



Assets Regeneration and Growth Committee

17 September 2018

Title	Mixed tenure housing programme
Report of	Councillor Daniel Thomas
Wards	All
Status	Public
Urgent	Yes
Key	Yes
Enclosures	Appendix 1 – Status report on housing pipeline sites
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Summary

This report seeks approval for a revised approach to the development of council-owned sites identified in this report for the provision of mixed tenure housing. It recommends commissioning The Barnet Group, to be the preferred developer for such sites in addition to their current programme of affordable housing delivery. The initial tranche of sites commissioned for development would include land at Moxon Street, Coppetts Rd, Hermitage Lane, Whitings Hill and Northway Fairway. The report further recommends in principle that land adjacent to Broadfields School is disposed of at full market value, and requests officers to work up detailed proposals for consideration by the Committee in November.

Officers Recommendations

- 1. That Committee agree the delivery proposals for mixed tenure housing schemes as set out in paragraphs 1.17 – 1.19 and 1.21**
- 2. That Committee agree to The Barnet Group becoming the council's preferred development partner for the delivering of mixed tenure housing on council**

owned sites, beginning with the “Tranche 1” sites listed in paragraph 1.18 and Hermitage Lane.

- 3. That Committee agree in principle to the disposal of the site adjacent to Broadfields School at full market value. The terms of the disposal will be reported back to Committee in November 2018.**
- 4. That Committee agree to officers exploring the benefits and risks of transferring Hillgreen Homes into the ownership of The Barnet Group**

1. WHY THIS REPORT IS NEEDED

- 1.1 The council has an extant housing delivery pipeline of 320 affordable units, which are being delivered by TBG Opendoor Ltd / Opendoor Homes (ODH), a Registered Provider (RP) and subsidiary of Barnet Homes, the Council's Arms Length Management Organisation (ALMO). The Council also has a wholly owned company, Hillgreen Homes, which although a legal entity has yet to be utilised for its intended purpose of owning and selling private sale housing units.
- 1.2 In addition to this, the Committee agreed on 16 March 2015 that five sites should form the first tranche of a development programme for mixed tenure homes (Tranche 1). This was known to be the Development Pipeline pursuant to the DRS Contract as defined in the LIP and Development Fees Proposal Paper (27.08.15) and related Special Project Initiation Request (SPIR). The preparatory work to bring these five sites forward to planning consent and to appoint a contractor developer was undertaken by Regional Enterprise Ltd (Re). Although four of the schemes obtained planning consent, there has been some delay progressing these associated with the assessment of viability. Re has subsequently relinquished its rights to deliver these sites and confirmed that the council can take responsibility for the development.
- 1.3 The council has accordingly explored alternative delivery options. Given the changed financial position, and the importance of achieving maximum benefit from the council's assets, Savills have been commissioned to analyse the benefits and risks of a wide range of possible approaches. The work by Savills is supportive of the principle of The Barnet Group being the council's preferred development partner for mixed tenure schemes however further work is now required to explore whether this should be through Opendoor Homes (ODH) or whether there are any benefits to transferring Hillgreen Homes into The Barnet Group. Hillgreen Homes, is a council wholly owned company, set up in 2016 to own and sell private sale units.
- 1.4 This report is urgent in the light of the imminent Court proceedings relating to the one of the tenants on Hermitage Lane.
- 1.5 The Barnet Group has indicated a willingness to become the preferred development partner for the council. The Group's business plan identifies the delivery of 750 new

homes into the Registered Provider (RP) by build or acquisition by 2021. In the revised business plan, due later this year, that target is likely to be further increased.

- 1.6 A status report showing progress against all of the schemes currently being progressed as part of the wider housing delivery programme is provided in Appendix 1.

Governance process

- 1.7 A new governance process for decision making in relation to housing sites is now proposed to make sure that the best delivery route is agreed for particular sites. Housing sites are defined as those agreed by Capital Strategy Board to be best suited to the delivery of housing or housing led mixed use schemes. Recommendations as to the route to be employed will be made to the Committee, on a case by case basis. The main delivery routes are set out below:

- Delivery by The Barnet Group (default route)
- A joint venture approach between the council and a partner related to the site
- Disposal of the site

- 1.8 As part of maximising the value of the council's estate, alongside more traditional developments in partnership with or by selling to private developers, the council may also explore offering long-leases for sites. Specialist developers can then bid for the lease, build-out the site and then hand back all assets to the council at the end of the lease period with the Council retaining the reversionary freehold interest in the Site long term.

The Barnet Group proposal

- 1.9 Opendoor Homes was created in 2017 as an independent registered provider, registered with Homes England. to develop new homes for affordable rent which gave a number of advantages to both the council and ODH:
- The ability to create a variety of revenue streams for the council including through arrangement fees, on-lending margins and payment of dividends
 - Ability to make direct use of Right to Buy receipts and commuted sums as subsidy
 - The Barnet Group to become asset owning and therefore able to lever further funding in once equity in the stock has been achieved
 - To improve the financial resilience of The Barnet Group
- 1.10 ODH is a wholly owned subsidiary of Barnet Homes, which in turn is a subsidiary of The Barnet Group which is wholly owned by the council. The council can only exercise powers over ODH by attaching terms to any lending agreements.
- 1.11 The initial programme of 320 homes of affordable rent across 21 sites has already been supplemented by 10 more homes across various "microsites". A further business case a second phase of the microsites programme is being considered by Assets and Regeneration and Growth Committee as a separate agenda item. The sites being developed across the whole portfolio range from a single bungalow up to a thirteen storey 50 home tower block in East Finchley. It is expected that all of these homes will be on site this calendar year with first completions starting this month.

- 1.12 The Barnet Group is developing a reputation for delivering quality homes on often difficult brownfield sites and has created a number of strong partnerships with architects, employers agents and constructor/developers to support this delivery.
- 1.13 With right to buy receipts now largely exhausted, the ability to fund further 100% affordable programmes is limited. In order to maintain momentum and growth of its development function The Barnet Group needs to develop a sustainable forward programme of delivery of which mixed tenure development could be a key part.
- 1.14 Commercial partners are keen to work with The Barnet Group and see the relationship with the council and the availability of public land for development as a both a strength and opportunity.
- 1.15 As set out in paragraph 1.3 above, further due diligence is required to understand the most beneficial route for delivery within the Barnet Group, whether this is through ODH or whether the council transfers Hillgreen Homes into The Barnet Group.
- 1.16 Site by site delivery recommendations will include a recommendation as to the nature of the contractual relationship between The Barnet Group and construction partners but in the majority of cases The Barnet Group's approach to mixed tenure/estate development is likely to be risk and reward based partnerships with medium sized culturally aligned constructor/developer partners who would bring the working capital, commerciality, build efficiency know how and sales marketing experience to the partnership. In the future The Barnet Group may choose to self-deliver smaller sites in the future. The Barnet Group will seek to fully self-fund forward development including purchasing land or wider s106 opportunities once a level of funding has been generated by the business.
- 1.17 A key benefit of delivery through The Barnet Group is the potential for the council to choose how it receives its return on investment – this could deliver revenue outcomes (through an annual dividend payment or revenue income streams from private rented products) as well as traditional capital returns from a land receipt, or a combination of these. This is subject to these being taken into account for statutory purposes. This will be further explored as the business cases are revised.
- 1.18 Committee is asked to agree that The Barnet Group are confirmed as the council's preferred delivery partner of default for both affordable and mixed tenure schemes, however in some circumstances the council reserves the right to choose one of the other options for delivery based on the findings of initial feasibility work.
- 1.19 On this basis it is recommended that Committee approve that the following four sites (formerly agreed as part of Tranche 1 of the Development Pipeline in March 2015) can be taken forward by The Barnet Group:
- Moxon Street,
 - Northway Fairway
 - Whitings Hill
 - Coppetts Road

- 1.20 These schemes will be reviewed by The Barnet Group with a view to taking detailed proposals to Planning Committee and bringing more detailed business cases for each site to Assets, Regeneration and Growth Committee in due course.

Broadfields

- 1.21 As discussed, in light of the council's financial position, it is proposed to sell one of the sites for a capital receipt and, if appropriate to capture any incremental land value, post disposal. It is therefore recommended that Committee approve the sale of Broadfields at full market value and that detailed proposals are reported to Committee in November. The site has received interested from local groups seeking to deliver mixed use development.

2-10 Hermitage Lane

- 1.22 In July 2017 the Assets, Regeneration and Growth Committee agreed for a mixed tenure development at 2-10 Hermitage Lane to be progresses. Subsequently the Barnet Group were commissioned to undertaken the feasibility work and take forward the scheme to planning. The outline business case for this development will be considered by Committee under a separate item, however it is recommended that Committee agree to The Barnet Group progressing this scheme subject to approval of a full business case in due course.

Future Pipeline

- 1.23 In addition there is a future pipeline of council owned sites for which business cases will be submitted to Committee in due course.

2. REASONS FOR RECOMMENDATIONS

- 2.1 As reported to Performance and Contract Management Committee on 27 November 2017, development of the five sites that formed part of Tranche 1 has been on hold since the viability issues were identified. Re has relinquished its rights to deliver these sites and the council is now in a position to be able to take these forward.
- 2.2 The council is also taking legal action to secure vacant possession of Moxon Street and Hermitage Lane.
- 2.3 On 1st March 2016, Council approved the creation of a wholly owned council housing company to develop and own private sale homes. This decision was subject to the Policy and Resources Committee further agreeing the business plan prior to the wholly owned housing company commencing trading. Although the company was registered at Companies House with the name Hillgreen Homes, due to the delays to bringing forward housing for sale, the company has not commenced trading. It is recommended that officers explore the benefits and risks of transferring Hillgreen Homes into the ownership of The Barnet Group.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The options considered but not recommended remain the same as reported to Assets, Regeneration and Growth Committee on 16th March 2015 as part of the original outline business case for the five Tranche 1 sites. The first option is to market all of the sites for residential development with the benefit of planning permission, and the second option is

for the council to deliver the sites itself. The reasons why these aren't recommended remain unchanged.

4. POST DECISION IMPLEMENTATION

- 4.1 The Barnet Group will progress the work necessary to support the revising of the business cases for development of the sites listed in 1.18 above. These will be brought to Committee in due course.
- 4.2 The necessary due diligence work will be undertaken to explore whether delivery should be through Opendoor Homes or whether there are any benefits to transferring Hillgreen Homes into The Barnet Group.
- 4.3 In tandem the council will seek legal support for the preparation of an overarching development agreement with The Barnet Group..
- 4.4 In relation to Broadfields the site will be marketed and engagement with interested parties will commence with a view to beginning potential negotiations.
- 4.5 Officers will continue to seek to identify council owned sites suitable for development and will bring proposals to future meetings of the Committee.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.2 The Council's Corporate Plan 2015-20 states that the Council, working with local, regional and national partners, will strive to ensure that Barnet is a place:
 - Of opportunity, where people can further their quality of life
 - Where people are helped to help themselves, recognising that prevention is better than cure
 - Where responsibility is shared, fairly
 - Where services are delivered efficiently to get value for money for the taxpayer
- 5.3 The London Plan and Barnet's Local Plan recognise the need for more homes in the capital. Managing housing growth and the provision of new homes is the first objective set out in Barnet's Core Strategy. The London Plan and Core Strategy set challenging targets for the delivery of new housing, with the former having increased the minimum annual target for Barnet to 2,439 homes per annum.
- 5.4 The highest priority of the Council's Housing Strategy is increasing the supply of housing with the population of Barnet forecast to increase by 19% over the next 25 years.
- 5.5 Barnet's Health and Wellbeing Strategy recognises the importance of access to good quality housing in maintaining Well-Being in the Community.
- 5.6 Lack of affordable housing is highlighted in Barnet's Joint Strategic Needs Assessment (JSNA) as one of the top three concerns identified by local residents in the Residents' Perception Survey.

5.7 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability).

Finance and value for money

- 5.2.1 Where possible schemes will be brought forward with minimum support from the council in terms of working capital. The proposal for Hermitage Lane provides a good example of this whereby the working capital is provided by the construction partner.
- 5.2.2 Business cases for individual schemes will set out how the schemes provide value for money.

Staffing

- 5.2.3 The Barnet Group have been expanding their new build development team to provide capacity and capability for undertaking the first tranche of mixed tenure schemes.
- 5.2.4 There are no other staffing considerations in relation the council staff resources

Property

- 5.2.5 The overarching aim of the mixed tenure housing programme is to achieve the best outcomes in relation the council's assets.

5.3 Social Value

- 5.3.1 The Barnet Groups Employer's Requirements include a provision to promote employment of under-represented groups in the labour market.

5.4 Legal and Constitutional References

- 5.4.1 Council Constitution, Article 7.5 – Responsibility for Functions- states that the remit of the Assets Regeneration and Growth Committee includes responsibility for asset management.
- 5.4.2 Council, Constitution, Article 10 Table A states that Assets Regeneration and Growth Committee is responsible for authorising all disposals and acquisition of land for over £500k.
- 5.4.3 The Constitution- Article 9.1 (b) - Chief Officers – Management Structure- Delegated Authority to Chief Executive and Chief Officers states (i) Chief Officers (Deputy Chief Executive, Assistant Chief Executive, Strategic Director for Adults Children and Environment, Director of Resources) have the following delegated powers in respect of all matters which are not key decisions (as defined in Article 2) and not reserved for decision by the Council or by a Committee of the Council:
- 5.4.4 Unless there is a general consent available which dispenses with the need to obtain express consent from the Secretary of State the following provisions will apply:
 - 5.4.4.1 s 123 (2) of the Local Government Act 1972, states that, except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than best that can be reasonably obtained;

- 5.4.4.2 Where land is held for the purposes of Part II of the Housing Act 1985 (“the 1985 Act”) i.e. for housing purposes, a disposal of such land (other than the grant of secure tenancies or other tenancies exempted from security under Schedule 1 (such as service occupancies) and right to buy sales) shall not be made without the consent of the Secretary of State and an express consent under s 32 of the Housing Act 1985 will be required;
- 5.4.4.3 Where land is held for the purposes of Part II of the Housing Act 1985 i.e. for housing purposes, and is intended to be appropriated for planning purposes, then the consent of the Secretary of State is required pursuant to s 19 of the 1985 Act. Any disposal of housing land appropriated to planning purposes except for a tenancy of seven years or less, must be sold for best value otherwise an express consent from the Secretary of State is obtained under s 233(3) of the Town and Country Planning Act 1990.
- 5.4.4.4 Section 123(1) of the Local Government Act 1972 permits Councils to dispose of land in any way they wish but this is subject to any other statutory consents which may apply to that disposal.
- 5.4.5 Under Regulation 12(1) of the Public Contracts Regulations 2015 the Council can award the development contracts directly to The Barnet Group where all of the following conditions are fulfilled:
- The Council exercises over The Barnet Group a control similar to that which it exercises over its own departments.
 - More than 80% of the activities of The Barnet Group are carried out in the performance of tasks entrusted to it by the Council.
 - There is no direct private capital participation in the Barnet Group
 - The Council will exercise the required level of control where it exercises a decisive influence over both strategic objectives and significant decisions of the Barnet Group.

5.5 Risk Management

- 5.5.1 Continuing to hold the sites in their existing condition could result in unlawful occupation, management costs in maintaining security and fails to realise the value of the land which will assist in delivering other corporate objectives. The development of these sites for residential purposes will provide much needed accommodation in the Borough.

5.6 Equalities and Diversity

- 5.6.1 A full equalities impact assessment was completed for The Housing Strategy 2015-2025 which identified that the Strategy would have a positive impact on all sections of Barnet’s Community.
- 5.6.6 The proposals in this report do not raise any negative impacts for equalities and demonstrate that the Council has paid due regard to equalities as required by the legislation. The proposals anticipate a positive impact for residents because they:
- Underline the Council’s aim that all residents from our diverse communities – the young, old, disabled people and those on low incomes – benefit from the opportunities of growth.

- Contribute to Barnet's commitment to fairness - to be mindful of the concept of fairness and in particular, of disadvantaged communities - which was adopted at Policy and Resources Committee in June 2014.
- Form part of Barnet's Housing Strategy 2015-2025 which includes the objective to deliver homes that people can afford.
- Provide homes for people who are homeless and may be currently disadvantaged.

5.7 Corporate Parenting

5.7.1 None in the context of this report

5.8 Consultation and Engagement

5.8.1 Ward councillors, residents and communities local to each site will be consulted prior to the planning applications being submitted. Public resident consultation meetings will be held and individual consultations will be undertaken with other residents as requested.

5.8.2 A statutory consultation exercise will also be undertaken as part of the planning process for each scheme.

5.8 Insight

5.8.1 None in the context of this report.

6. BACKGROUND PAPERS

6.1 Cabinet Resources Committee, 24 June 2013, 'Local Authority New Housing Programme'
<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=151&MId=7457&Ver=4>

6.2 Assets Regeneration and Growth Committee, 15 December 2014, Strategic Asset Management Plan
<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=696&MId=7886&Ver=4>

6.3 Assets Regeneration and Growth Committee, 16 March 2015, Barnet Development Pipeline – Tranche 1,
<https://barnetintranet.moderngov.co.uk/ieListDocuments.aspx?CId=696&MId=7887&Ver=4>

6.4 Council, 20 October 2015, Report of Policy and Resources Committee – The Barnet Group – Creation of new legal entity and subsidiary
<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=162&MId=8340&Ver=4>

6.5 Full Council, 1st March 2016, Report of Policy and Resources Committee - Establishment of a new housing wholly owned company (WOC)
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=162&MId=8343&Ver=4>

6.6 Assets Regeneration and Growth Committee, 24 July 2017, 2-10 Hermitage Lane, NW2,
<https://barnetintranet.moderngov.co.uk/ieListDocuments.aspx?CId=696&MId=9337&Ver=4>