided or arranged to meet a homeless duty must be affordable for the homeless applicant. Accommodation is not affordable if the applicant would require the local authority to contribute towards the cost of the accommodation. Where affordable accommodation is not available in the borough the local authority must provide affordable accommodation out of borough.

6.6 The Council can rely upon its investment powers in section 12, Local Government Act 2003 and upon section 120, Local Government Act 1972 to acquire these properties. It can rely upon those sections of the Housing Act 1996 referred to above to provide temporary accommodation. The Council can also rely on section 111(1), Local Government Act 1972 together with the Housing Act 1996 functions and its investment functions under s.12 Local Government Act 2003 as authority to use an LLP and to make the proposed loan on market terms to the LLP.

6.7 S.149 Equality Act provides that the Council must, in the exercise of its functions, have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7. Financial Implications

7.1 The Business model is included within part 2 of this report. There are a number of key assumptions in the business model which are detailed below:

- It assumes the establishment of a Limited Liability Partnership 95% owned by the Council and 5% owned by the Holding company established by the Council to deliver the trading activities. The Council will initially purchase the properties, and will then transfer them to the LLP.
- The intention would be for the Council to proceed with the purchase of appropriate properties on the basis that they would then be transferred into the ownership of the LLP once it is established.
- As set out above, the Council is assumed to borrow from the Public Works Loans Board to fund the purchase of the properties on the basis of an interest-only loan, which would be repayable at the end of the 50year term or on cessation of the business. The properties are assumed to be transferred to the LLP on the basis of a capital investment, with the Council effectively contributing 95% and the Holding company 5% via a loan from the Council on commercial terms.

- The direct impact on the Council of the proposal is an average net cost over the first 10 years in the region of £0.3m, made up of the assumed savings on B&B costs less the cost of the loan.
- The annual overall net benefit to the Council for investing £30m is an average absolute return of around 1% (£0.2m) over the first 10 years, but increasing over time. This takes account of the estimated B & B savings, and assumes that the Council has to cover the cost of financing the loan to purchase the properties. This return is in cash terms and does not take account of net present value.
- In the event of the LLP not proving viable, if the properties were to be sold there would be financial implications for the early repayment of the loan
- Homelessness demand is assumed to remain at its current level. This means that if homelessness numbers increase following implementation of this initiative, the savings from bed & breakfast currently assumed in the report may not be fully realised as they could be offset by growth elsewhere.
- Inflation is assumed on income and expenditure figures contained within the cash flows.

7.4 In addition to the above, over time the property portfolio would expect to see capital growth which would produce a surplus for the council at the point of sale. As indicated above, where a gain arises in the hands of the Holding company, this could give rise to capital gains tax implications.

7.5 The purchase of 33 Whitefriars Avenue would normally be funded via an adjustment in the respective Capital Financing Requirements of the Housing Revenue Account and General Fund. Because of the HRA borrowing cap, this adjustment is not possible, and in this case the purchase will be funded from existing approved HRA resources including Right to Buy (RTB) receipts.

8. Equalities implications/Public Sector Equality Duty

A full Equalities Impact assessment has been submitted. The proposal will have no negative impacts on any protected characteristics and a positive impact on families, including lone parent families and those from an ethnic minority community who are over-represented amongst homeless families and therefore more likely to be housed in less suitable Bed and Breakfast accommodation if this proposal is not taken forward.

Council Priorities

The Council's vision:

Working Together to Make a Difference for Harrow

This proposal will contribute positively to the Council's vision for Harrow Working Together to Make a Difference for Harrow and the Council's priorities in the following ways:

1. Making a difference for the vulnerable and making a difference for families— providing local good quality temporary housing for those who are most in need.

Section 3 - Statutory Officer Clearance

Name: Dave Roberts	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 2 July 2015		
Name: Ian Goldsmith	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 2 July 2015		

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Ward Councillors notified:	NO, as it impacts on all Wards
EqIA carried out:	YES
EqIA cleared by:	In Progress

Section 4 - Contact Details and Background Papers

Contact: Alison Pegg, Head of Housing Regeneration, Tel 020 8424 1933 alison.pegg@harrow.gov.uk

Background Papers: None,

**Call-In Waived by the
Chairman of Overview
and Scrutiny Committee**

NOT APPLICABLE

*[Call-in applies, except where the
decision is reserved to Council]*