

Cabinet Decision 10 January 2017	 TOWER HAMLETS
Report of: Aman Dalvi, Corporate Director, Development & Renewal	Classification: Unrestricted
'One for One' Right to Buy Receipts Usage - Purchase of Additional Homes Out of Borough	

Lead Member	Councillor Sirajul Islam, Cabinet Member for Housing Management & Performance
Originating Officers	Mark Baigent, Interim Service Head - Sustainability, Strategy, Regeneration and Housing Options John Coker , Acting Divisional Manager – Housing and Regeneration
Wards affected	All
Community Plan Theme	One Tower Hamlets
Key Decision?	Yes

Executive Summary

The report seeks approval in principle for a number of proposals to provide temporary accommodation by the council to meet the needs of homeless households. This includes -

- The accelerated acquisition of new housing stock in the East London corridor and beyond to provide greater choice for people willing to move beyond Tower Hamlets borough boundaries.
- To utilise Council surplus properties as appropriate for temporary accommodation use for up to ten years.
- Investigating the use of off-site manufactured units for temporary accommodation.

Internal modelling has been undertaken assessing the implications of purchasing two bedroom flats out of borough. The capital acquisition costs are estimated at approximately £300,000 per unit, equating to £30 million for the proposed 100 units. Financing the maximum 30% of these costs from retained Right to Buy capital receipts (£9 million) will mean that capital resources of £21 million will be required. The modelling assumes that the Council will borrow these resources

within the General Fund, although alternative capital resources could be used if available.

It is proposed that 100 properties are purchased and that a target total revenue saving of £500,000 is included at this stage. External valuers, Roughton International Limited (RIL), were commissioned to investigate this proposal, including study of an exemplar borough. Allowing for the time that will be required to acquire suitable properties, it is proposed that the saving is profiled as £200,000 in 2017-18 and £300,000 in 2018-19.

An additional capital estimate of £2.25m is proposed to deliver a further programme of 50 units that utilise surplus council properties for temporary accommodation for up to ten years. These properties will be funded from both the Housing Revenue Account and the General Fund as appropriate.

Recommendations

The Mayor in Cabinet is recommended to:-

1. Note the current position with regard to the Council's housing provision and anticipated housing demand as set out in paragraph 3 and Appendix A below.
2. Authorise the Corporate Director, Development & Renewal, to purchase housing stock either within or outside the borough as outlined below, including properties with a purchase value exceeding £250k and to procure services and works to bring the properties up to the required standards for letting where necessary.
3. Authorise the Director, Development & Renewal, to procure services and works and to let contracts in the delivery of the new homes in as far as required to fulfil the recommendations detailed below.
4. Adopt a capital estimate of £30million for the purchase of up to a maximum of 100 properties out of borough, subject to these satisfying conditions of affordability, suitability, and good quality management.
5. Allocate £9m retained Right to Buy Receipts to fund 30% of the capital costs and £21m to finance the residual 70% of the capital costs from Council capital resources, including undertaking prudential borrowing within the General Fund as necessary.
6. Authorise the Corporate Director, Development & Renewal, to utilise surplus Council properties for temporary housing, and to procure services and works for conversion of those units as appropriate.
7. Adopt a capital estimate of £2.25million to create up to 50 units of temporary accommodation from surplus council properties.

8. Authorise the Corporate Director, Development & Renewal, to investigate the use of Off-Site Manufacturing for temporary accommodation supply.
9. Require the Corporate Director, Development & Renewal, to consult the Mayor regarding any purchase beyond a 60 minute journey time from the Borough or within any District outside London, other than those immediately bordering another London Borough.
10. Require the Corporate Director, Development & Renewal to consult the Corporate Director, Resources regarding any purchase that would result in the portfolio average breakeven period exceeding 10 years or the net yield achieving less than 10%.

REASONS FOR THE DECISIONS

- 1.1 Tower Hamlets, similarly to many other local authorities, is facing unprecedented challenges in housing the rising number of households seeking housing assistance. The number of homeless households accepted has increased significantly over the last four years resulting in 2,055 families housed in temporary accommodation (TA) by the borough. Nearly 60% of accepted homelessness cases are now becoming homeless as a result of losing their private sector tenancy, this is due to a combination factors which include rising rents and lowered income as a result of welfare reform measures. With further welfare reform measures still to come, the pressures are expected to continue for the foreseeable future.
- 1.2 One of the highest expenses of local authority statutory homelessness functions is procuring and managing TA. The increase in homelessness has led to an associated increase in the use and cost of emergency accommodation. 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 subsidy cap have become less attractive to landlords.
- 1.3 There is therefore an urgent need to accelerate the supply of TA for those in housing need and for the Council to adopt an acquisition strategy designed to increase choice and affordability.
- 1.4 It is proposed that the Council adopts a number of strategies that will improve the supply of TA. The purchase of properties both within and outside the borough for use as TA in order to mitigate the current difficulties met in securing suitable supply at a reasonable cost to the Authority is one measure. This will provide a longer term solution to the need to utilise external sources of supply and will provide the Council with an asset which will provide an improved quality of accommodation for clients.
- 1.5 Provided that the properties purchased are not currently used as social housing, the Council will be able to finance 30% of the capital costs from the significant level of uncommitted retained Right to Buy receipts that it currently

holds. This will reduce the risk of having to pay these resources to the Government with substantial interest penalties. (Authorities must utilise the receipts to finance new social housing supply within a three year period from the financial quarter that the receipt is generated).

- 1.6 Internal modelling has been undertaken assessing the implications of purchasing two bedroom flats. The capital acquisition costs are estimated at approximately £300,000 per unit, equating to £30 million for the proposed 100 units. Financing the maximum 30% of these costs from retained capital receipts (£9 million) will mean that capital resources of £21 million will be required. The modelling assumes that the Council will borrow these resources within the General Fund, although alternative capital resources could be used if available.
- 1.7 It is anticipated that annual revenue expenditure of approximately £12,700 will be incurred to manage and maintain each property and service the debt charges. Annual rental income will equate to £11,300 (based on Government Homeless Subsidy Eligibility levels) meaning that the initial net cost of the initiative is £1,400 per property acquired.
- 1.8 These costs need to be considered in the context that having the property will mean that an alternative source of TA provision is not required. The cost of a bed and breakfast placement currently equates to £9,000 per annum, Nightly lets cost £6,500 per annum and a Private Licensed Accommodation placement is £3,500 per year. These costs all exceed those involved in the proposed initiative and therefore a budgetary saving should result. In addition the authority will own an asset in the long term which will reduce the need to source alternative TA at a time when limited supply and high demand mean that costs demanded for placements are increasing.
- 1.9 It is proposed that 100 properties are purchased and that a target total revenue saving of £500,000 is included at this stage. Allowing for the time that will be required to acquire suitable properties, it is proposed that the saving is profiled as £200,000 in 2017-18 and £300,000 in 2018-19.
- 1.10 The borough has a number of properties that are now surplus to use; these now present an opportunity for review and consideration for TA usage. Furthermore illegal occupation and anti-social behaviour present significant risk to the properties.
- 1.11 This report proposes a phased programme to convert such properties to TA for up to a ten year period, the use of the asset to be reviewed on completion of that period.

1. ALTERNATIVE OPTIONS

- 2.1 At present the Council is obtaining 5-10 self-contained units of privately rented accommodation per week. If the Council does not expand its range of procurement it will continue to struggle to provide suitable accommodation for

families in accordance with the statutory requirements. The Council is already utilising all available options to ensure it meets its statutory duty regarding homeless accommodation, this includes:

1. Preventing homelessness so that people do not enter the TA system in the first place
2. Nightly lets
3. Bed and breakfast accommodation
4. Out of borough block leases
5. Moving households to less expensive alternative types of TA

2.2 In addition the Mayor has expressed a desire to use 1-4-1 RtB receipts for capital projects rather than return them to the Treasury, Cabinet reports in July and October 2015 outlined projects to utilise the receipts, and further reports in February and July 2016 committed further capital estimates to this end, these options are

- council new build programme
- grant programme for Registered Providers
- section 106 opportunities on market led schemes
- purchase of former RtB properties

2.3 The acquisition of new out of borough housing stock, will form part of a further intervention approach to accelerate the movement of homeless households from expensive emergency accommodation into less costly, alternative forms of TA.

2. BACKGROUND

3.1 Numbers in TA have increased by just over 100 since April 2016, although a reduction of 54 was achieved in 2015/16, with Tower Hamlets the only borough in East London to reduce its numbers in TA.

3.2 There is however ongoing significant pressure on TA, placements in TA have increased steadily by over 300 from 2012-2016 to 2,132.

3.3 The number of households in TA increases when the Council accepts a full homelessness duty as the demand for permanent accommodation still falls behind supply by the Council or Registered Providers.

3.4 The recent Spending Review and Autumn Statement have refocused the funding of new housing upon home ownership, rather than social or affordable rented homes. Changes to the government's Right to Buy (RtB) scheme in 2011, have resulted in a high volume of sales over the last few years. The sale of high value void council properties, recently introduced through the Housing and Planning Act, will result in further losses to the council's housing stock. This means households living in TA are less likely to be offered a social housing tenancy, leaving the private rented sector as the main option. Further welfare reform measures being delivered over the course of the next five

years are expected to compound these issues, making it increasingly difficult for households to be able to afford London's rental costs.

- 3.5 A detailed background to Homelessness applications in the borough is provided in Appendix A.
- 3.6 The high cost of accommodating homeless households in the private sector must be mitigated now, before the advent of universal credit which will further worsen the position.
- 3.7 There are financial advantages to using our own housing stock. At present the Council is using 160 properties, mainly from regeneration schemes as TA. This enables these properties to continue to generate HRA income – 125% of the social rent is paid in recognition of the higher costs of using these properties, and they also generate a General Fund income to cover the management costs of using the properties, with rents capped at the TA subsidy level. These properties are let on non-secure tenancies, and prevent revenue expenditure being paid to third parties. While agreement has been given to permit the use of up to 100 social housing voids per annum as TA, this is not a productive use of general needs stock as it reduces the quantum of properties available for letting to families in housing need, of which homeless households constitute 16%.
- 3.8 As well as a financial problem there are also significant service delivery issues and adverse impacts on homeless applicants. The quality of some B&B accommodation is questionable and there are issues of accommodating families in the same establishments as vulnerable and sometime challenging adults.
- 3.9 Private leased and nightly let accommodation also present challenges in maintaining acceptable quality. Furthermore, the difficulties with procurement have resulted in an increasingly dispersed TA portfolio which presents significant management problems, undermines efficiency and increases costs.

4. Purchase of Properties outside the Borough

- 4.1 The purchase of TA outside the borough represents a new approach by the Council. The Council currently provides TA outside of the borough, totalling 1004 units for the March 2016 statutory return (P1E); these are mainly in the form of PSL, B&B, hostels, and annexes, including the Council's recently brokered 71 unit lease for a development in Merton.
- 4.2 The purchase of properties out of borough intended for TA has been seen as necessary by some boroughs with high property values such as Westminster City Council and RB Kensington and Chelsea, however the recent direction of government policy such as the accumulation of one for one receipts, increasing pressure on homeless accommodation and the potential contraction of affordable housing through extended right to buy to housing associations and the sale of high value voids has lead other London boroughs

to consider this approach. RIL's investigation notes the Inside Housing article (June 2016) reporting seven London councils purchasing up to 168 properties in the last three years, with Brent Council planning to buy 300 properties over the next two years. The article notes that Enfield Council has bought 180 properties through its company in the last two years.

Table 1

Council	No of properties	Location
Bexley	1	Crayford
Croydon	13	Crawley, Downham, Merstham
Ealing	26	Slough, Hillingdon, Staines
Harrow	23	Aylesbury, Watford, Ealing, Garston
RB Kensington & Chelsea	1	Romford
Wandsworth	23	Croydon, Mole Valley, Crawley, Epsom, Reigate, Kingston, Chessington
Westminster	81	Barking, Redbridge, Haringey, Romford, Chadwell Heath, Greenwich, East Ham, Enfield

4.3 The aim of the project is to develop or acquire units of TA and manage them ourselves. Noted benefits of this approach will be -

- To improve quality
- To improve continuity i.e. to avoid current situations where landlords often withdraw their properties
- To reduce costs, rents can be set at a level to cover costs but avoid rents above HB subsidy rate
- To assist in providing accommodation for the most vulnerable families who are impacted by the reduction in Universal Credit

4.4 This report proposes that this initiative:-

- Pilots a scheme in the East London corridor and beyond of up to 100 units
- Properties are to be located within a 90 minute travel time to Tower Hamlets
- Targets properties that provide good value for money
- The programme targets bulk purchases of either new build or portfolios in order to achieve economies of scale where available.
- Provides a reasonable volume to ensure effective housing management efficiencies

Assumptions/Dependencies/Constraints

1. Rent levels will cover the majority of costs including capital financing charges
2. Properties are likely to be out of Borough in cheaper areas
3. The Procurement Strategy will concentrate on purchasing clusters of properties to improve management outcomes
4. Property expertise required
5. Retained Right to Buy receipts can be used for the purchase of properties for use as TA but not Bed and Breakfast. They cannot be used to purchase existing social housing units.

Delivering the programme – out of borough purchases

- 4.5 In order to execute the programme effectively the Council will make investigations to identify a number of opportunities both within and out of borough to purchase new build housing that is either built, or in a position where building start on site is imminent. Office to residential conversions will also be considered.
- 4.6 The council will seek to purchase individual units, pursuing a number of options including properties for sale on the open market, properties for sale from existing council leaseholders, or portfolios of properties from landlords looking to sell.
- 4.7 An initial analysis of the residential market by RIL in an exemplar borough suitably located (Borough A) indicates that better value for money can be obtained by the purchase of property in Borough A as compared to an equivalent property purchase in Tower Hamlets (Table 2 below).
- 4.8 Prices are affected by location, condition and property type, this investigation highlighting that the Borough A residential market has more traditional houses in the larger property size which impacts on values conversely for this intended programme, this is highlighted in Table 2 below. The programme will target 1bed, 2bed and 3bed properties in order to develop a range of options.
- 4.9 It is important to note that whilst RIL note that Borough A provides opportunities of good value for such a programme, it cautions that the borough has been subject to significant property value increase, as much as 44% in some areas in the last 12 months. It is therefore recommended that any agreed programme must be executed swiftly to maximise value.
- 4.10 Table 2 shows that there is sufficient scope in the price range to deliver a programme which meets the objectives of the Council.

Table 2

	1B Price Range (£k)	2B Price Range (£k)	3B Price Range (£k) *
LBTH	£210 to £285	£240 to £575	£270 to £450
Borough A	£130 to £250	£180 to £355	£270 to £450

* Borough A has a higher number of 3 bed properties at the lower end of the range.

RIL further note that the average property value in Borough A is circa £271,000.

Proposed Acquisition Criteria 100 out of borough units

4.11 The acquisition strategy for TA will be based on the following set criteria:

- locations within 90 minutes from Tower Hamlets
- housing market growth over past 3 years
- an active local economy
- rents not likely to breach HB caps
- Suitability in terms of property sizes
- demonstrable savings against TA costs

4.12 A budget of up to a maximum of £30 million (100 units) is proposed for the programme to cover the purchase price, all professional fees and project management costs, associated taxes and up to £10,000 of improvement works.

4.13 Officers will manage the programme utilising Prince 2 methodology reporting through the established capital programme governance to the Corporate Director Development & Renewal.

Tower Hamlets Surplus and Incidental Property Conversions.

4.14 The borough has a number of properties that become available for a variety of reasons - these may be former community buildings that no longer have a required community useage, former office buildings surplus to use, former tied accommodation that has become vacant or surplus to use or in fact buildings with expired or near expiry commercial leases that now present an opportunity.

4.15 These properties often become illegally occupied resulting in significant cost and resource pressures on the Council, not only in management expense, processing and executing repossession, but also anti-social behaviour on the site.

4.16 This report proposes a phased programme to convert these properties to TA for up to a ten year period, the use of the asset to be reviewed on completion of that period.

- 4.17 This proposal offers better more efficient use of these assets, resolving the issues noted in paragraph 4.15 above, and generating an income for either the General Fund or Housing Revenue Account as appropriate.
- 4.18 Each opportunity would be assessed against a viable business plan.
- 4.19 A budget of up to a maximum of £2.25 million (50 units) is proposed for this programme to cover all professional fees and project management and works costs.

Delivering the programme - Surplus and Incidental Property Conversions

- 4.20 The Council will review its identified surplus vacant properties (this would include properties with intended vacancies also) and bring forward such properties that may suit this programme. These properties may be in the General Fund or the Housing Revenue Account.
- 4.21 This report proposes a programme of 50 units of TA, covering a range of units from studio accommodation, 1bed, 2bed and 3 bed properties in order to develop a range of options and maximise business plans. The unit mix will be determined by the development opportunity available.
- 4.22 It is highly likely that a planning consent will be required for these units as they may require a change of use from the current consented useage. An appropriate communications programme for the intended useage may also be required in delivering the units.
- 4.23 The business plan for each property would include -
- Requisite planning consent
 - Rents not likely to breach HB caps
 - Suitability in terms of property sizes
 - Demonstrable savings against TA costs
 - 10 year business plan
- 4.24 Officers will manage the programme utilising Prince 2 methodology reporting through the established capital programme governance to the Corporate Director Development & Renewal.

Temporary Accommodation through Off-Site Manufacture (OSM).

- 4.25 As a member of the East London Housing Partnership (ELHP) the borough was party to a study conducted by Arcadis. The commissioned study explored the potential role that modern methods of construction, referred to as off-site manufacture (OSM), could play in supporting members of ELHP in the provision of TA. The specific application of OSM that was assessed in the report was relocatable, pre-fabricated units deployed on short-life sites.

- 4.26 The use of short-life sites has advantages with respect to planning and flexibility with respect to the long-term use of public land.
- 4.27 The principle behind the temporary housing solution is the adoption of offsite methods of construction to accelerate speed of construction and to use demountable components that can be disassembled and reused in other locations. The principle is well-proven in connection with accommodation provided for construction projects but has not been applied widely elsewhere.
- 4.28 Appendix B details critical factors regarding OSM market, including its key characteristics, and industry capacity.
- 4.29 It is recommended that the Corporate Director Development & Renewal be authorised to undertake further viability testing of this model and report back to Cabinet in 2017.

5. COMMENTS OF THE CHIEF FINANCE OFFICER

- 5.1 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.
- 5.2 Although the Homeless Service operates with a net 2016-17 budget of £1.9 million, the gross budget is £35.4 million, with the major cost element being the £29.8 million budget for the rent payable to landlords for the supply of temporary accommodation. The main source of income derives from the rents and charges that are levied to customers.
- 5.3 Around 87% of the rental income is however met through benefits payments, so the financial implications within the service budget cannot be looked at in isolation. Although the Council has a statutory duty to pay benefits, the level of subsidy that is recouped from the DWP is capped i.e. the statutory benefits that the Council must pay on these properties will exceed the sum recoverable from the DWP. The high rent levels charged by suppliers of temporary accommodation are leading to budgetary pressures within the Housing Benefits budget due to this variance between the statutory benefits paid out and the Government subsidy received.
- 5.4 The charges that the council pays for the provision of Private Licensed Accommodation (PLA) were amended in October 2016 which should increase the availability of temporary accommodation in the short term, however this report outlines a number of proposals that will increase the supply of temporary accommodation in the longer term. The proposals are all aimed at increasing available stock under the council's ownership and therefore reducing the need to procure temporary accommodation from third parties. The financial implications of each proposal are set out below.

5.5 Purchase of Properties outside the Borough (paragraphs 4.1 to 4.13)

- 5.5.1 It is proposed that the council acquires 100 properties outside the borough for use as temporary accommodation. This will necessitate a significant capital investment, however the council is currently holding substantial levels of Right to Buy receipts (approximately £69 million) which must be used for the supply of new housing. Tight time constraints apply to the use of these resources (they must be spent within three years of receipt) and if they are not utilised they must be paid to the Government with significant interest penalties falling on the council. It is important therefore that delivery mechanisms continue to be developed to ensure that these resources are not lost to the council.
- 5.5.2 Specific regulations apply as to the use of the retained receipts but provided that the properties purchased are not currently used as social housing, the Council will be able to finance 30% of the capital costs from this source.
- 5.5.3 An initial financial assessment has been undertaken of the proposed project, based on the acquisition of two bedroom properties. The summary analysis is shown below.

Net Cost of Purchasing a Two Bedroom Property

	£
<u>Capital:</u>	
Total Capital Acquisition Cost:	302,000
<u>Capital Financing:</u>	
Retained RTB Receipts (30%)	90,600
Borrowing (70%)	211,400
<u>Annual Revenue Costs:</u>	
Maintenance	1,000
Management / Service Charges	750
Interest Charges	5,708
Minimum Revenue Provision	<u>5,285</u>
Total Cost	12,743

Rental Income to the Authority

Annual Rental Income: **(11,260)**

Net Annual Revenue Cost to the Authority

	£
Cost to the Authority	12,743
Rental Income to the Authority	<u>(11,260)</u>
Net Annual Revenue Cost to the Authority	<u>1,483</u>

- 5.5.4 The net annual revenue cost to the council of purchasing one unit has been assessed as £1,483, however, this needs to be considered in the context of the costs of using alternative accommodation. As outlined in Table 5 in Appendix 1, 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 Private Licensed Accommodation (PLA) Unit equating to £3,500.
- 5.5.5 If compared to the cost of a nightly let, the saving of this initiative to the council would be approximately £5,000 per unit (i.e. the nightly let cost of £6,500 less the net cost to the council of purchasing and managing its own unit of £1,483).
- 5.5.6 Based on the purchase of 100 units that is proposed in this report, a saving of £500,000 per annum is therefore anticipated, and a corresponding invest to save proposal has been submitted as part of the 2017-18 budget process. Due to the timescales involved in procuring the properties, the proposed saving has been profiled as £200,000 in 2018-19 and a further £300,000 in 2019-20 (paragraph 1.10). Savings will materialise through the avoidance of costs, either against budget or by providing mitigation against a budgetary pressure.
- 5.5.7 It should be stressed that 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 Bill, and Welfare Reform changes, including the introduction of Universal Credit, will impact on future demand and cost to the Council and are likely to provide additional budgetary pressures. The proposal in this report should provide better quality units for use as temporary accommodation and the council will be investing in an asset for its longer term use.
- 5.5.8 If approved, this scheme must be included within the council's Medium Term Financial Strategy and the supporting Capital Strategy, and also incorporated into the 2017-18 capital programme which is due to be considered by Council in February 2017.
- 5.6 Tower Hamlets Surplus and Incidental Property Conversions (paragraphs 4.14 to 4.24)
- 5.6.1 It is proposed that various council owned surplus vacant properties are converted for use as short term temporary accommodation units. A capital budget of £2.25 million is proposed for the conversion works.
- 5.6.2 The vacant properties could currently be held within the General Fund or Housing Revenue Account. Assessment of funding will be necessary in each separate case to ensure that appropriate mechanisms are used to maintain the Housing Revenue Account ringfence and that the HRA is not subsidising General Fund costs or vice-versa.

- 5.6.3 As is the case with the purchase of properties outside the borough, if approved, this scheme must be included within the council's Medium Term Financial Strategy and supporting Capital Strategy, and incorporated into the 2017-18 capital programme which is due to be considered by Council in February 2017.
- 5.7 Temporary Accommodation through Off-Site Manufacture (paragraphs 4.25 to 4.29)
- 5.7.1 The borough has been involved in a study into the use of off-site manufacture of housing units as part of its membership of the East London Housing Partnership.
- 5.7.2 This report seeks approval for the council to undertake a further viability assessment into this method of delivery. This will incorporate a detailed financial assessment of the implications and will be reported to Cabinet in due course. The costs of the viability assessment will be met from existing budgetary provision.
- 5.8 Given that there are significant financial uncertainties with the savings and investment elements required from these schemes and the need for the Business Cases to be able to demonstrate, for prudential borrowing purposes, that there is an overall saving to the General Fund, the Chief Financial Officer should be consulted as set out in recommendation 10 before any decisions are taken to complete a purchase that would result in the portfolio average breakeven period exceeding 10 years or the net yield achieving less than 10%.

6. LEGAL COMMENTS

- 6.1 The report details proposals to increase the supply of temporary accommodation to address the needs of homeless households. The report seeks approval for the acquisition of properties outside the borough, conversion of surplus Council owned properties for use as temporary accommodation for up to ten years and investigation of the use of off-site manufacturing for temporary accommodation. The schemes would be financed from within the HRA and General fund as outlined in the report. The Council's powers are outlined below.
- 6.2 The Council 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). When discharging a housing duty to secure accommodation, the Homelessness (Suitability of Accommodation) Order 1996 specifies that the accommodation must be suitable, which includes taking into account whether or not the accommodation is affordable. This requires the financial resources available to the person which includes the cost of the accommodation. The duty to provide suitable accommodation is a continuing obligation and the Council must keep this under review.

- 6.3 The Homelessness Code of Guidance 2006 provides that if accommodation is not affordable the property would be unsuitable unless the rent is subsidised by the Housing Authority which can be delivered by housing benefit top-up or reducing the rent paid to an affordable level, both of which constitute a cost to the general fund; or by the award of a discretionary housing payment (DHP). The Council has awarded Discretionary Housing Payments to households in temporary accommodation who are subject to the overall benefit cap.
- 6.4 Section 208(1) of the 1996 Act provides that so far as reasonable practicable a local housing authority shall in discharging their housing functions under Part VII of the 1996 Act secure that accommodation is available for the occupation of the applicant in their district. Section 208(2) further states that if they secure that accommodation is available for the occupation of the applicant outside their district they shall give notice to the local housing authority in whose district the accommodation is situated. In determining the suitability of the accommodation the local authority must take into account the considerations set out in the Homelessness (Suitability of Accommodation) (England) Order 2012. These include the location of the accommodation, whether it is outside the district of the local authority and the distance of the accommodation from the district.
- 6.5 The Homelessness (Suitability of Accommodation) (England) Order 2003 states that B&B accommodation is not to be regarded as suitable for an applicant with family commitments i.e applicants who are pregnant or with whom a pregnant woman or dependent children reside or might reasonably be expected to live. Where only B&B accommodation is available for occupation by an applicant with family commitments the applicant should not occupy the B&B accommodation for a period, which exceeds 6 weeks.
- 6.6 The Homelessness Reduction Bill, which was presented to Parliament in June 2016 had its second reading on 28 October 2016 and is likely to increase the Council's obligations. The objective of the Bill is to enable and encourage local authorities to intervene at an earlier stage to prevent homelessness; and to improve the provision of support to anyone who is eligible and homeless, regardless of priority need or intentional homelessness. When further Welfare Reform changes, including the introduction of Universal Credit, come into force it this may increase demand for housing assistance by those affected by the reduction in their entitlement to certain state benefits.
- 6.7 Local authorities have powers pursuant to section 120 Local Government Act 1972 to acquire land for the purposes of exercising their statutory housing functions. Section 12 of the 1972 Act gives local authorities powers to invest for any purpose relevant to its functions. The Council in exercising such powers must do so in a fiduciary manner.
- 6.8 Furthermore, section 9(1) Housing Act 1985 enables local housing authorities to acquire houses or convert buildings into houses for the provision of housing accommodation. Section 14 of the 1985 Act enables local housing authorities to exercise such powers granted pursuant to section 9 of the 1985 Act outside

their district in order to meet their statutory obligation to provide housing accommodation.

- 6.9 The proposal to use surplus land for temporary accommodation may require the council to use its powers to appropriate land under S.122 of the Local Government Act 1972. This enables land that is currently in Council ownership but held for a purpose for which it is no longer required, to be appropriated for another purpose, , subject to the rights of any other persons in, over or in respect of the land concerned.
- 6.10 Consideration should be given to costs and resourcing implications for management of the properties acquired outside the borough.
- 6.11 The Council is obliged as a best value authority under section 3 of the Local Government Act 1999 to “make arrangements to secure continuous improvement in the way in which its functions are exercised having regard to a combination of economy, efficiency and effectiveness’. Best value is in part a financial consideration in terms of value for money, not only the price that is paid when purchasing properties but consideration of savings from not paying, for example, the costs of bed and breakfast placement. The fulfilment of this duty is further addressed in paragraph 8 below.
- 6.12 It will be necessary for these schemes, if approved, to be included within the Council’s Medium Term Financial Strategy and the supporting Capital Strategy, and also incorporated into the 2017-18 capital programme. These are due to be considered by Council in February 2017.

Contracts and Procurement

- 6.13 It is noted that an indicative figure of £2.5m has been provided at paragraph 4.19 of this report for ‘professional fees, project management (Services) and works costs (Works) that will be required in relation to the acquisition of properties and refurbishment of Council owned properties.
- 6.14 The Council has power to enter into contracts for a third party to deliver the Works and Services which arises by virtue of section 111 of the Local Government Act 1972, providing the 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. Under section 1 of the Localism Act 2011, the Council has the power ‘to do anything that an individual may do’ ‘for the benefit of the authority, its area or persons resident or present in its area’. The Council may be satisfied that it has the enabling power(s) to initiate procurement exercises for the Works and Services and award any subsequent contracts pursuant to those tendering activities.
- 6.15 For the purposes of the Works and Services, it would be anticipated that there may need to be a range of tendering activity to meet the requirements as a whole. The total value of the anticipated Works would likely be under the £4,104,394 threshold contained in the Public Procurement Regulations 2015 (Regulations) and therefore strict compliance with it will not be required.

However, 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 (“TFEU”). With regards the requirement for Services, it would likely exceed the £164,176 threshold contained in the Regulations and as such, the Council would be required to comply with the Regulations fully. As noted above in paragraph 6.11, the Council has a best value duty which applies in respect of competitive tendering. Compliance by the Council with the Regulations, TFEU together with its own standing orders in respect of tendering (Procurement Procedures) for the Works and Services should assist in satisfying these obligations.

- 6.16 Executive approval for the Works will not be required given that the figures should be below the Regulations’ threshold and the Procurement Procedures and the Corporate Director may authorise any tendering activity and awarding Works contracts. With regards the Services it is not possible to determine the precise impacts of the Regulations and which process under the Procurement Procedures should be followed together with what further approvals may be required given that those requirements are to be confirmed. In light of this, when the financial and tendering models for the Services are established in detail, further advice from Legal Services must be sought. If the figures in relation to the Works exceeds the Regulations’ threshold stated above, Legal Services should be advised accordingly. At that time, due regard may also need to be given to the Equality Act 2010 and Public Services (Social Value) Act 2012 respectively.

Capital Estimates

- 6.17 Pursuant to the Council’s Constitution, full Council is responsible for the adoption of its budget and policy framework and which includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council’s borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- 6.18 The Mayor as the Executive has responsibility for preparing the draft plan or strategy for submission to the full Council and once a budget or a policy framework document has been agreed, it is the responsibility of the Mayor, the Executive and officers to implement it.
- 6.19 Subject to rules relating to virements, the Mayor, Executive, Committees of the Executive and any officers or joint arrangements can only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by the Council, then that decision may only be taken by the Council.
- 6.20 Provided therefore that the decisions to be taken are in line with the budget and policy framework agreed by full Council then the proposed recommendations are ones that The Mayor as the Executive can agree.

- 6.21 The Council is required when exercising its functions to comply with the duty set out in section 149 of the Equality Act 2010, namely to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity between those who share a protected characteristic and those who do not, and foster good relations between those who share a protected characteristic and those who do not. How this duty is met is addressed in the paragraph below headed 'One Tower Hamlets Considerations'.

7. ONE TOWER HAMLETS CONSIDERATIONS

- 7.1 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 and advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. This proposal involves the Council's exercise of its powers to acquire property by way of a lease for the purposes of providing for homeless persons. The allocation and use of those units for those households with family commitments will be determined in accordance with the statutory requirements to provide such accommodation, based on a number of relevant factors including priority need and suitability of accommodation. This service will, in accordance with the legal requirements, largely be of benefit to children. The majority of affected households are not currently accommodated within Tower Hamlets. This proposal presents an opportunity to provide good quality, suitable homes within easy reach of the Borough.

8. BEST VALUE (BV) IMPLICATIONS

- 8.1 The Council is required to consider the value for money implications of its decisions and to secure best value in the provision of all its services. It is important that, in considering the application of funding, Members satisfy themselves that resources are allocated in accordance with priorities and that full value is achieved.
- 8.2 This report is concerned with achieving best value with the application of Right to Buy Receipts to schemes resulting in effective use of the funding resource. The strategies and schemes considered will deliver value for money in meeting the Council's duty as a local housing authority.

9. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 9.1 There are no specific implications arising from the recommendations in this report.

10. RISK MANAGEMENT IMPLICATIONS

- 10.1 There are risks to the Council that in the longer term it will not be able to let all of the units in a timely fashion. However in the unlikely event that such a situation arises the Council would offer them to other London Authorities.
- 10.2 At present the Council has sufficient families which could be placed from B&B to utilise the units and it does not reasonably envisage a situation where it would be unable to use all of the properties. There is an added risk presented by welfare reform and the proposal to reduce the benefit cap by a further £3,000 which may mean the Council needing to subsidise the rents for families who are not in work. However this is a risk that applies to all non-working families in TA.

11. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 11.1 There are no significant implications arising from these specific recommendations.

12. SAFEGUARDING STATEMENT

- 12.1 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. 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

Appendices

- Appendix A – Housing Need Background in Tower Hamlets
- Appendix B – Temporary Accommodation through Off-Site Manufacture (OSM).

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

- None

Officer contact details for documents:

- n/a

Originating Officers and Contact Details

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APPENDIX A

Housing Need Background in Tower Hamlets

- 1.1 The September 2016 Housing Strategy Cabinet Report notes the following pressures on Housing in Tower Hamlets –
- Housing need – nearly 20,000 households on the Common Housing Register with over 50% in high priority need
 - Over 2,000 households accepted as homeless are in temporary accommodation with over 1,000 currently placed in accommodation outside Tower Hamlets
 - Projected housing need - evidence from both the GLA London and LBTH Strategic Housing Market Assessments estimate that LBTH will require an additional 58,000 homes by 2035
 - Population growth - Population expected to increase from 254,000 in 2011 to 370,000 by 2035
 - The shortage of affordable homes has led to an extremely heated housing market. The private rented sector has doubled in size over the past 10 years but rents are beyond the reach of households on average incomes are well above Local Housing Allowances
 - The Private Rented Sector is now the biggest single tenure at 39% of homes in the borough
 - Private market sales start at a minimum of £300,000 for an ex local authority right to buy flat and so even the lowest level of home ownership is beyond the means of average income households

Pressures on Temporary Accommodation

- 1.2 The number of households in temporary accommodation increases when the Council accepts a full homelessness duty to more applicants than have been re-housed via a permanent offer of accommodation.
- 1.3 Numbers in temporary accommodation have increased by just over 100 since April 2016, although a reduction of 54 was achieved in 2015/16, with Tower Hamlets the only borough in East London to reduce its numbers in temporary accommodation.
- 1.4 Table 1 below gives annual snapshots of placements by tenure over the last four years:

Table 1.

Tenure	Sep-2012	Sep-2013	Sep-2014	Sep-2015	Sep-2016
Hotels	100	235	175	267	170
Nightly Lets	-	-	185	421	618
Private Licensed Accommodation	1,481	1,491	1,297	1,055	954
Non Secure Tenancies (Council)	104	133	140	143	160
Non Secure Tenancies (RSLs)	59	81	90	104	141
Assured Shorthold Tenancies	85	89	86	60	89
TOTAL	1,829	2,029	1,973	2,050	2,132

- 1.5 The number of homelessness applications reduced when Tower Hamlets amended its Lettings Policy in 2010 which removed perverse incentives for people in housing need to apply to the Council as homeless.
- 1.6 The impact of this policy change on homelessness demand is illustrated in table 2 below, bearing in mind the policy was implemented in October 2010. These figures should be seen in the context of a 20% increase in the number of homeless acceptances in East London in the last 12 months.
- 1.7 The use of Bed and Breakfast for families with dependent children is only permitted in an emergency and for a maximum of 6 weeks. The '6-week rule' does not apply to emergency accommodation owned or managed by the Council or Registered Providers.

Table 2.

Year (Calendar Year)	Homeless Applications	Homeless Acceptances	Lets to Homeless Households (Financial Year)
2009	1,011	784	
2010	911	575	
2011	685	418	377
2012	681	417	324
2013	822	524	322
2014	744	512	265
2015	733	568	459
2016 (to June)	299	249	122 (to August 2016)

- 1.8 The number of units of Private Licensed Accommodation (PLA) temporary accommodation has fallen because as private rents have increased landlords have become more reluctant to let their properties to the Council as we cannot match their desired rent levels. Temporary accommodation subsidy has remained unchanged at 90% of LHA + £40 per week since 2011. This formula was achieved by asking the providers to accept a rent reduction in 2010, which meant they received no rent increase until the Council awarded an increase of £10 per week in 2014. This increase was not sufficient to stem the loss of PLAs and a further increase of £30 per week was applied in 2015.
- 1.9 This resulted in only 114 new PLA properties being procured compared to 56 the year before and the rate of voids being offered for re-letting increasing from around 10% to 36%.
- 1.10 Private sector rents in East London increased by 18% in the 12 months to September.
- 1.11 LBTH has therefore been forced to use so called 'nightly lets' – self-contained accommodation let on a nightly basis - which are more expensive.
- 1.12 The level of churn in self-contained temporary accommodation is over 50% per annum. At present around 60% of all PLA voids are not offered back to the service for re-letting, which means that unless there is a substantial and rapid reduction in the number of homeless households in temporary accommodation there will be an increased demand for nightly lets. The Council needs to procure around 500 self-contained private rented sector properties a year to replace the stock lost through churn.
- 1.13 This shortage of temporary accommodation led to a large increase in families in bed and breakfast accommodation; and we have been in breach of the law because families have been in B&B for more than 6 weeks. In the past few months we have focused on dealing with this problem and have managed to eliminate this unlawful status.
- 1.14 An analysis of Bed and Breakfast Accommodation Usage (April 2013 to September 2016) is shown below.

Table 3.

Date	Number of families placed in Bed & Breakfast Accommodation	Number >6 Weeks
8 April 2013	101	48
7 April 2014	112	46
7 April 2015	208	147
6 July 2015	243	166
4 April 2016	51	12
30 September 2016	29	0

- 1.15 The costs of temporary accommodation have risen significantly, putting a burden on both the Housing Benefit service and General Fund budgets, as well as increasing the demand for Discretionary Housing Payments. Table 4 illustrates the funding position, giving the total cost to the Authority of providing temporary accommodation:

Table 4.

2012/13	£4.1 million
2013/14	£7.3 million
2014/15	£6.5 million
2015/16	£7.9 million

- 1.16 There is a difference in the average annual cost to the Council of different types of temporary accommodation, Bed and Breakfast being the most expensive for families followed by nightly lets and then Private Licensed Accommodation (PLA):

Table 5.

Bed and Breakfast	£9,000
Nightly Paid Accommodation	£6,500
Private Licensed Accommodation	£3,500

- 1.17 The costs of accommodating homeless households in the private sector are unsustainable, and will become even higher when the overall benefit cap is reduced and Universal Credit rolled out.
- 1.18 There are financial advantages to using our own housing stock. At present the Council is using 160 properties, mainly from regeneration schemes as temporary accommodation. This enables these properties to continue to generate HRA income – 125% of the social rent is paid in recognition of the higher costs of using these properties, and they also generate a General Fund income to cover the management costs of using the properties, with rents capped at the temporary accommodation subsidy level. These properties are let on non-secure tenancies, and prevent revenue expenditure being paid to third parties. While agreement has been given to permit the use of up to 100 social housing voids per annum as temporary accommodation, this is not a productive use of general needs stock as it reduces the quantum of properties available for letting to families in housing need, of which homeless households constitute 16%.
- 1.19 As well as a financial problem there are also significant service delivery issues and adverse impacts on homeless applicants. The quality of some B&B accommodation is questionable and there are issues of accommodating families in the same establishments as vulnerable and sometime challenging adults.

1.20 The Council is unable to inspect all private leased and nightly let accommodation before families move into them. As the accommodation procured is at the lower end of the rental market it is difficult to maintain acceptable quality. Furthermore, the difficulties with procurement have resulted in an increasingly dispersed TA portfolio which presents significant management problems, undermines efficiency and increases costs.

APPENDIX B

Temporary Accommodation through Off-Site Manufacture (OSM).

1. As a member of the East London Housing Partnership (ELHP) the borough was party to a study conducted by Arcadis. The commissioned study explored the potential role that modern methods of construction, referred to as off-site manufacture (OSM), could play in supporting members of ELHP in the provision of TA. The specific application of OSM that assessed in the report was relocatable, pre-fabricated units deployed on short-life sites.
2. The use of short-life sites has advantages with respect to planning and flexibility with respect to the long-term use of public land.
3. The principle behind the temporary housing solution is the adoption of offsite methods of construction to accelerate speed of construction and to use demountable components that can be disassembled and reused in other locations. The principle is well-proven in connection with accommodation provided for construction projects but has not been applied widely elsewhere.
4. Offsite manufacture (OSM) is a well-established but niche construction technique in the UK. Currently, OSM is typically used in sufficient volume in the delivery of student and military accommodation to deliver mature, value for money solutions. According to Government data, OSM accounts for 7% of the UK new build housing market, equivalent to £1.5 billion per annum, which delivers approximately 10-15,000 homes per annum. Most of this OSM is based on simple timber frame solutions.
5. The recent increased interest in OSM has partly been driven by the skills shortage and labour cost issues within the UK construction sector, which has been a major constraint to solving the country's housing crisis. In early 2016, the GLA Conservative Group published a report called 'Pop-Up Housing' promoting the use of modern methods of construction (MMC) developments in order to reduce rent levels in London by a third. It focused on using innovative methods to tackling London's housing shortages. The GLA have also part-funded two MMC schemes: YMCA North East London's MyPad development (30 units) and YMCA London South West's Y:Cube scheme (36 units) through the Building the Pipeline programme. Both schemes are used to accommodate residents of the YMCA hostel once they have moved on.
6. Funding for MMC developments is available as part of the GLA's 2011-15 and 2015-18 affordable housing programmes in line with Policy 7 of the current London Housing Strategy, with funding mechanisms offered on a flexible basis.
7. The OSM industry has the potential to alleviate some of the problems faced in the construction industry without impacting on inflation. This demand – focused on transferring construction activity away from site - is encouraging the development of solutions with greater levels of pre-fabrication which will be more suitable for temporary, relocatable solutions.

8. Key characteristics of OSM that are relevant to Tower Hamlets considerations include:

Factory build solutions	Involving assembly under controlled conditions, providing better quality control and a safer, more attractive working environment for operatives. Automation of manufacturing processes is not always necessary, and in many OSM plants, many on-site processes are replicated in the factory. The pre-manufacture of units will be important to accelerate delivery on site
Building performance	Performance is typically better than in-situ construction. Higher levels of thermal performance are easier to achieve at a lower cost premium. This is important to provide a high quality environment with low running costs
Compression of the construction programme	Ability to compress the construction programme. Modules are typically manufactured in parallel to the foundations and site works. Pre-installed building services additionally reduce time and labour on site. Using OSM, project start to completion times have been cut by up to 50%. This will help make best use of the temporary sites that are available
Reduced site work	Factory production significantly reduces site work and associated disruption. Typically site labour requirements are 20% of a conventional build. Locating work in a controlled environment improves overall health and safety performance and site security. Faster overall construction, including the elimination of days lost to inclement weather reduces disruption to neighbours and will accelerate completion.
Reduced traffic movements	A study undertaken by WRAP and ARUP found the reduction in traffic movements to be 82% on modular projects compared to traditional construction – this will be important in congested urban environments where construction disruption may be a planning consideration
Reduced waste	Waste is reduced, partly due to secure storage in suitable conditions as well as the ability to pre-order custom sized materials such as wall-board.
Quality	Quality is also promoted by better programming of trades, reducing the risk of damage to completed work, resulting in less snagging and delivery of a higher quality finish.

9. Based on recent research, Arcadis has identified that the UK OSM market is still largely dominated by SME businesses, however, recent high profile initiatives in OSM led by Legal & General (L&G) and Laing O'Rourke may introduce more capacity into the market. For example, L&G have been collaborating with 24/7 Living. These investments are clearly focused at

housing delivery at a strategic level – in the case of Laing O'Rourke with L&Q's large scale programme. Arcadis assess that east London's requirement is most likely to be delivered by a medium-scale provider, who could use a partnership to support investment and expansion.

10. Arcadis have estimated the cost of delivery of an OSM solution at circa £2,250m², therefore a potential 50 unit scheme would have an estimated cost of £9.2m (£184k per unit).
11. It is recommended that the Corporate Director Development & Renewal be authorised to undertake further viability testing of this model and report back to Cabinet in 2017.