



Cabinet

Title	Opendoor Homes Acquisitions
Date of meeting	6 February 2024
Report of	Councillor Ross Houston, Deputy Leader and Cabinet Member for Homes and Regeneration
Wards	All
Status	Public with accompanying exempt appendix - Exempt from publication in accordance with paragraph 3 of Schedule 12A of the Local Government Act 1972 on account that it contains information relating to the financial or business affairs of any particular person including the authority holding the information
Key	Key
Urgent	No
Appendices	Appendix A – Full Business Case (FBC) (Exempt) Appendix B – Net Zero Tool Report
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Summary

This paper seeks to outline a proposal to deliver approximately 300 homes to assist the Council with increasing affordable supply and relieving homelessness cost pressures.

These pressures are being driven by several macro-economic factors including high interest rates, inflation, and an imbalance of supply and demand in the private rented sector (PRS). If the pressures are not mitigated, or there is a change in the wider economic environment, those pressures could reach up to £9m within the next 5 years.

The Barnet Group has extensive experience through its delivery of acquisition programmes since 2016, which have delivered over 700 affordable homes across several schemes. These schemes include almost 200 homes for the HRA at affordable rents, almost 450 homes for TBG Open Door Limited (ODH) and have attracted over £11m in additional grant funding from the GLA.

This paper outlines the options have been considered for the delivery of an additional 300 acquired homes as a means of increasing good quality affordable supply as an alternative to temporary accommodation.

Recommendations

- 1. Subject to full council agreeing to increase the borrowing limit and approving the Capital Programme that Cabinet approves,**
 - **Creation of a £70m loan facility with TBG Open Door Limited to acquire 300 homes from the open market and let them at a combination of Local Housing Allowance and social rents.**
 - **Establishment of a capital budget of £31.5m to subsidise purchases.**
- 2. Delegates authority for the Deputy Chief Executive, in consultation with the Director of Finance, to agree the Facility Loan Agreement and any additional security documents that may be required with TBG Open Door Limited, and any other related documents required, including any consent required from the Council pursuant to its agreements with TheBarnetGroup.**
- 3. Delegates authority for the Deputy Chief Executive, in consultation with the Deputy Leader and Cabinet Member for Homes and Regeneration, to approve a review of activity after 100 homes have been acquired to determine if the program should continue.**
- 4. That the Cabinet delegate authority for the Deputy Chief Executive to agree the loan facility with TBG Open Door Limited.**
- 5. That Cabinet note that the existing loan facility of £170m for the current acquisitions program will be 'suspended' at £105m, so there will be £65m undrawn from that facility.**

1. Reasons for the Recommendations

- 1.1 In late September 2023 a presentation was made to the Council outlining the anticipated Housing General Fund (GF) financial pressures arising from increased homelessness in the current and future years to 2028/29. These pressures are being driven by a number of macro-economic factors including high interest rates, inflation, and an imbalance of supply and demand in the private rented sector (PRS). If the pressures are not mitigated, or there is a change in the wider economic environment, those pressures could reach up to £9m within the next 5 years.

1.2 As part of the presentation a number of suggested additional mitigations were discussed, including a further programme of acquisitions. This paper seeks to outline a proposal to deliver approximately 300 homes to assist the Council with increasing affordable supply and relieving homelessness cost pressures.

1.3 **Increasing costs of temporary accommodation**

The success of our previous actions to mitigate homelessness demand had led to reduction in the number of households in temporary accommodation, and as a result, stable costs of provision. However, with a number of wider external factors impacting on housing supply, since October 2022 we have witnessed a surge in both homelessness demand, and the costs of sourcing temporary accommodation from the private sector.

1.4 Inflation in the cost of temporary accommodation has seen the average annual net cost to the Housing GF of new two and three bedrooled emergency accommodation increase from between £2,500 to £3,500 in Q1 2022/23 to £6,300 to £7,500 in Q1 2023/24.

1.5 In addition to this, the Councils' Revenues and Benefits service is now experiencing significant temporary accommodation contribution loss. In 2018, the UK Government changed the way temporary accommodation was contributed to, moving from payment from the Department for Work and Pensions (DWP) of 90% of the January 2011 Local Housing Allowance rate plus a £40 per week management fee, to payment of the former and the management fee replaced with a one-off grant paid by the Department of Levelling Up, Housing and Communities (DLUHC) which was previously known as Ministry of Housing, Communities & Local Government. formerly DCLG). Since that time, the grant has largely offset the loss of management fee, however with temporary accommodation numbers growing this is no longer the case. Projections from the Revenues and Benefits service indicate a £5m deficit loss in 2023/24, rising to between £6-8m in 2024/25

1.6 Whilst it may be argued that where demand falls in the future, the grant from DLUHC may offset the deficit element, the grant is not ring-fenced so therefore any reduction in deficit would enable the grant funding to be used for other purposes.

1.7 Given the above and coupled with the fact that properties either owned by the General Fund or let as private rented sector offers through TBG Open Door Limited qualify as private rented sector lettings achieving full Housing Benefit contribution from the DWP, a total cost avoidance figure for each acquisition of £11,000 per annum is anticipated. Further, the cost avoidance figure must be considered alongside new Housing GF pressures as costs avoided apply to not only existing demand, but future demand that is expected to be realised over the MTFS term.

1.8 Rising borrowing costs have meant a continuation of the Open Door Homes (ODH) 500 scheme on current terms is no longer viable. This scheme was approved by Housing and Growth Committee on 16 September 2019 and agreed the acquisition of up to 500 affordable homes from the open market. The cost of borrowing has continued to increase in recent months and recently peaked at 5.95%. As such, a different approach is required to agree a way forward and continue to deliver quality affordable homes as an alternative to temporary accommodation that continues to provide value for money and is sustainable for both the Council and TBG Open Door Limited.

1.9 A range of options have been considered for the continuation of the delivery of acquired homes as a means of increasing affordable supply and analysis of both the current market and our previous activity has been used to help determine realistic assumptions and inputs in relation to the availability of stock and operating and asset costs.

1.10 **Proposal to acquire 300 homes by TBG Open Door Limited**

TBG Open Door Limited is a subsidiary company of Barnet Homes, which is a subsidiary of The Barnet Group, of which the Council is the sole shareholder. TBG Open Door Limited holds Registered Provider and charitable status.

1.11 This would involve the Council borrowing funds from the Public Works Loans Board and lending to TBG Open Door Limited at cost, with no on-lending charge (advice from Savills has confirmed that no margin is required if the borrowing is to be used for Social Housing), through a loan facility. TBG Open Door Limited would then acquire the portfolio, refurbish, and offer homes to Barnet housing applicants at affordable rents.

1.12 **Benefits**

- Properties would be let on Assured Shorthold Tenancies and as such considered to be Private Rented properties for housing benefit purposes. This would mean that the Council is not exposed to temporary accommodation contribution loss.
- Opendoor Homes would not be required to pay SDLT by virtue of its charitable status.
- There are no constraints on the volume of homes supplied through this vehicle, providing that the programme remains financially viable for Opendoor Homes.

1.13 **Disbenefits**

- Requires financial support from the Council to deliver the programme. Although, any funding provided by the Council will be repaid by TBG Open Door Limited following repayment of the principal loan.

1.14 **Recommendation**

It is recommended that the Council approve the proposal to deliver more affordable homes through TBG Open Door Limited acquisitions, with key benefits including:

- Revenue savings delivered per unit throughout the life of the loan term, contributing to MTFS targets.
- An ability to use the programme to support other Council services, such as Family Services or Childrens services in delivering savings.
- Support of the long-term growth of TBG Open Door Limited and its ability to deliver new homes with less reliance on the Council.
- Provides Barnet housing applicants with good quality, affordable homes with greater security of tenure than much of the private rented sector.

1.15 Over the next 5 years and the forthcoming MTFS period, the portfolio is expected to generate savings of £4.2m, and an annual budget reduction of £1.23m by the end of the period. Costs have been modelled at a borrowing rate of 5.75%. Should the cost of borrowing be less than that, the benefits to both the Council and TBG Open Door Limited will also increase accordingly.

1.16 Council approval would enable benefits to be achieved from Q2 2024/25. The advantages of which are:

- It provides good quality, affordable homes with greater security of tenure than the private rented sector.
- It helps some client groups where there are currently few alternatives (e.g. care leavers or asylum seekers).
- It continues to provide an option for Barnet leaseholders seeking to sell their home, helping those potentially in hardship.

- It provides a means through which the Council can reduce reliance on more expensive forms of housing assistance, such as temporary accommodation, and help alleviate cost pressures.

2. Alternative Options Considered and Not Recommended

2.1 Do nothing

This option would mean that the Council does not take action to increase the supply of affordable homes in the short-term through open market acquisitions.

2.2 Benefits

- A 'do-nothing' option would mean that no borrowing is required.

2.3 Disbenefits

- This option would not increase the volume of affordable homes available for Barnet residents.
- The Council would have no alternative options to meet immediate homelessness demand and face increasing cost pressures without short to medium mitigation of new supply.

2.4 Housing GF acquisitions.

This option would involve the acquisition of homes from the open market funded by GF borrowing via the Public Works Loans Board and held in the Council's General Fund.

2.5 Benefits

- Rents for properties delivered could be set at the Local Housing Allowance rate, aiding programme financial viability.
- The Council would receive the full housing benefit contribution from the DWP that the Council incurs for housing benefit applications as opposed to the reduced level of 90% of the January 2011 Local Housing Allowance rate.
- The Council would retain full control of homes acquired.

2.6 Disbenefits

- The Council would be required to pay Stamp duty Land Tax for each property acquired.

2.7 HRA Acquisitions

This option would involve the acquisition of homes to be held in the Housing Revenue Account funded by HRA borrowing via the Public Works Loans Board.

2.8 Benefits

- There is no restriction on the volume of homes that could be acquired subject to funding availability.
- The Council would retain full control of homes acquired.
- The Council would not be required to account for Minimum Revenue Provision (MRP) to offset borrowing and thus face reduced revenue costs through delivery.
- The HRA would benefit from a 0.4% reduction in borrowing costs through the PWLB due to use of funds for the provision of social housing.

2.9 Disbenefits

- The Council would be required to pay Stamp duty Land Tax for each property acquired where no grant is obtained.
- The HRA business plan is facing significant cost pressures and has limited capacity for further borrowing. An additional programme may likely lead to reduced headroom for other schemes such as Grahame Park North-East

3. Post Decision Implementation

- 3.1 Once the recommendations are approved legal due diligence regarding the establishment of a new loan facility will commence. Once this is completed TBG Open Door Limited will begin the process of acquiring homes.
- 3.2 If approved and once the new loan agreement is in place, no further loan drawdowns will be approved on the existing acquisition loan facility of £170m. It is expected that the drawn loans will be £105m once the current acquisition program achieves 300 homes.

4. Corporate Priorities, Performance and Other Considerations

4.1 Corporate Plan

The acquisition of homes from the open market through TBG Open Door Limited is aligned with the Housing Strategy, Homelessness and Rough Sleeper Strategy and LB Barnet's Corporate Plan 2023 - 2026 priorities which are:

- *Caring for People* - The delivery of acquired homes, let at sub-market rents will provide opportunities for more households to be provided with quality homes at affordable rent levels.
- *Caring for our Places* - The programme will provide affordable, good quality homes for a wide range of housing needs, located within easy reach of essential services.
- *Caring for our Planet* - Acquired homes will be delivered with the required investment to enhance energy efficiency ratings, with all properties reaching a minimum C rating.

4.2 Corporate Performance / Outcome Measures

The programme will be monitored monthly through the Council's contract monitoring processes in place with The Barnet Group. A formal report will be made to the Council following the purchase of each 100 homes.

4.3 Sustainability

The council has set ambitious targets to become net zero as an organisation by 2030 and net zero as a borough by 2042. To achieve this, the council recognises the importance, and necessity, to embed sustainability considerations into all decision making and council activity. Properties acquired will be delivered with enhanced energy efficiency ratings, through improvements delivered during the initial refurbishment process. Having used the Net Zero toolkit, there is a positive impact on achieving sustainable outcomes through the recommendations of this report. See appendix B.

4.4 Corporate Parenting

The Council has a number of care leavers in temporary accommodation. Increasing the supply of affordable homes is therefore a corporate parenting issue.

4.5 Risk Management

There are several risks to TBG Open Door Limited through delivery of a new programme:

Risk	Mitigant
Long term inflation risk where cost inflation exceeds 2.5% pa	Impact of inflation to be monitored and review of tenant rents in line with LHA inflation to mitigate increased costs.
Better than expected house price inflation will likely impact on the average cost per unit and result in fewer units being acquired.	Each unit will be assessed using pre-existing robust financial assessment methods. Where units do not meet the requisite financial criteria, these will not be pursued.
Borrowing costs continue to increase, impacting on the viability of the programme.	Where borrowing costs exceed tolerance thresholds, no further funds will be drawn down without further negotiation and mitigants discussed with the Council.
Void and bad debt assumptions prove to be insufficient	Flexibility has been built into the modelling to enable the setting of a lower maximum borrowing rate to increase void and bad debt assumptions
A change in temporary accommodation contribution regulations may reduce the cost avoidance amounts achieved therefore reducing the benefits of the programme	Cost avoidance achieved to be closely monitored. Where units are unencumbered with grant, both parties have the option to dispose of assets where long-term benefits are not expected to be achieved.

4.6 Insight

The Barnet Group (TBG) has assisted the Council in acquiring affordable homes to meet its wider corporate objectives since 2016. In that time TBG has:

- Established an experienced Acquisitions Team that retains extensive organisational knowledge and expertise in delivering acquired homes.
- Developed robust processes for delivering homes that meet organisational, regulatory and governance requirements.
- Delivered over 700 affordable homes across a number of schemes, including almost 200 homes for the HRA at affordable rents, and almost 450 homes for TBG Open Door Limited.
- Assisted the Council in meeting the demand of niche client groups, such as rough sleepers (55 units), care leavers and Ukrainian and Afghan refugees (50 units)
- Attracted over £11m in additional grant funding from the Greater London Authority.

4.7 Social Value

Increasing the supply of affordable homes will create new opportunities for housing for Barnet's housing applicants.

5. Resource Implications (Finance and Value for Money, Procurement, Staffing, IT and Property)

5.1 An application for grant funding has been made with the Greater London Authority (GLA). Whilst the application of grant may present increased on-going management costs for TBG Open Door Limited through scheme reporting and auditing by the GLA, it would also serve to enhance the benefits derived through the programme.

5.2 It is proposed to fund units in the programme as follows:

Breakdown of proposed portfolio by funding type

GLA grant funding	2024/25	2025/26	2026/27	Total
£85k grant per unit (LHA)	50	50	0	100
£200k grant per unit (social rent)	25	25	0	50
Nil grant	25	25	100	150
Total	100	100	100	300

5.3 Over the next 5 years and the forthcoming MTFs period, the portfolio is expected to generate savings of £4.2m, and a budget reduction of £1.23m by the end of the period.

Medium-Term Financial Strategy Savings achieved

£'000s	2024/25	2025/26	2026/27	2027/28	2028/29
TA cost avoidance	300	923	1,576	1,938	1,989
TA contribution loss	250	750	1,250	1,500	1,500
Capital borrowing cost	(301)	(904)	(1,507)	(1,808)	(1,808)
MRP	(61)	(192)	(338)	(429)	(454)
Net	188	579	981	1,201	1,225
Budget impact	188	388	404	220	24

5.4 Over the full 45-year loan term, the Council can expect the following benefits:

Savings per unit year 1	£3,763
Average savings per unit (years 1-	£3,923
Total revenue saving per unit (year	£209,992 plus £319,871 capital repaid

5.5 A loan facility of £70m and a total budget of £120m is required to deliver the programme assuming grant funding, broken down as follows:

Capital required to deliver 300 homes.

£'000s	2024/25	2025/26	2026/27	Total
ODH borrowing	20,021	20,158	29,877	70,056
Council contribution	9,065	9,065	13,314	31,444
GLA grant funding	9,250	9,250	-	18,500
Total	38,337	38,473	43,191	120,000

5.6 The £70m loan facility between the Council and TBG Open Door Limited will consist of £64.5m capital expenditure for property purchases and £5.5m working capital to fund revenue deficits for TBG Open Door Limited in the early years.

5.7 The £31.5m contribution would be funded via borrowings. The costs of these borrowings would be funded via TA cost avoidance. The general fund MTFs reflects the costs of borrowing as per below., subject to interest rate fluctuations.

	2024/25	2025/26	2026/27	2027/28	2028/89	Total
Financing costs of targeted acquisitions of affordable homes through Opendoor Homes	454	920	938	490	29	2,831

6. Legal Implications and Constitution References

Recommendation 1:

- 6.1 The Council has the power to borrow and invest for any purpose relevant to its statutory functions in accordance with Sections 1 and 12 of the Local Government Act 2003 (as amended) in order to meet its statutory functions in the Housing Act 1996 (as amended).
- 6.2 The Council has the power to make the proposed loan by using the general power of competence under Section 1 of the Localism Act 2011 (as amended). This gives the Council the power to do anything that an individual may do (unless specifically prohibited).
- 6.3 The Council must take cognisance of the Subsidy Control Act 2022 (as amended) and more particularly the subsidy control rules outlined in said act. The Council has to ensure that the proposed loan does not contravene the subsidy control rules.
- 6.4 Furthermore, in order to address commercial risk and protect the Council's interest the proposed loan and Funding Loan Agreement should be subject to: (a) satisfactory legal and financial due diligence; (b) satisfactory loan to property value assessments; (c) agreeing a commercial rate of interest for the loan facility, commensurate with the degree of risk involved; (d) the Council securing the loan, for example, by way of a first charge on the properties being purchased.
- 6.5 It is important that a proper audit trail is maintained in respect of the following: the Council's compliance with the Constitution specifically increasing the Council's borrowing limit and impact this may have on the Council's budget; and the Council's compliance with the Subsidy Control Act 2022 (as amended) in respect of the proposed loan.
- 6.6 The proposed loan must be subject to the Council entering into an appropriate Facility Loan Agreement which protects the Council's interests and also ensuring there are appropriate governance mechanisms in place for the Council to monitor TBG Opendoor Limited adherence to the Facility Loan Agreement.
- 6.7 The Council has previously sought advice on the previous subsidy regime, State Aid, from Savills. The subsidy control regime has changed and therefore it would be prudent to seek updated legal advice on the new subsidy regime, as introduced by Subsidy Control Act 2022 (as amended).

Recommendation 2:

- 6.8 In relation to Recommendation 2, relating to the delegation of final terms of the Facility Loan Agreement and the completion of the necessary funding and security documents to the Deputy Chief Executive, this is permissible under section 9E of the Local Government Act 2000.

Recommendation 3:

6.9 In relation to Recommendation 3, relating to delegating authority for the Deputy Chief Executive, in consultation with the Deputy Leader and Cabinet Member for Homes and Regeneration , to approve a review of activity after 100 homes have been acquired, this is permissible under section 9E of the Local Government Act 2000.

6.10 Under Part2D of the Council's constitution Cabinet is responsible for key decisions, which include an executive decision which is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the budget for the service or function to which the decision relates; a decision is significant for these purposes if it involves expenditure or the making of savings of an amount in excess of £1m for capital expenditure or £500,000 for revenue expenditure or, where expenditure or savings are less than the amounts specified above, they constitute more than 50% of the budget attributable to the service in question.

6.11 TBG Open Door Limited is subject to the requirements of a shareholder agreement dated 2 February 2016 made between the Council, The Barnet Group and other via a deed of adherence.

7. Consultation

7.1 Consultation was undertaken in the development of the Borough's Housing Strategy and Homelessness and Rough Sleeper Strategy 2023-2028 which aims to increase access to affordable, good quality housing across all tenures.

8. Equalities and Diversity

8.1 Under the Equality Act 2010, the Council must have due regard to the need to:

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

8.2 The 'protected characteristics' referred to are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. It also covers marriage and civil partnership with regards to eliminating discrimination

8.3 The Council is committed to improving the quality of life for all, and wider participation in the economic, educational, cultural, social, and community life in the Borough.

8.4 It is envisaged that there will potentially be a positive impact on all groups due to the proposed increased supply of good quality, affordable housing.

9. Background Papers

9.1 Agenda for Housing and Growth Committee on Monday 16th September, 2019, 7.00 pm (moderngov.co.uk)
<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CIId=696&MIId=9929&Ver=4>