

MAYOR'S EXECUTIVE DECISION MAKING

Friday, 10 November 2017

Mayor's Decision Log No. 176


1. ACQUISITION OF AFFORDABLE HOMES (Pages 3 - 24)

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact: Matthew Mannion, Committee Manager, Democratic Services

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Agenda Item 1

Individual Mayoral Decision Proforma Decision Log No: 176	 TOWER HAMLETS
Report of: Ann Sutcliffe, Acting Corporate Director, Place	Classification: Unrestricted
Acquisition of Affordable Homes	

Is this a Key Decision?	Yes
Decision Notice Publication Date:	23/10/2017
General Exception or Urgency Notice published?	Yes
Restrictions:	Unrestricted
Reason for seeking an Individual Mayoral Decision:	This report is being presented to the Mayor in the form of an Individual Mayoral Decision due to the limited timescales available to adopt the capital estimates, refer the report to Council for the capital allocation, and complete some of the acquisitions in the required timescales.

EXECUTIVE SUMMARY

This report seeks the adoption of capital estimates, and officer delegations, to allow:

- The purchase of surplus housing stock from registered providers of housing (RPs) in the borough;
- The purchase of additional dwellings for use as temporary accommodation; and
- The purchase of new housing, provided by developers as part of their planning obligations.

As the purchase of these properties is not currently allowed for in the capital programme that was agreed by Council as part of the budget setting process, the Mayor is also asked to refer this decision to Council, to agree the allocation of resources for these purposes.

This report is being presented to the Mayor in the form of an Individual Mayoral Decision due to the limited timescales available to adopt the capital estimates, refer the report to Council for the capital allocation, and complete some of the acquisitions in the required timescales. This also allows the council to spend some of its retained Right to Buy receipts by the end of the year to negate the need to pay those receipts to HM Treasury (with added interest).

Recommendations:

Subject to Council's agreement of the budget allocation, the Mayor is recommended to:

1. Adopt a capital estimate of £19.0 million to acquire a portfolio of surplus dwellings from Poplar HARCA;
2. Adopt a capital estimate of £40.0 million to acquire additional dwellings for use as temporary accommodation;
3. Authorise the Corporate Director, Place, to identify appropriate properties and to agree the final price, and the terms and conditions of the acquisition referred to in paragraphs 1 and 2 above;
4. Authorise the Corporate Director, Place, to procure, within the adopted capital estimates (paragraphs 1 and 2), the services and works required to bring those properties up to a lettable standard;
5. Adopt a capital estimate of £60.0 million to acquire s106 properties in the borough;
6. Authorise the Corporate Director, Place, to identify appropriate s106 properties, agree the prices, and the terms and conditions of the acquisitions;
7. Authorise the Corporate Director, Place, following consultation with the Corporate Director, Resources, to acquire the properties referred to in paragraphs 1, 2 and 5.
8. Authorise the Corporate Director, Governance, to execute all necessary legal agreements to give effect to the recommendations above.

DECISION

The Mayor is recommended to:

1. Refer this report to Council for consideration of, and agreement to, the allocation of £119.0 million in the capital programme to fund the purchase of, and any works required to, these dwellings.

APPROVALS

1. (If applicable) Corporate Director proposing the decision or his/her deputy

I approve the attached report and proposed decision above for submission to the Mayor. I confirm that the Mayor and/or Lead Member have agreed to this decision being taken using this process.

Signed  Date 9/11/17

2. Chief Finance Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.

Signed  Date 9/11/17

3. Monitoring Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.

(For Key Decision only – delete as applicable)

I confirm that this decision:-

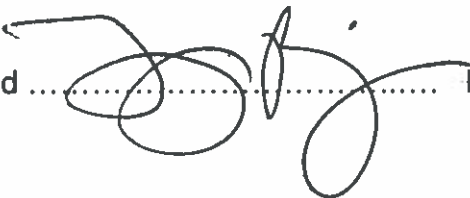
~~(a) has been published in advance on the Council's Forward Plan OR~~

(b) is urgent and subject to the 'General Exception' or 'Special Urgency' provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.


Signed  Date 9/11/17

4. Mayor

I agree the decision proposed in the recommendations above for the reasons set out in paragraphs 1.1 – 1.6 in the attached report.

Signed  Date 10/11/17

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<p>Individual Mayoral Decision</p> <p>9 November 2017</p>	
<p>Report of: Ann Sutcliffe, Acting Corporate Director, Place</p>	<p>Classification: Unrestricted</p>
<p>Acquisition of affordable homes</p>	

Lead Member	Councillor David Edgar, Cabinet Member for Resources Councillor Rachel Blake, Cabinet Member for Strategic Development and Waste
Originating Officer(s)	Richard Chilcott, Acting Divisional Director, Property & Major Programmes Mark Baigent, Acting Divisional Director, Housing and Regeneration
Wards affected	All wards
Key Decision?	Yes
Community Plan Theme	Great Place to Live

Executive Summary

This report seeks the adoption of capital estimates, and officer delegations, to allow:

- the purchase of surplus housing stock from registered providers of housing (RPs) in the borough;
- the purchase of additional dwellings for use as temporary accommodation; and
- the purchase of new housing, provided by developers as part of their planning obligations.

As the purchase of these properties is not currently allowed for in the capital programme that was agreed by Council as part of the budget setting process, the Mayor is also asked to refer this decision to Council, to agree the allocation of resources for these purposes.

This report is being presented to the Mayor in the form of an Individual Mayoral Decision due to the limited timescales available to adopt the capital estimates, refer the report to Council for the capital allocation, and complete some of the acquisitions in the required timescales. This also allows the council to spend some of its retained Right to Buy receipts by the end of the year to negate the need to pay those receipts to HM Treasury (with added interest).

Recommendations:

Subject to Council's agreement of the budget allocation, the Mayor is recommended to:

1. Adopt a capital estimate of £19.0 million to acquire a portfolio of surplus dwellings from Poplar HARCA;
2. Adopt a capital estimate of £40.0 million to acquire additional dwellings for use as temporary accommodation;
3. Authorise the Corporate Director, Place, to identify appropriate properties, agree the final price, and the terms and conditions of the acquisition referred to in paragraphs 1 and 2 above;
4. Authorise the Corporate Director, Place, to procure, within the adopted capital estimates (paragraphs 1 and 2), the services and works required to bring those properties up to a lettable standard;
5. Adopt a capital estimate of £60.0 million to acquire s106 properties in the borough;
6. Authorise the Corporate Director, Place, to identify appropriate s106 properties, agree the prices, and the terms and conditions of the acquisitions;
7. Authorise the Corporate Director, Place, following consultation with the Corporate Director, Resources, to acquire the properties referred to in paragraphs 1, 2 and 5; and
8. Authorise the Corporate Director, Governance, to execute all necessary legal agreements to give effect to the recommendations above.

The Mayor is recommended to:

9. Refer this report to Council for consideration of, and agreement to, the allocation of £119.0 million in the capital programme to fund the purchase of, and any works required to, these dwellings.

1. REASONS FOR THE DECISIONS

- 1.1 The approval of the recommendations will increase the availability of housing in the borough including temporary accommodation for homeless families.
- 1.2 Increasing the supply of council-owned temporary accommodation – in addition to providing secure and comfortable alternatives to hostels and bed and breakfast accommodation – also relieves pressure on the budget that is used to fund the procurement and management of temporary accommodation; one of the highest expenses arising from the council’s statutory homelessness duty.
- 1.3 Buying the surplus RP stock also means that the properties will remain as affordable housing, rather than going into the private housing market.
- 1.4 It will also increase the use of right to buy receipts, which the council must spend in accordance with DCLG deadlines or pay to HM Treasury (with interest).
- 1.5 The purchase of these properties also supports the council’s strategic objectives, including those set by the Mayor, in relation to the provision of housing.
- 1.6 The referral to Council is necessary in order to comply with the constitutional requirements in relation to the budget and capital programme. As the current capital programme did not include this provision when Council agreed the budget at a meeting on 22 February 2017, the Council’s constitution requires that Council be asked to approve this new allocation of capital resources.

2. ALTERNATIVE OPTIONS

- 2.1 The Mayor could decline to purchase the new housing, additional dwellings for temporary accommodation and/or the surplus stock. However, this is not recommended. There are significant pressures to expend retained right to buy receipts, which otherwise have to be returned to HM Treasury, with interest payments. The decisions will also retain housing in the affordable sector as well as increase the overall provision of council housing.

3. DETAILS OF REPORT

Housing need

- 3.1 A number of reports have been submitted to Cabinet in the preceding two years seeking to increase the amount of housing available to Tower Hamlets residents for both permanent and temporary accommodation.
- 3.2 The challenge to provide appropriate housing remains significant, and while the borough has significantly reduced the use of bed and breakfast as emergency accommodation, the number of homeless households accepted for assistance has increased significantly.
- 3.3 As at 1st October 2017, 2,187 families were being housed in temporary accommodation (TA) by the borough. The council's housing list currently has approximately 19,000 applicants awaiting accommodation.
- 3.4 One of the highest expenses of local authority statutory homelessness functions is the procurement and management of TA. The increase in homelessness has led to an associated increase in the use and cost of emergency accommodation.
- 3.5 Emergency accommodation is nightly paid accommodation held under licence and forms an increasingly high proportion of the TA portfolio as moves into permanent private sector accommodation and longer-term TA alternatives (PSL) within the benefits subsidy cap have become less attractive to landlords.
- 3.6 The borough's Housing Strategy 2016-21, published in December 2016, sets out Tower Hamlets' requirement for a range of housing to meet the borough's housing need. The borough's Strategic Housing Market Assessment (SHMA) calculates the borough's total housing need at 2,569 dwellings per annum which equates to 57,400 over 24 years.
- 3.7 In addition to the housing need assessed above, the Homelessness Reduction Act 2017 places further potential obligations on the council to provide additional housing and, while the full effect of this legislation will be realised in 2018, it is prudent for the council to observe the lessons from trailblazer authorities and make provision in advance.

Proposed actions

- 3.8 This report seeks Mayoral authority in three areas:

- the purchase of surplus housing stock from Poplar HARCA, a registered provider of housing (RP) in the borough;
- the purchase of additional dwellings for use as temporary accommodation; and
- the purchase of s106 properties, built by developers as part of their planning obligations.

Purchase of surplus housing stock

- 3.9 This report proposes purchasing a portfolio of surplus properties from Poplar HARCA, an RP in the borough. These properties having been registered as surplus with the Homes and Communities Agency, and were due to be sold at auction and onto the private market.
- 3.10 Council intervention early this year prevented an initial batch of properties being taken forward for sale by the RP. Subsequent negotiations led to the purchase of 43 properties from Poplar HARCA earlier this year under existing Cabinet authority.
- 3.11 Additional resources are requested to complete an acquisitions programme of 100 properties. A capital estimate of £19.0 million is requested for this.
- 3.12 The intention is to fund the purchase using a mixture of retained right to buy receipts (£5.7m) and General Fund resources (£13.3m).
- 3.13 Poplar HARCA is disposing of the properties to the council at full market value. The proposed capital estimate includes all professional fees and project management costs, associated taxes and the cost of returning the property to a lettable standard. It also includes a contingency element which will only be utilised if necessary.
- 3.14 All property values are assessed by independent external valuation and the council is supported and advised through this process by a firm of chartered surveyors that has been appointed for this purpose.
- 3.15 Financial modelling has also been carried out to confirm the viability of the purchases, having taken into account the average purchase price, income to be received based on their intended use as TA, and the savings that will be generated by not having to lease or licence properties from the private sector.
- 3.16 Initial modelling indicates that the net revenue cost to the council of acquiring a unit from Poplar HARCA is approximately £1,900 per annum if retained '1-4-1' receipts are applied. If the purchases were to be fully funded from

borrowing and '1-4-1' receipts were not applied, the net annual revenue costs would be approximately £7,000 per property. These net costs represent expenditure relating to management and maintenance, capital financing charges (both principal and interest) and an allowance for lifecycle capital costs. These costs are offset by projected rental income which includes allowances for void periods and bad debts. Over time income should increase at a faster rate than expenditure (of which the main element - the capital financing charges - are fixed), meaning that the overall position should improve in later years.

- 3.17 Although the council will incur a net revenue cost in acquiring these assets, this should be considered in the context of the cost of using alternative accommodation. For example, the net cost to the council of a bed and breakfast placement equates to £9,000 per annum. Similarly, the use of a nightly let costs £6,500 per year with a unit of private licensed accommodation equating to £3,500. As at 1st October there were 114 temporary placements in bed and breakfast accommodation.
- 3.18 The properties will initially be acquired within the General Fund. The council will then consider transferring the properties to the community benefit society (CBS) it has established, Mulberry Housing Society. The full cost of acquiring these properties will therefore fall on the council prior to the possible generation of a capital receipt if the properties, subject to satisfactory financial due diligence are transferred to MHS.
- 3.19 This report seeks a delegation to the Corporate Director, Place, to agree the terms of the acquisitions. This will be subject to the usual due diligence that is carried out to ensure the purchase offers value for money and is affordable within the available resources and with prior consultation with the Corporate Director, Resources.
- 3.20 Any transfer/disposal of the properties to the Mulberry Housing Society will be subject to a further report to Cabinet.

Purchase of additional dwellings for use as temporary accommodation

- 3.21 This report also proposes the purchase of additional dwellings for use as temporary accommodation.
- 3.22 The borough is experiencing an acute housing crisis and currently has over 2,000 families in temporary accommodation. The net cost of these units of temporary accommodation varies depending on the type of accommodation, with bed and breakfast accommodation costing £9,000 per annum, nightly lets

costing £6,500 and private licensed accommodation costing £3,500 per annum.

- 3.23 Due to the increasing cost and scarcity of temporary accommodation, the council has also had to accommodate some homeless households outside the borough.
- 3.24 Buying additional units of temporary accommodation will allow more households to be accommodated within the borough, close to their existing support networks. This will also realise a saving as the net cost of these units of temporary accommodation will be lower than the net cost of the other types of temporary accommodation used by the council.
- 3.25 It is proposed that the Mayor adopts a capital estimate provision of £40 million to facilitate this programme.
- 3.26 The schemes will be funded through a combination of internal council resources, including the use of retained right to buy receipts. The purchase of these properties will be supported by external consultants, who are providing valuation advice as well as financial assessment in order to determine the appropriate purchase price. Each purchase will be carefully considered on its merits and will only proceed following a detailed financial assessment of the acquisition and confirmation that the scheme offers value for money and that it is viable and affordable within available resources. The council's corporate finance department will support this process.
- 3.27 The council will also be able to utilise right to buy receipts which will be complemented by other General Fund resources.
- 3.28 This report seeks a delegation to the Corporate Director, Place, to identify potential dwellings and agree terms for their acquisition. This will be subject to the usual due diligence that is carried out to ensure the purchase offers value for money and is affordable within the available resources and with prior consultation with the Corporate Director, Resources.

Purchase of properties provided under S.106 Agreements

- 3.29 This report also proposes the adoption of a capital estimate of £60m, to fund the purchase of new housing in the borough, built by developers as part of their planning obligations ('s106 properties').
- 3.30 The council currently has the opportunity to purchase up to 313 properties from a number of large-scale developers in the borough, who have built them as part of their planning obligations. These properties will provide new

properties at good value as they can be purchased for less than the open market value of similar properties due to the restrictions on their use (i.e. as affordable homes). Rental levels are set in accordance with the terms of the appropriate s106 agreement. These usually include units to be let at social rents as well as other properties to be let at affordable and intermediate rents.

- 3.31 It is proposed that the Mayor adopts a capital estimate provision of £60 million to facilitate this programme. This will enable the council to take advantage of the existing opportunities as well as providing the opportunity to bid for further properties if these become available.
- 3.32 The schemes will be funded through a combination of internal council resources, including the use of retained right to buy receipts. The purchase of these properties will be supported by external consultants, who are providing valuation advice as well as financial assessment in order to determine the appropriate purchase price. Each purchase will be carefully considered on its merits and will only proceed following a detailed financial assessment of the acquisition and confirmation that the scheme offers value for money and that it is viable and affordable within available resources. The council's corporate finance department will support this process.
- 3.33 The council will also be able to utilise right to buy receipts which will be complemented by other General Fund resources.
- 3.34 The properties will initially be acquired within the General Fund. The council will then consider transferring the properties to the community benefit society (CBS) it has established, Mulberry Housing Society. The full cost of acquiring these properties will therefore fall on the council prior to the possible generation of a capital receipt if the properties, subject to financial due diligence , are transferred to MHS.
- 3.35 This report seeks a delegation to the Corporate Director, Place, to identify potential s106 properties and agree terms for their acquisition. This will be subject to the usual due diligence that is carried out to ensure the purchase offers value for money and is affordable within the available resources and with prior consultation with the Corporate Director, Resources.
- 3.36 Any transfer/disposal of the properties to the Mulberry Housing Society (MHS) will be subject to a further report to the Mayor in Cabinet.

Mulberry Housing Society (MHS)

- 3.37 Both of these acquisitions may ultimately result in a transfer/disposal of the properties to MHS, a charitable community benefit society (CBS) established

by the council, pursuant to a decision by the Mayor in Cabinet on the matter in February 2017 when officers were authorised to establish the CBS with the aim of providing sub-market (i.e. affordable) homes.

3.38 Any such transfer/disposal will be the subject of a further report to the Mayor in Cabinet, seeking authority to proceed and would, of course, ultimately be subject to MHS itself also being satisfied on the relevant terms. Since consideration of the report in February 2017, officers have been undertaking the necessary steps to establish the CBS. However, there are a number of actions that remain to be taken including the establishment and agreement of the transfer arrangements and final terms of funding agreements and lease terms.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

4.1 This report seeks approval to adopt capital estimates totalling £119 million for the purposes of acquiring properties and bringing them up to standard for the provision of temporary accommodation. If approved, this report will be referred to the Full Council meeting on 22nd November 2017 to seek approval for the incorporation of the schemes within the Council's capital programme and reflect the estimated impact on the Council's Prudential Indicators.

4.2 It must be stressed that although the adoption of significant values of capital estimates is being sought, each initiative and its component acquisitions will only proceed subject to an assessment that it offers value for money and is affordable within available resources at the time of decision. At that time consideration will also be given to the most advantageous funding approach for the Council based on available resources.

4.3 In reaching a conclusion on the value for money of any purchases the following issues will be fully considered.

Use of 1-4-1 Receipts	In addition to the timing constraints associated with using these receipts, they can only be used for the provision of 'additional' social housing. The use of these receipts significantly improves the vfm of purchases.
Funding approach	The availability of other funding sources (for example NHB) and the cost of borrowing.
Property valuations	The relationship between the valuation and the potential rental income is a key consideration. The Poplar HARCA properties are being sold at a market value and have a range of income levels dependent on the size of dwelling. Similarly, the S106 proposals are subject to defined income levels set out in the original agreement.

Void periods and bad debt provisions	Whilst these have been assumed they are subject to sensitivities that impact on the vfm considerations. In particular void periods required to undertake refurbishment impact on vfm.
Matching of needs	The extent to which the properties that are offered/ available match the needs of those in temporary accommodation and the level of resource that consequently releases. The cost of TA ranges from £3,500 to £9,000 per annum; any net benefit and therefore vfm is highly influenced by the cost of TA that can be avoided.

4.4 Purchases of properties for use as Temporary Accommodation

- 4.4.1 The Council is currently negotiating the purchase of a large number of currently void properties from Poplar HARCA to be used as temporary accommodation. The first 43 properties have been acquired from within the £30 million capital estimate that was adopted to acquire temporary accommodation units by the Mayor in Cabinet in January 2017. However, this budget also financed the buyback of stock previously sold under Right to Buy legislation from the Council's leaseholders, and the approved sum is almost exhausted. This report therefore seeks approval to increase the capital estimate by £19.0 million to enable a further portfolio of properties to be acquired.
- 4.4.2 As a result of the combination of the increasing numbers of applications to the homelessness section, the scarcity of available temporary accommodation and the high levels of rent charged to the Council, significant service delivery and budgetary pressures are being faced, particularly in respect of the increasing need to utilise bed and breakfast accommodation and to procure an increasing number of properties outside Tower Hamlets.
- 4.4.3 The proposal in this report therefore is to purchase properties from Poplar HARCA for use as temporary accommodation which will increase supply in the longer term and will reduce the need for the Council to procure more expensive temporary accommodation from third parties. As the applicants will be placed in temporary accommodation the Council will still need to make permanent arrangements in order to discharge its homelessness duty. General Fund savings should materialise through the avoidance of costs.
- 4.4.4 However, as outlined in paragraphs 3.16 and 3.17, initial modelling of the net revenue costs to the Council of acquiring a unit from Poplar HARCA are approximately £1,900 per annum in the first year if retained right to buy receipts are used. This is based on assumptions of likely annual expenditure

and income and as a result will be sensitive to changes. In particular an allowance for a void period of a week has currently been assumed which, where refurbishment works are required is likely to be optimistic; each additional weekly void period increases the net cost by approximately £250 per property per week.

- 4.4.5 It is important to acknowledge that this estimated net cost must also be considered in the context of other alternative accommodation options. For example the cost to the Council of a bed and breakfast placement equates to £9,000 per annum. Similarly, the use of a nightly let costs £6,500 per year with a Private Licensed Accommodation (PLA) Unit equating to £3,500. The first tranche of properties are primarily studio and 1 bed units (27); it is likely that the size of the units acquired will be a factor in determining the extent of any savings achieved. Based on the initial modelling across the first tranche of properties net annual savings per property of between £1,600 and 7,100 are estimated to accrue depending on the type of TA 'avoided'; at the PLA rate and taking into account the sensitivities of the cost estimates the overall benefit is marginal particularly at the lower end of the estimate.
- 4.4.6 An additional capital budget of £40m has also been proposed to enable the purchase of further Temporary Accommodation units; at this stage the valuation approach, rental levels and funding options are not known; the associated considerations and risks of which are highlighted in the table at 4.3.
- 4.4.7 As part of the 2017-18 budget process, a savings option was approved for the Purchase of Private Sector Units (within the General Fund) for use as Temporary Accommodation. This proposed savings totalling £500,000 per annum, profiled as £200,000 in 2018-19 with a further £300,000 in 2019-20. The proposals in this report will contribute towards the realisation of these savings and should allow them to be achieved in earlier years.
- 4.4.8 There is currently uncertainty regarding several aspects of Government legislation in relation to homelessness. Increasing obligations for the Council are proposed under the Homelessness Reduction Act and Welfare Reform changes, including the introduction of Universal Credit, will impact on future demand and cost to the Council and are likely to result in additional budgetary pressures.
- 4.5 The Purchase of S106 Properties from Housing Developers in the Borough
- 4.5.1 Opportunities have recently arisen for the Council to bid for the acquisition of properties provided by developers in accordance with section 106 planning conditions. There is currently no provision within the Capital Programme for

their purchase. This report seeks the adoption of a capital estimate of £60 million in order that the Council can bid for the schemes that are available and to include scope for bids to be made for other schemes in future.

4.5.2 It should be noted that the capital estimate is required in order that the Council can bid for these units at short notice if they become available, but that each scheme will only proceed subject to an assessment approved by the Corporate Director, Resources that it offers value for money and is affordable within available resources at the time of completion. These schemes are also eligible to be part funded (30%) from retained capital receipts as they represent additional social housing.

4.5.3 For both schemes it is proposed that the Council will fund the purchases in the first instance the costs of which, in the form of a Minimum Revenue Provision (MRP) and interest costs, have been reflected in the financial assessment.

4.6 Transfer to Community Benefit Society - Mulberry Housing Society(MHS)

4.6.1 At this stage it is proposed that the Council acquires the assets as set out above, however in the longer term there is a possibility that they are transferred to the Council's Community Benefit Society - Mulberry Housing Society (see paragraphs 3.37 and 3.38). Acquisition by MHS will be subject to a decision by their board and will require further Cabinet consideration, with the viability of the investments to both the Council and MHS being confirmed at that time.

4.7 Retained Right to Buy 'One for One' receipts

4.7.1 The Council is currently holding substantial levels of retained Right to Buy receipts which must be used for the supply of new affordable housing. As at 30th September 2017, these totalled almost £96 million and are increasing at a rate of approximately £6 million per quarter. Retained receipts can only be used to fund a maximum of 30% of a scheme's capital costs with tight time constraints applying to the use of these resources (they must be spent within three years of receipt). If they are not utilised they must be paid to the Government with significant interest penalties falling on the Council. It is therefore essential that delivery mechanisms are put in place as soon as possible to ensure that these resources are not lost to the Council and the proposed financing of these schemes currently reflects that approach.

5. LEGAL COMMENTS

- 5.1 The report seeks approval, subject to Full Council's agreement as to budget allocation, for:
- a) the adoption of capital estimates;
 - b) the acquisition of surplus housing stock from a Registered Provider;
 - c) the acquisition of additional properties for use as temporary accommodation;
 - c) the procurement of services and works required to bring those groups of properties up to a lettable standard; and
 - d) the acquisition of section 106 properties from developers for the provision of affordable housing;

Budget allocation

- 5.2 Section 9D(2) of the Local Government Act 2000 (as amended) provides that all functions of the Council shall be functions of the Executive except insofar as they are reserved to full Council by statute or regulations. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 reserves responsibility for the adoption of budget and the financial plan/strategy (which includes the allocation of financial resources to projects, decisions relating to the control of the Council's borrowing requirement and the control of its capital expenditure) to full Council.

Adoption of capital estimates

- 5.3 The Council's Chief Finance Officer, for the purposes of section 151 of the Local Government Act 1972, has put in place financial regulations and procedures for the proper administration of the Council's financial affairs. Pursuant to financial procedures FP 3.3(5) and 3.3(6), chief officers may only proceed with projects when there is a capital estimate adopted and adequate capital resources have been identified
- 5.4 The capital programme, which was agreed by full Council at a meeting on 22 February 2017 as part of the budget setting, did not take into account the proposed acquisitions.
- 5.5 The Executive may only act in accordance with the approved budget. The decisions taken through this report (including the adoption of the capital estimates identified) must be subject to full Council's allocation of the necessary resources in order to comply with the Council's powers pursuant to Section 9D(2) of the Local Government Act 2000 (as amended)

Powers to acquire properties

- 5.6 The Council is a local housing authority within the meaning of the Housing Act 1985 and is specifically empowered to provide housing accommodation, either by erecting houses, or converting buildings into houses on land acquired by it for the purposes of Part 2 of the Housing Act 1985, or by acquiring houses. The powers under the Housing Act 1985 include altering, enlarging, repairing, or improving such houses. The Council also has a statutory duty to provide temporary accommodation for households who satisfy the eligibility criteria set out in Part VII of the Housing Act 1996 (as amended).
- 5.7 The Council has the powers pursuant to section 120 Local Government Act 1972 to acquire land for the purposes of exercising the above statutory housing functions.

Funding

- 5.8 The acquisitions are to be funded using a mixture of right to buy receipts and general fund resources (including, potentially, an element of prudential borrowing).
- 5.9 Right to buy receipts are capital receipts within the meaning of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003. The 2003 Regulations permit the use of these receipts to fund capital expenditure such as the provision of affordable housing, subject to the conditions of any agreement entered into with the Secretary of State pursuant to section 11(6) of the Local Government Act 2003.
- 5.10 The Council is permitted by section 1 of the Local Government Act 2003 to borrow money for any purpose relevant to its statutory functions or for the prudent management of its financial affairs. The Council must stay within its determined borrowing limit.

Procuring works and services

- 5.11 The Council has power to enter into contracts for a third party to deliver the proposed works and services pursuant to section 111 of the Local Government Act 1972, which provides power enabling the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions, including the housing functions referred to above.
- 5.12 The nature and value of each proposed contract will need to be understood before proceeding with the procurement. Should the value exceed the European threshold (currently £164,176 for services or supplies and

£4,104,394 for works), then the competitive exercise must comply in all respects with the requirements of the Public Contracts Regulations 2015 and with European Law. This will involve conducting a procurement exercise, either through the OJEU or by relying on a compliant framework agreement. The Council would be required in any event, to demonstrate compliance with the principles of equal treatment, transparency and non-discrimination as required by the Treaty of the Functioning of the European Union.

- 5.13 The Council will need to comply with its procurement procedures when purchasing services and works.

Subsequent disposals/transfers

- 5.14 One of the options referred to in this report for in terms of the future treatment of the properties is to dispose of some or all of them to Mulberry Housing Society.
- 5.15 The Council has the power to dispose of land from its General Fund under section 123 of the Local Government Act 1972.
- 5.16 Section 123 of the Local Government Act 1972 requires any disposal from the General Fund to obtain a consideration which is not less than the best it could reasonably obtain. Secretary of State consent will be required for any disposal at “undervalue”.
- 5.17 Any such transfers/disposal will require a further Mayoral decision at the appropriate time.

Best value and equalities

- 5.18 The Council has an obligation under section 3 of the Local Government Act 1999 to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness (the best value duty). The Council achieves best value, in the award of contracts, by subjecting spend to competition and choosing the winning bidder by applying evaluation criteria showing the best and appropriate mix of price and quality. In the context of the acquisition of the properties, the best value duty is referred to at paragraph 7 below.
- 5.19 When exercising its functions the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector

equality duty). The Council's compliance with this duty is considered in paragraph 6 below.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 When exercising its functions, including housing functions, the council has a duty under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 6.2 This proposal involves the council's exercise of its powers under section 120 of the Local Government Act 1972 to acquire real property, specifically a number of dwellings. Some of these dwellings will be made available for eligible applications that are homeless, in priority need and not intentionally homeless. Other dwellings will be made available to council nominees and the allocation and use of those units will be determined in accordance with statutory housing need requirements.
- 6.3 The decisions in this report also support the council's (and Mayor's) priorities as articulated in the Strategic Plan; in particular, increasing the provision of affordable homes.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 Each purchase is (or will be) supported by detailed financial assessments and modelling, undertaken to ensure the proposal offers value for money. In particular, the proposal to purchase a portfolio of properties from Poplar HARCA for use as temporary accommodation for homeless households will result in a significant saving in comparison to the use of alternative accommodation (e.g. bed and breakfast, nightly lets, and private licenced accommodation).

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 There are no immediate sustainability implications arising from this report. Following the purchase of the Poplar HARCA properties, the council will undertake works to the properties to ensure they are of a sufficient standard. This will include, where required, energy efficiency measures.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 There are a number of risks to be considered throughout this process.
- 9.2 There is a risk that, in the longer term, the council will not be able to let all of the units of temporary accommodation in a timely fashion. However in the unlikely event that such a situation arises the council could offer them to other London local authorities.
- 9.3 There is a risk that the council is unable to secure the properties at a price that offers value for money and that it is affordable within available resources. This will be managed by carrying out a detailed financial assessment, supported by both external consultants and the council's corporate finance department, on each proposed acquisition.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 There are no immediate crime and disorder reduction implications arising from this report.

11. SAFEGUARDING IMPLICATIONS

- 11.1 There are serious safeguarding concerns with children being placed for extended periods in hotel accommodation. Shared hotel accommodation is not suitable for families with children, and may only be used in an emergency, subject to a maximum of six weeks in accordance with the 2003 Suitability of Accommodation Order. This was in recognition of the harm to children's development if spending lengthy periods in cramped, overcrowded accommodation with insufficient space to play and study.
- 11.2 Further concerns arise from the need to share cooking, bathroom and toilet facilities with other households, including in some cases, vulnerable single adults.

Linked Reports, Appendices and Background Documents

Linked Report

- None.

Appendices

- None.

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- None.

Officer contact details for documents:

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