For General Release

REPORT TO:	**CABINET 19th JUNE 2017**
AGENDA ITEM:	**11**
SUBJECT:	**Delivery of affordable housing**
LEAD OFFICER:	**Executive Director Resources - Richard Simpson**
CABINET MEMBER:	**Alison Butler, Cabinet Member for Homes, Regeneration and Planning** **Simon Hall, Cabinet Member for Finance and Treasury**
WARDS:	**All**

CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON

To provide a decent, safe and affordable home for every local resident who needs one.
To help families be healthy and resilient and able to maximize their life chances and independence.
To protect children and vulnerable adults from harm and exploitation.
To create a place that communities are proud of and want to look after as their neighbourhood.
To be innovative and enterprising in using available resources to change lives for the better
To drive fairness for all communities, people and places.

FINANCIAL IMPACT

The proposed limited liability partnerships once fully operational, through a combination of the lease agreements, interest income and removing subsidies currently in place, will generate a general fund benefit of approximately £1.4m per annum.

The LLPs will utitlise an estimated £25m of right to buy receipts that the Council does not currently have the capacity in the housing revenue account to use and therefore enable the borough to benefit from their application rather than having to repay to central government.

The proposals will see the Council take on further debt of approximately £50m to lend to the LLPs. The financial models demonstrate the ability of the LLPs to repay these debts over 40 years in line with the length of the initial period of the proposed leases.

FORWARD PLAN KEY DECISION REFERENCE NO. 04.17.CAB: This is a Key Decision as defined in the Council's Constitution. The decision may be implemented from 1300 hours on the expiry of 5 working days after it is made, unless the decision is referred to the Scrutiny & Overview Committee by the requisite number of Councillors.

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

The Cabinet is recommended to:

1.1 Agree to set up and enter in to separate limited liability partnerships with a new charity for the purpose of managing:
   1. The affordable rent properties to be developed by Brick by Brick (Croydon) Ltd;
   2. The street properties purchased by the Council at market rates; and
   3. The affordable rent properties to be developed by Hub at the former Taberner House site.

1.2 Agree to enter in to leases with the respective limited liability partnerships for:
   1. The land to be developed by Brick by Brick (Croydon) Ltd for the affordable rent units;
   2. The completed affordable rent units on the former Taberner House site/the land to be developed by Hub at the former Taberner House site.

1.3 Delegate authority to the Executive Director Resources in consultation with the Cabinet Member for Finance and Treasury to agree to set up and enter in to a limited liability partnership with a new charity for the purpose of managing the street properties purchased by the Council at market rates.

1.4 Agree to the granting of retained right to buy receipts to the respective limited liability partnerships to use to increase designated affordable housing for borough residents.

1.5 Agree, where permissible, to grant relevant commuted Section 106 monies for affordable housing to the LLPs for the delivery of appropriate units.

1.6 Agree the proposed rent levels for the affordable rent properties developed by or acquired by the respective limited liability partnerships be a maximum of 65% of market rent, and not more than the Local Housing Allowance.

1.7 Delegate authority to the Executive Director Resources, in consultation with the Cabinet Member for Finance and Treasury, to agree and enter in to arms length loans with the respective limited liability partnerships at appropriate market normative rates for the purposes outlined in this report.

1.8 Instruct the Executive Director Resources to update the agreed treasury management strategy to reflect the borrowing requirement and lending agreements with the respective limited liability partnerships for formal approval by Council.

1.9 Delegate authority to the Executive Director Resources, in consultation with the Cabinet Member for Finance and Treasury, to take such steps as are necessary to appropriate land from the Housing Revenue Account to the General Fund to the extent that this is required to successfully implement the above recommendations and proposals set out in this paper.

2. EXECUTIVE SUMMARY

2.1 To enable the increase of the provision of affordable housing in the borough, the Council, potentially via wholly owned entities, intends to enter in to three separate limited liability partnerships (LLPs) with a local charity to develop units across the borough and street purchased properties as affordable rented homes.

2.2 The LLPs will be able to utilise the Council's retained right to buy receipts, which it is unable to due to the limited resources in the housing revenue account, with the Council acting as lender for the balance of the funds for the purchase of the leases and development of the sites. If the Council did not use the right to buy receipts in this manner, they would have to be repaid to central government with interest.

2.3 The Council will retain a long term interest in the properties via the freehold of the sites or properties and receive an income stream in to the general fund from each LLP. The impact on the Council's general fund, once all properties are fully available, is an ongoing benefit of £1.4m. Additionally, there will be capital gains on the previously purchased units and, through arms lengths agreements with the LLPs, a contribution to the Council's fixed costs.

2.4 These proposals will, as a result of the Council's initiative and support, enable 340 affordable rent properties to be created in the borough without public subsidy.

2.5 The properties will be at rents that would be affordable for couples working at the London Living Wage or in receipt of the local housing allowance (LHA). The homes would also be let on longer tenancy agreements to provide greater certainty and security to local residents.

3. BACKGROUND

3.1 The Council has an ambition to significantly increase the provision of affordable housing available to local residents within the borough and to provide a vehicle to provide much needed affordable rented product in Croydon.

3.2 The Land Registry House Price Index shows that Croydon has seen a near 70% rise in the average price of a property over the last 5 years. The ease of travel into Central London, comparative affordability for both first time buyers and the growing number of renters migrating from central London plus potential for capital growth has seen property values in Croydon rise significantly.

3.3 Research by Countrywide in 2014 showed that 93% of landlords own just one property. However, this landscape is changing with an increase in institutional investment, which is estimated to rise nationally from £15bn in 2015 to £50bn by 2023, and this will result in much more supply into the private rented market. It is unclear how much of the investment will be targeted towards social and private social tenures.

3.4 The prospect of increasing demand, changing landlord attitudes and competition from neighbouring authorities limits our ability to place households in suitable accommodation. The Council is at risk of becoming increasingly reliant on nightly charged rates for bed & breakfast accommodation for a growing proportion of households, which is both unsustainable and potentially non-compliant with our responsibilities. There are also limits to the availability of emergency accommodation, which puts the council at risk of having to use commercial hotels in extreme circumstances. Finally, placing families in to emergency accommodation is highly detrimental to their welfare and is therefore only ever used as a last resort.

3.5 As a result, there is a need to bring forward initiatives to enable the delivery of affordable rent properties quickly. These includes the development of Council owned sites and a review of residential units previously purchased by the council at market rates and used, with a significant subsidy, for temporary accomodation

3.6 The development of sites by Brick by Brick (Croydon) Ltd will lead to an increase in the number of affordable rented properties in the borough. The Council is also undertaking a review of properties previously purchased by the Council at open market value.

3.7 The Council will then seek a solution that enables it to take forward opportunities for affordable rent units on other sites with other developers. The first of these is with Hub at the former Taberner House site.

3.8 A central driver to the development of the recommended solutions in this report is ensuring that the models can be made to work at a rent level which is truly affordable for the residents of the borough. Whilst the definition of affordable rented properties allows for weekly rents of 80% of market rent, these proposals are based on letting the units at up to 65% of market rent. That equates to target rents of approximately £900-£1150 per month for a two bedroom property.

3.9 By targeting rents at this level, it puts these properties within the reach of a couple in work on the London living wage whilst by establishing their rent at approximately 1/3 of their incomes. Similarly, the local housing allowance for Croydon is £915 or £1153 per month depending on which part of the borough a property is located in making the properties affordable for those in receipt of that support via housing benefit or universal credit.

3.10 Many of the same properties could be let in excess of £1400 per month and still meet the government definition of affordable rented properties. At that level, however, the homes would not be affordable to many Croydon residents and, therefore, significantly reduce the social and economic benefit of the enabled investment.

3.11 A further factor to consider in developing the recommended models is that the Council's Housing Revenue Account (HRA) is under significant financial pressure due, notably, to the government imposed 1% annual rent cut. As a result, to balance the most recent HRA business plan, the housing new build programme was cut with the limited available capital resources focusing on delivering decent homes and improvements for existing Council tenants.

3.12 The impact of this is to leave approximately £25m of capital receipts that can only be used towards new properties which are unused by the end of the 2016/17 financial year. As such monies can only fund 30% of total development cost, and there is no HRA capacity to find the balance, the £25m will have to be repaid to central government (together with interest) unless an alternative route can be found to utilise the funds.

4 Proposed delivery structure for affordable rent homes

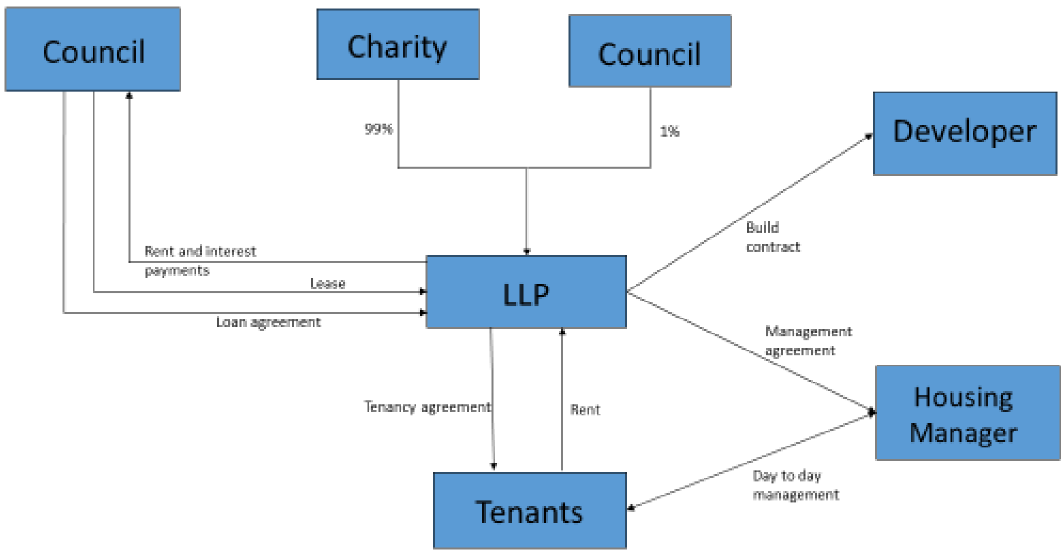
4.1 As a result of there being no available headroom within the HRA, to make use of the available right to buy receipts, the monies have to be utilised through an entity in which the Council does not have a controlling interest. The proposed solution, therefore, is to create a special purpose vehicle (SPV), as a limited liability partnership (LLP), between a new local charity and the Council, or a wholly owned Council entity, with the latter taking a minority interest. As the majority partner of the SPV, the charity will have the controlling interest in it.

4.2 The SPV will lease the affordable rent units or develop them on land leased from the Council and be responsible for their ongoing management. Accordingly, it would be required to put in place the relevant agreements to ensure each of these. The Council will provide loan finance at an acceptable rate on market normative terms to the LLP to meet the cost of developing the schemes or purchasing the lease.

4.3 This structure has been chosen to prevent unnecessary tax leakage (the LLP is tax transparent and so the members of the LLP remain the taxaqble parties). Surpluses are likely to arise over time and under the this structure these would flow to the General Fund (GF) as lease payments.

4.4 Similarly, the Council could pursue a Community Benefit Society (CBS), which would also allow the use of Right to Buy receipts, but, crucially, any funds that build up inside the CBS can only be used by it for its purposes and cannot flow back to the Council to support the General Fund.

4.5 The development of the sites will be led by either Brick by Brick or Hub and, therefore, a separate development agreement between the LLP and the relevant developers, i.e. Brick by Brick and Hub, will have to be entered into.



4.6 The lease, together with the nominations agreement which follows from the granting of right to buy receipts, enables the Council to specify the rent levels and lettings policy for the units ensuring priority for Croydon residents. The key points that the lease will specify are:

- Properties will be let in line with the Choice Based Lettings policy;
- Rents at a maximum of 65% of market rent;
- No rent reviews for existing tenants with increases limited to inflation at the point specified in the tenancy agreement;
- Rents to be reviewed to realign to 65% of market rent only when properties become vacant;
- Tenancies should be for a minimum of three years.

This will ensure that the properties remain genuinely affordable for local people and provide them with greater security and certainty in their homes.

4.7 It is not intended that the LLPs undertake the heavily resourced housing manager duties. Instead, an experienced provider will be appointed to fulfil that role. This will require the development of a detailed service specification with appropriate performance standards, incentives and penalties between the LLP and the housing manager. The intention is that this role is provided by the Council's Housing Solutions service on open market terms subject to the agreement of the LLP.

4.8 The LLP will need a level of administration, governance and finance support to ensure the processing of relevant transactions, oversee the finances of the partnership and monitor the contractual performance of the housing manager. It is proposed that this is provided by the Council in the first instance, on market terms, with an estimate of 1.5 – 2.0 FTE assumed for planning purposes.

4.9 In addition to the use of right to buy receipts, the Council will seek to ensure that the LLPs are able to receive any commuted section 106 monies from developers made in lieu of providing affordable housing. Where this occurs, it will reduce the reliance on debt by the LLPs.

4.10 For each vehicle, an allocation will be made as a retention inside the LLP which the charity will be able to access to reflect its activity and risk as the majority member under each structure. This also ensures that the LLP is not viewed as a corporate body for tax purposes. The charity has the freedom to use these monies as it sees fit in line with its charitable objectives.

5 Programme 1 – Brick by Brick led developments

5.1 In June 2016, building on a number of earlier reports that had outlined Members priorities for housing, Cabinet agreed for a number of sites in Council ownership across the borough to be developed for housing.

5.2 Cabinet also agreed that all of those sites were to be developed by the newly created, wholly owned development company, Brick by Brick, and this is reflected in the subsequently agreed Brick by Brick business plan in February 2017. Brick by Brick do not, however, intend to operationally manage the affordable rent units, however, and therefore an appropriate structure needs to be developed and put in place for that purpose.

5.3 The initial tranches of sites put forward for planning by Brick by Brick will see the construction of a maximum of 151 affordable rent units across a range of sites.

5.4 The original intention was for all sites to transfer to Brick by Brick to be built out and then for the affordable rent units to be sold back to the Council (or another vehicle) on completion. Whilst this structure has the benefit of simplicity and delivers the requisite units, it does not enable both the use of the Council's right to buy receipts and to subsequently benefit from any surpluses or capital appreciation achieved from the properties. As a result, it was identified that an alternative approach was needed and one that has the potential to be applied more broadly.

5.5 The proposed structure is in line with section 4 above with the land leased to the LLP who will enter in to a development agreement with Brick by Brick to build units on the site.

5.6 The LLP will be able to use right to buy receipts to meet 30% of the relevant permitted development cost with the Council providing an arms length loan on market normative terms for the balance of the funding required.

6 Programme 2 – Review of existing owned residential units

6.1 Between 2013 and 2014, the Council purchased 96 properties at market rates which it has subsequently made available as temporary accommodation to mitigate the high cost of homelessness in the borough and to ensure that families are not spending long periods in bed and breakfast.

6.2 Whilst these properties are substantially cheaper to operate than expensive bed and breakfast placements, because they were purchased at full market cost, there is a net cost to the Council of operating them of £278k per year, as shown in the table below. This excludes any provision for insurance, the creation of a life cycle maintenance fund and any specific provision for bad debts.

	2017/18 £000
Rental income	(873)
Management/Mtnce	190
Voids	42
Interest	481
Repayment of borrowing	438
Deficit/(Surplus)	**278**

6.3 If the units were let at a full market rent, the Council could anticipate an additional £400-600k in income and that is a truer reflection of the subsidy currently being provided.

6.4 Though letting at full market rent is an attractive financial solution for the Council, that would not increase the supply of affordable housing for local residents so, as an alternative, it is proposed to transfer the units to another provider who would formalise the properties as affordable. This provider would pay a premium for the 96 units but, as they are becoming recognised affordable rent units, could, through the right structural solution, qualify for the use of right to buy receipts.

6.5 The income from the premium for the lease enables the Council to realise the capital appreciation in the value of the 96 properties since purchasing in 2013 and 2014.

6.6 The long leasehold of the units based on the current rent has been independently valued by GVA to satisfy S123 of the Local Government Act 1972 that the Council has obtained best consideration for the grant of the lease to the LLP.

6.7 As part of the terms of the transfer, the Council would retain nomination rights for the units. The residents of the properties, who are currently occupying under a licence, would be issued with new shorthold assured tenancy agreements. This would enable the Council to discharge its statutory homelessness duty for these households under the Housing Act 1996, part VII as amended by the Homelessness Act 2002 and the Localism Act 2011.

6.8 As the properties will become designated affordable properties upon transfer, as opposed to market rent properties the Council is subsidising, the LLP will be able to utilise right to buy receipts to meet 30% of the cost of the premium. The balance will be loaned to the LLP on arms lengths market normative terms by the Council.

6.9 In order to reduce the level of outstanding debt to the Council, it is proposed that the LLP will forward sell for a specified period part of the annual income it receives from the 96 units to an investment fund and specialist advisers have been appointed to ensure the value of the receipt. This will generate a one off receipt for the LLP which it will use to repay part of the debt and reduce its annual interest charge. It will also enable the Council to clear all debt it has in relation to the 96 units. As part of the agreement with the investor, it is anticipated that the LLP will need to create a reserve in which to hold at least one year of payments to the fund. The cost of doing so has been incorporated in to the total cost of the programme.

6.10 To date, the Council has earmarked 96 appropriate properties but this could potentially increase if further suitable units are identified.

7 Programme 3 – Taberner House development

7.1 The former Council offices site is to be developed by Hub along with the regeneration of the Queens Garden. The proposed scheme will deliver approximately 500 units and the planning application identifies c93 affordable rent units.

7.2 The proposal is to lease these units to an LLP who will be able to utilise right to buy receipts for 30% of the development cost. The balance will be loaned to the LLP on arms lengths market normative terms by the Council.

8. Next steps and timescale

8.1 The key stages in the implementation of the proposed structure are:

1) Form charity
2) Form LLP(s)
3) Grant of lease of land or properties from the Council to LLP(s)
4) Draft loan agreement(s) between Council and LLP(s)
5) Draft either:
    (i). Development agreement between Brick by Brick and LLP; or
    (ii). Development agreement between the Hub and LLP
6) Draft management agreement(s) between Housing Manager and LLP(s)
7) Draft nominations agreement
8) Draft tenancy agreement between LLP(s) and tenants

8.2 Based on the agreement of the recommendations in this report, it is expected that stages 1-4 can be completed for programme 2 by the end of September to enable expenditure by the LLP in quarter two of the 2017/18 financial year. This will enable the granting of right to buy receipts by the Council to the LLP in that period rather than having to repay to central government.

8.3 To enable the implementation of the proposed structure, the Council has appointed K&L Gates as external legal advisers to work alongside the in house team.

9. CONSULTATION

9.1 Full consultation of the contents of this report has taken place with the relevant Cabinet Members, Council officers and external advisers.

9.2 The new build development schemes will be subject to the normal planning application and consultation processes.

10 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

Financial Model Assumptions

10.1 The profit and loss account for the LLPs are based on a number of assumptions which, if varied, have an impact on the projected surplus. The key assumptions are:

- Rents at a maximum of 65% of market rent
- A rate of interest of 3.5% subject to advice on compliance with State Aid rules
- Council borrows at 2.75% providing a margin of 0.75% on debt leant to the LLP
- Development period interest being rolled up and added to the loan for programmes 1 and 3
- All loans to be fully repaid by the LLP over 40 years
- A life cycle/major maintenance fund being established from the fifth year of operation for programmes 1 and 3 (to reflect the warranty on new build properties) and immediately for programme 2 (which are all over five years old)
- An income strip sale of £350k on programme 2 as the income flow is already established and enables the Council to clear all of the original debt relating to the purchase of the properties via a cheaper source of funds to the LLP. Once the other programmes are implemented, the same approach could be considered to refinance some or all of the debt in the other LLPs.

Level of Investment

10.2 The forecast development/purchase cost of all three programmes, including development period interest and implementation costs, is £86.241m. This will be funded by a loan from the Council to the LLP of £61.309m and £24.932m right to buy receipts.

	Total £m
Total cost	86.241
RTB Receipts	(24.932)
Debt financing	61.309

LLP Consolidated Profit & Loss Account

10.3 Whilst all three programmes stand alone as decisions, pulling the three in to a single account, though this does not reflect the legal structure, demonstrates the scale of the housing operations being delivered.

	2017/18 £000	**2018/19 £000**	**2019/20 £000**	**2020/21 £000**	**2021/22 £000**	**2022/23 £000**
Rent	(542)	(1,812)	(2,975)	(3,836)	(4,414)	(4,525)
Management/Mtnce	96	309	496	635	727	745
Insurance	24	77	124	159	183	187
Voids/Bad Debt	22	72	118	155	179	184
Clienting/Support	10	33	53	68	79	82
Interest	136	637	1182	1549	1795	1795
Repayment of loan	36	148	229	248	267	286
Life Cycle fund	27	54	56	57	159	226
Net Rent	**(191)**	**(482)**	**(717)**	**(965)**	**(1,025)**	**(1,020)**
Income sold	175	350	359	368	377	386
LLP Retention	13	43	76	106	109	111
Deficit/(Surplus)	**(3)**	**(89)**	**(282)**	**(491)**	**(539)**	**(523)**

10.4 The LLP rentention, as noted in 4.10 above, is for the majority partner charity to spend in line with its objectives for the benefit of the local area and local residents.

10.5 This consolidated P&L is purely illustrative as the three LLPs are entirely stand alone legal entities albeit with the same partners and, therefore, such an account would not be legally required or produced.

10.6 Once fully operational, the financial benefit from the LLP surpluses, interest income and subsidy provided by the general fund homelessness budget is approximately £1.4m.

	£000
LLP Surplus	539
Net interest on LLP loans	596
Existing homelessness subsidy	278
Total	1,413

10.7 As noted in the assumptions above, all models are based on a maximum rent of 65% of market rent.

Right to Buy receipts

10.8 The forecast available right to buy receipts are:

Year	Unused receipts £m
2014/15	5.272
2015/16	8.067
2016/17 (forecast)	11.542
Total – Current	**24.881**
2017/18 (forecast)	10.000
2018/19 (forecast)	10.000
Total – Forecast	**44.881**

10.9 The three programmes in total use an estimated £24.932m of receipts and therefore utilise anticipated receipts in 2017/18 in addition to those available at the end of March 2017.

	2017/18	2018/19	2019/20	2020/21	Total
Receipts b/f	24.881	26.861	27.079	30.579	
New receipts	10.000	10.000	8.000	8.000	36.000
Programme 1	(0.900)	(3.225)	(4.500)	(2.700)	(11.325)
Programme 2	(7.050)	-	-	-	(7.050)
Programme 3	-	(6.557)	-	-	(6.557)
Receipts c/f	26.861	27.079	30.579	35.879	

10.10 By incorporating Right to Buy receipts as, effectively, grant to the schemes, the reliance on borrowing is reduced by up to 30%. If the full £24.932m of receipts currently available are utilised through this structure, it would reflect an annual reduction in interest and repayment costs of £1.5m based on a 40 year loan at 3.5%.

10.11 If the right to buy receipts are not used, the monies would have to be repaid to central government with an interest charge on the unutilised funds. The HRA has budgeted for this eventuality with a provision of £3.4m for the interest over the next three years. As a result of these proposals, these funds can be released within the HRA for the benefit of Council tenants.

10.12 The SPV, by virtue of being an LLP, is a separate legal entity with its own legal personality. It is not a subsidiary of the Council (and the Council has no controlling interest in the LLP) and therefore there is no possibility that it is a relevant landlord in relation to which occupational tenants could acquire or accrue the Right to Buy or Right to Acquire. This removes a substantial risk that could exist in the financial model of a reducing income generating asset base.

Programme Costs

10.13 It is expected that all programme costs, including any implementation resources within the Council and legal fees, will be charged to the respective LLPs. These will be capitalised by the LLPs and funded from the loans from the Council.

10.14 The estimated implementation costs across all three programmes are £1.4m including approximately £900k of external and internal legal costs. The highest costs relate to programme two due to the additional workstream of the income sale to an investor.

Treasury Management

10.15 Both the Council and the LLP will seek to manage their cash flows to avoid the cost of carrying expensive loans for significant periods of time before the monies are either on lent or paid over to the developer.

10.16 The Council has received advice from its appointed treasury management advisors, Capita Asset Services, on compliance with the regulations on state aid and that it can lend to the LLPs at a rate of 3.5%. The Council will have the option to charge an arrangement fee to the LLPs as a commercial lender would.

10.17 For the Council, it will seek to use its working cash balance, currently c£120m earning an average rate of return of c0.5%, to meet interim calls from the LLP. It will then enter in to long term loan agreements to match the loan terms agreed with the LLP. It is anticipated that the Council will be able to secure the funding below the 3.5% agreed with the LLP and therefore can expect to make a margin from lending.

Minimum Revenue Provision

10.18 The Council will need to develop and agree with the External Auditor a suitable minimum revenue provision policy, i.e. how it will and how much it will set aside for the future repayment of any loans taken out to on lend to the LLP.

10.19 The nature of the assets that the loans will provide, the expectation that they will substantially increase in value over the life of the loan and that they will revert to the Council under the terms of the lease in the future, gives significant flexibility over the development of such a policy. The policy will need to balance prudence, future financial risks and the need for cash returns in a climate of government cuts.

Payment Mechanism

10.20 As part of agreeing the lease and loan, the Council will wish to specify the payment mechanism and, more particularly, the order in which payments are made to protect its position as freeholder and lender. This order would be to prioritise the payment of insurance and the life cycle fund ahead of the housing manager. In the case of programme two, it will also prioritise the payment of the income sale ahead of everything except the insurance costs.

10.21 The LLP will want to develop a suitable payment mechanism with the housing manager to incentivise performance with appropriate rewards and deductions according to delivery.

Client Management and Support

10.22 To deliver its organisational duties as a landlord, the LLP will need an element of administration, finance and contract support. This will ensure that regular meetings are held, the housing manager performance is monitored and the annual accounts are prepared. This resource has been estimated as 1.5-2.0 FTE over the course of a year and has been built in to the profit and loss account above. For modelling purposes, this has been split 50% to programme 1 and 25% each to programmes 2 and 3 approximately in proportion with the units in each.

Housing Demand

10.23 It is considered that for at least the next 10 years that the housing market in London and the South east will be characterised by rising demand and increased barriers to entry caused by rising house prices, rising rents and population growth. Beyond 10 years it is difficult to say with any certainty what housing policy will be in place or what structural housing market changes may have occurred and, therefore, given the length of the investment in these properties, there is a residual demand risk which cannot be mitigated.

New Homes Bonus

10.24 The changes to New Homes Bonus mean there is not direct relationship between the homes developed through the programmes in this report and the grant received by the Council. The units developed through programmes 1 and 3, however, will contribute to achieving the threshold above which New Homes Bonus is paid and bringing that source of funding in to the Council.

Approved by – Lisa Taylor, Director of Finance, Investment and Risk

11. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

11.1 On behalf of the Director of Law and Monitoring Officer it is commented that the Council has taken extensive and detailed advice on the structure detailed in this report and the legislative framework and powers relevant to this structure. Of particular relevance is Section 1 of the Localism Act 2011 which gives the Council (subject to certain restrictions) the power to do anything that individuals generally may do. Section 111 of the Local Government Act is also relevant. Under section 111, the Council may do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any of its functions, whether or not involving expenditure, borrowing or lending money, or the acquisition or disposal of any rights or property.

11.2 In implementing the recommendations set out in this report, and in order for the housing units to be accounted for in the Council's General Fund it will be necessary for the Council to appropriate the land upon which those units are to be situated from the Housing Revenue Account into the General Fund. Depending on the circumstances this may need to be done either through the Housing Act 1985 or section 122 of the Local Government Act 1972. Officers will consider the appropriate route at the time, taking advice as necessary and taken into consideration any comments made following any public notifications of the intention to appropriate. The recommendation in this report delegates authority to the Executive Director of Resources, acting in consultation with the

Cabinet Member of Finance and Treasure, to take such steps as necessary to effect any necessary appropriation from the Housing Revenue Account to the General Fund.

11.3 Where the Council provides financial assistance to the LLP(s) the Council may use its power under section 24 of the Local Government Act 1988 (the 1988 Act) to do so. The exercise of this power is subject to Secretary of State consent. There is an existing General Consent under section 25 of the Local Government Act 1988 under which “a local authority may provide any person with any financial assistance (other than the disposal of an interest in land or property).” In due course, Officers will take advice on whether this General Consent may be relied on or whether a specific consent is needed. This will depend in part upon detailed valuations. Similarly the Council will need to be mindful of State Aid and Procurement considerations, ensuring that any lending to and/or trading with the LLP(s) is market compliant and meets any necessary procurement regulations. Officers will keep under review and take advice on this as necessary whilst the proposals set out in this report progress, ensuring that all arrangements are structured so as to be State Aid and Procurement compliant.

11.4 In the context of the existing proposals the also statutory provisions are also relevant:

- Section 8 of the Housing Act and Part 7 of the Housing Act 1996 under which the Council is required to consider housing conditions and needs within the Borough including addressing homelessness. Providing accommodation which helps discharge this duty can be via an LLP set up by the Council. This duty can be discharged.
- Section 123 of the Local Government Act 1972, under which the Council must obtain the best consideration reasonably available in connection with disposals of land and Section 120 of the Local Government Act 1972 and the Council’s land acquisition powers.
- Section 12 of the Local Government Act 2003 and the Council’s powers to invest for any purpose relevant to its statutory functions or for the purposes of prudent management of its financial affairs.

12. HUMAN RESOURCES IMPACT

12.1 There are no immediate human resource impact.

Approved by: Jason Singh, Head of HR Employee Relations on behalf of the Director of HR.

13. EQUALITIES IMPACT

13.1 The range of solutions being developed for providing more affordable housing in Croydon will impact positively upon homeless families in reducing the amount of time spent in bed and breakfast and move them to more suitable forms of housing.

Previous analysis carried out in relation to the housing strategy and the housing allocations scheme identified a number of different groups with protected characteristics that are more likely to be in housing need or homeless. Homeless households with “family commitments”* (which is the group this report is concerned with), when compared to the general population, are

- more Likely to be younger
- more Likely to be from the BME community,
- more likely to be headed by a female, and
- as a household are more likely to be headed by a lone parent
- more likely to have dependent children
- more likely to be pregnant

14. ENVIRONMENTAL IMPACT

14.1 None

15. CRIME AND DISORDER REDUCTION IMPACT

15.1 None

16. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

16.1 The proposed LLP structures enable the Council to utilise its available right to buy receipts to ensure the delivery of affordable housing in the borough whilst retaining the freehold interest in the housing sites and properties so it benefits from the long term capital appreciation that is anticipated.

16.2 The leasehold structure also allows the Council to have significant influence over the rent levels and lettings policies of the LLPs to ensure they are appropriate for borough residents.

16.3 The delivery structure also ensures that any revenue surpluses generated by the LLPs flow back to the Council via the lease mechanism.

17. OPTIONS CONSIDERED AND REJECTED

17.1 The alternative options considered for the delivery of the units were:

- Do nothing – this would not see additional affordable housing created in the borough and require the Council to repay significant sums of unused right to buy receipts.
- Deliver within the HRA – unable to progress due to lack of available borrowing capacity due to government cap.

- Direct right to buy receipts through an existing housing association/registered provider – no provider identified that would deliver units at a sufficient scale to utilise the level of right to buy receipts held by the Council.
- Create a company limited by shares – could not utilise the available right to buy receipts and any surpluses would be subject to corporation tax.
- Create a charity/community benefit society – would be able to utilise the right to buy receipts but any surpluses and capital appreciation of the assets would not benefit the Council.

CONTACT OFFICER: *Richard Simpson Executive Director of Resources*

BACKGROUND PAPERS

The following constitute background papers :- None**.**