

<b>MAYOR AND CABINET</b>			
<b>Report Title</b>	Homelessness, Lewisham Homes Property Acquisition: update on current initiatives and future addition options		
<b>Key Decision</b>	Yes	Item No.	
<b>Ward</b>	Borough Wide		
<b>Contributors</b>	Executive Director for Customer Services Executive Director for Resources and Regeneration		
<b>Class</b>	Part 1	Date:	14 January 2015

## **1 Summary**

- 1.1 Mayor and Cabinet has received a number of previous reports outlining the acute housing demands that the Council, like all London local authorities, is currently experiencing. This is expressed most clearly in the rapidly rising need for emergency nightly paid, bed and breakfast type accommodation for homeless households, which is both unsatisfactory for residents and very costly for the Council.
- 1.2 There are a number of factors driving this increase, and while broadly these are all beyond the control of the Council, the Council does retain a duty to respond to the problem and also bears the financial pressure associated with it. These factors include property price inflation which continues to hugely out-strip other measures of inflation, and which in turn provides incentives for landlords to seek higher rents than can be afforded by the Council or otherwise to sell their properties and cash out of the housing market while prices are high. It is also caused by on-going shortfalls in the new supply of all forms of housing and in particular affordable housing and by a general fall in the movement of current tenants within and out of existing stock.
- 1.3 In response to this crisis the Council has initiated a wide ranging and assertive programme of interventions in the local housing economy, including the construction of new homes, the acquisition of properties which provide a more sustainable and better quality alternative to bed and breakfast, piloting innovative methods of construction to provide more homes more quickly, and a range of policy changes, in order to address this crisis.
- 1.4 The construction of the first new Council homes of the 500 that will be delivered by 2018 - funded entirely by the Council and developed on its behalf by Lewisham Homes - will shortly complete and these homes will become available for residents in housing need. Other reports on this agenda set out further progress in this regard, with more than 200 new homes identified and in the development process.
- 1.5 In February 2014 Mayor and Cabinet approved plans to acquire two large properties which could be converted into hostels in the short term in order to provide the Council with access to additional short term accommodation for 32 homeless families, and which would be of better quality and at a reduced cost compared to bed and breakfast accommodation. In April 2014 Mayor and

Cabinet agreed to provide funding of £4.3m to enable the acquisition of a further 50 units of hostel accommodation, based on the same business case and logic as the two prior acquisitions.

- 1.6 In October 2014 Mayor and Cabinet approved plans for an innovative new model of development, whereby “re-deployable” temporary housing could be constructed on vacant sites in the short term, enabling both the use of vacant land in the short term and the provision of cheaper and better alternatives for homeless households at the same time. In total the Council has allocated £7.74m to fund the acquisition of properties, of which £6.725m has been already been allocated and will bring forward an additional 69 units of hostel or other temporary accommodation within the coming year, and the remaining budget is expected to be expended on funding additional purchases early in 2015.
- 1.7 Other policy changes have also been implemented. As an emergency measure 80 per cent of all two and three bed properties which become available for letting are being let only to homeless households. Changes to the delivery of front line services, by consolidating office accommodation and by focussing more on homeless prevention have also been made to help address the problem.
- 1.8 Whilst all of the above measures and the focus on homeless prevention have reduced the rate of increase in demand, the pressure on the Council to find accommodation for homeless households continues to be significant. The latest data, for December 2014, show that there are currently 596 households in bed and breakfast, or other nightly paid, accommodation in the borough. In March 2013 the number was only 60, and as such the Council is managing an tenfold increase in demand in just eighteen months ago. This level of demand is creating a budget pressure of more than £2.5m, at a time when the Council more widely has to radically change service delivery models to save £95m by 2018.
- 1.9 As such, it is imperative that the Council considers all available options for further interventions and acquisitions to help address the problem, but there are other factors which also argue in favour of the Council doing so. On that basis, this report recommends to Mayor and Cabinet that a further property acquisition programme is undertaken, in this instance by Lewisham Homes on behalf of the Council. These properties would be bought on the open market by Lewisham Homes and let to households who would otherwise be in more expensive and less appropriate temporary accommodation, while longer term and more sustainable options are sought.
- 1.10 Lewisham Homes is a strongly performing organisation which has improved housing management services considerably in the short time that it has been charged with managing the Council’s housing stock. This year it will manage more capital expenditure, and make more Council homes “decent”, than in any previous year. It is making excellent strides in developing new homes on behalf of the Council, and resident satisfaction with its services continues to rise. Given all of this, the Mayor is asked to agree with the proposals set out here to further utilise the capacity of Lewisham Homes to address the housing challenges the Council faces, by continuing to evolve its purpose, and

amending its management agreement with the Council to enable it to play a greater role in addressing the homelessness crisis.

## **2 Recommendations**

The Mayor is recommended to;

- 2.1 Note the continuing extreme levels of demand faced by the Council from homeless households in the borough, and the progress in previously agreed measures that have been implemented to meet that demand
- 2.2 Agrees to extend the previously agreed budget for capital works for Hamilton Lodge and 118 Canonbie Road, as set out in section 5 of this report
- 2.3 Notes the business case for an additional programme of property acquisition, to be carried out by Lewisham Homes, as set out in section 6 of this report
- 2.4 Agrees that the Council provides a loan of up to £20m to Lewisham Homes, on the terms set out at section 8 of this report, to enable Lewisham Homes to acquire up to 100 new units as an additional intervention to help manage homelessness demand, and that the authority to finalise the terms of the loan agreement be delegated to the Executive Director for Resources and Regeneration
- 2.5 Agrees to the proposed changes to the Management Agreement between the Council and Lewisham Homes and to Lewisham Homes' Articles of Association as set out in section 9 to enable Lewisham Homes to acquire and own property, and to initiate discussions with the HCA regarding obtaining Registered Provider status, and agrees that authority to finalise and approve further minor amendments as a result of discussions with Lewisham Homes' Board in this regard be delegated to the Executive Director for Customer Services
- 2.6 Notes the timetable and scope of the proposed project to review and consider an extension of Lewisham Homes' Management Agreement after its expiry in 2017, including the potential ways in which Lewisham Homes might further evolve to help meet the Council's housing priorities, as set out at section 10

## **3 Policy Context**

- 3.1 The contents of this report are consistent with the Council's policy framework. It supports the achievements of the Sustainable Community Strategy policy objectives:
  - Ambitious and achieving: where people are inspired and supported to fulfil their potential.
  - Empowered and responsible: where people can be actively involved in their local area and contribute to tolerant, caring and supportive local communities.
  - Healthy, active and enjoyable: where people can actively participate in maintaining and improving their health and well-being, supported by high quality health and care services, leisure, culture and recreational activities.

3.2 The proposed recommendations are also in line with the Council policy priorities:

- Strengthening the local economy – gaining resources to regenerate key localities, strengthen employment skills and promote public transport.
- Clean, green and liveable – improving environmental management , the cleanliness and care for roads and pavements and promoting a sustainable environment.

#### 4 Background

4.1 Lewisham, and London more generally, faces severe housing pressures across all tenures. A combination of historic and on-going lack of new supply, a reduction in the number of available lets across the social housing stock, welfare reform, and rising property prices and rents, has led to rapidly increasing, and unmet, demand for social housing.

4.2 This increasing demand has recently started to translate into acute pressure for temporary accommodation. The latest data from DCLG show that, London-wide, demand for temporary bed spaces has doubled in two years, and the impact in Lewisham has been even more severe. In Lewisham there are currently 596 households in nightly paid accommodation, against a target of a maximum of 50. The number has increased more than tenfold in the eighteen months since March 2013, when there were 60 households in nightly paid accommodation.

4.3 The table below sets out for Mayor & Cabinet the data which demonstrates the driver for this acute level of demand. In short, the projection for the number of cases this year in which the Council has accepted a homeless duty is 822, which is nearly 40 per cent more than two years ago. At the same time the total number of available lets is projected to fall by nearly 52 per cent.

<b>Supply and demand</b>			
	<b>2012/13</b>	<b>2013/14</b>	<b>2014/15 (projected)</b>
Homeless applications taken	1,248	1,041	1,325
Homeless duty accepted	588	710	822
Total tenanted lettings made (re-lets and new lets)	1,774	1,443	1,168

4.4 It is as a result of this pressure that the Council has already launched a range of acquisition programmes and other policy interventions in order to better manage demand and also to provide better short term alternatives where demand cannot be reduced. The next section of this report sets out the progress that has been made in delivering those programmes, and the business case for augmenting them with a further programme of purchasing small, individual properties in addition to the larger hostel-type acquisitions that have been made to date.

## 5 Update on current property acquisition programmes

- 5.1 In February 2014 Mayor and Cabinet approved plans to acquire two large properties in Forest Hill which could be converted into hostels in the short term in order to provide the Council with access to additional short term accommodation. These were at Hamilton Lodge, Honor Oak Road, and 118 Canonbie Road, and in combination both properties will provide better quality accommodation for 32 homeless families, and the potential for the Council to defer more than £0.5m of expenditure annually which it could otherwise have incurred if those families had been housed in bed and breakfast accommodation.
- 5.2 The purchase of both properties has now completed, and it is expected that the property at Hamilton Lodge will be available for letting in the summer of 2015. Planning applications for the required changes to both properties have been submitted, and following planning consent a programme of works will be required in order to convert the properties for their new temporary use.
- 5.3 Having had access to both properties, officers have been able to develop detailed costings for the work that has been required. With this exercise complete, it is now clear that additional investment will be required in order to complete the required works. The original budget that was agreed by Mayor and Cabinet in February 2014 is set out in the table below, alongside the updated budget requirement that has been arrived at following detailed surveys, and Mayor and Cabinet is requested to approve this expenditure to enable the works to be carried out.

Property	Original budget for capital works	Updated budget request for capital works
Hamilton Lodge	£350k	£530k
118 Canonbie Road	£150k	£320k
Total	£500k	£850k

- 5.4 In April 2014 Mayor and Cabinet agreed to provide funding of £4.3m to enable the acquisition of a further 50 units of hostel accommodation, based on the same business case as that used for Hamilton Lodge and Canonbie Road. This was that by purchasing large properties which can be managed in a similar manner to the hostels the Council already manages, the Council can deploy capital investment in order to achieve revenue savings, purchase and hold assets that can be used for a range of purposes in the medium to long term, and provide a better housing solution for homeless households.
- 5.5 The agreed parameters of the programme were that properties targeted for acquisition should be larger properties within which individual hostel rooms can be created, that the overall cost of acquisitions should equate to around £86,000 per room – which is the same level as that achieved with the two previous purchases – and that properties should provide flexibility for a range of future uses at the time at which they are no longer required for homeless households.

- 5.6 The table on the following page sets out progress in delivering this programme. Officers have been successful in identifying options for adding a further 37 hostel units with this funding, but Mayor and Cabinet will note that the majority of these units are being delivered through the conversion of existing under-used assets or through the innovative “re-deployable housing” scheme that has been agreed for the site of the former Ladywell Leisure Centre.

Property	Units	Total capital cost	Notes
<b>Completed transactions/allocated capital funding</b>			
106 Wells Park, Sydenham	1	£25,000	Conversion of a surplus Council asset
28 Deptford High Street, Evelyn	3	£254,934	Conversion to residential of upper floors of a Council owned commercial property
161-163 Deptford High Street, Evelyn	4	£495,649	Acquisition of a commercial property and conversion to residential of upper floors
Ladywell Re-deployable Housing	24	£2,040,000	Contribution to the cost of the re-deployable housing development
<i>Sub total</i>	<i>32</i>	<i>£2,815,583</i>	
<b>Under negotiation</b>			
2 property acquisitions/conversions	5	£471,000	Expected to complete early 2015
<b>TOTAL</b>	<b>37</b>	<b>£3,286,583</b>	

- 5.7 The manner in which the new units are being delivered reflects the nature of the local housing and property market. Officers have made a number of bids for and otherwise attempted a range of purchases of larger properties, but have found that rising values locally, combined with the agreed budget parameters and the required property types, have meant that the Council can rarely compete with private developers. Where properties have been purchased, this is largely the result of distressed sales or partner organisations, rather than open market purchases.
- 5.8 Nonetheless, the addition of 37 new units will play a role in addressing the problem, and the properties that they are contained within will provide for a range of medium term options for the Council. Furthermore officers are continuing to identify options and negotiate with vendors, and are confident that the full £4.3m budget will be allocated during 2015 and will deliver the target of 50 new units as required.
- 5.9 However, it is clear that this approach alone will not be sufficient in order to address the scale of the challenge the Council faces. This is primarily because of the nature of the housing market, and specifically for larger properties, where competitive bidding against property developers and other market participants who are able to take greater risks and let properties at higher rents means that the Council struggles to compete.

## **6 Enabling Lewisham Homes to acquire individual smaller properties**

- 6.1 An alternative approach to property acquisition is to seek to acquire individual properties at market values. There would of course also be competition for these properties, but as the volume of supply is much greater there would be very many more opportunities to acquire. Furthermore, as standalone properties there would be much less interest from property developers seeking to adapt or change the use of larger properties.
- 6.2 The purchase of individual properties would achieve the same financial benefits as larger acquisitions, by generating annual savings of £20,000 per property. They would also benefit the households themselves by offering better quality than bed and breakfast accommodation, and so officers recommend that a programme of individual property purchases should be considered as an additional strand to the wide-ranging programme of interventions that the Council's is making to address the homelessness crisis.
- 6.3 It would be possible for the Council to undertake a programme of individual property acquisition, but it is recommended here that Lewisham Homes undertakes this programme on the Council's behalf instead. The three reasons for enabling Lewisham Homes to purchase these new homes are, first that by doing so the Council will benefit from additional flexibility in the manner in which it is able to target the properties to address the current homelessness crisis, second that it will enable the Council to develop a new model of homelessness prevention that is not currently possible under current structures, and third, and crucially, that it will enable the Council to make a robust intervention into the local private rented sector and set a benchmark for the standards and quality that Lewisham private tenants should come to expect.
- 6.4 Currently, the Council houses potentially homeless households in a range of temporary accommodation whilst those cases are assessed and a decision is reached over whether the households are owed a homelessness "duty". These are generally hostel-type properties and properties that are leased from private sector landlords, however the scale of the demand on the Council means that currently nearly 600 families in this situation are housed in nightly paid accommodation which is both expensive to the Council and hugely unsuitable for the families themselves.
- 6.5 The Council has constraints over the types of tenancies it can offer, however, the most appropriate form of tenancy for these sorts of properties, while tenants are awaiting a longer term housing solution, is an assured short hold tenancy (AST), which the Council itself cannot offer.
- 6.6 Subsidiary organisations of the Council, and companies owned by the Council, can however offer this form of tenancy where that is the right offer for tenants given their housing situation. An example is the Catford Regeneration Partnership, which is wholly owned by the Council and lets a small number of ASTs to private tenants living in privately rented premises that the Council purchased with the shopping centre. The same would be true – albeit for different purposes – with this proposal. In this situation Lewisham Homes, a

wholly owned company of the council, would let ASTs to tenants, in this case for the reason that this is the appropriate form of tenure while longer term housing solutions are sought.

- 6.7 Secondly, this proposed approach also offers the potential that in the medium-term the Council might be able to use these properties as a homeless prevention tool that is not currently available. Currently more than half of the homelessness cases the Council is managing come from households who had previously sustained private sector tenancies, but whose tenancies have now ended for a variety of reasons, including because the landlord has ended the tenancy.
- 6.8 If Lewisham Homes were to manage a stock of properties let on ASTs to which the Council had access, the Council could have confidence that these properties were well managed by a trusted landlord. In that situation it could create a new homelessness prevention tool whereby it was able to offer good quality and well managed private sector properties to current private sector tenants facing eviction and by doing so it could sustain those households in the private rented sector, and prevent the homelessness situation from occurring in the first place. This would only be possible because of the type of tenure, which the Council cannot offer but Lewisham Homes can, and, because it is a subsidiary of the Council, the Council could have a high level of confidence in the quality of home, and its management, that Lewisham Homes could offer.
- 6.9 The third reason is broader but equally important. The number of Lewisham residents living in the private rented sector has doubled in just ten years. There are now more private tenants than social housing tenants, and in a few years it is likely that there will be more private tenants than owner occupiers too. The private rented sector, therefore, is hugely important in the local housing economy and will become even more so and as such it is important that the Council considers the range of interventions and policy tools it has at its disposal to maintain standards and quality in the sector generally.
- 6.10 Over the past eighteen months the Council has established a coherent approach to the private rented sector, through the creation of a specialised Private Rented Sector Unit, and has focussed its attentions particularly on targeting the worst landlords. It has been successful in attracting external funding to create a team specifically focussed on this task. Other activities have included driving up standards through the private sector properties that the Council leases.
- 6.11 The proposal to enable Lewisham Homes to acquire properties and let them in the manner set out here fits well with this broader strategic direction. It will give the Council another tool for intervening in the sector and will create a large portfolio landlord over whom the Council has high levels of control and trust. In doing so it will be possible to set a higher standard of property quality and housing management, and to point to that as the standard that tenants should expect in Lewisham. This is only possible because Lewisham Homes will be able to let different sorts of tenancies to the Council, to intervene in the housing economy in a different way, and to do so with a high level of competence as an experienced social housing management company.

## **7 The long term relationship between the Council and Lewisham Homes**

- 7.1 The addition of this service to the schedule of services that Lewisham Homes provides for the Council, if it is agreed, will enable the Council to make further and better use of the existing housing delivery infrastructure that is currently in place. In addition, elsewhere on this agenda for Mayor & Cabinet there are proposed further changes to that relationship, specifically in relationship to grounds maintenance on housing land.
- 7.2 The timing of these changes will enable the Council and Lewisham Homes to build on the success that has been achieved during the seven years since Lewisham Homes was created. It is now a strongly performing ALMO and has made excellent progress in delivering Decent Homes for residents - in this coming quarter it will deliver more investment into Decent Homes work than in any period in its history, and in the current financial year it will bring more homes up to the “decent” standard than in any previous year. In addition it is delivering the new build housing programme with increasing pace and quality, and the proposed acquisition programme would fit well alongside the existing roles and new roles it is delivering, further enabling it to further specialise in providing excellent affordable housing management services for the Council as freeholder.
- 7.3 Lewisham Homes is currently operating according to the terms of a ten year management agreement which expires in 2017. It is standard with contracts of this nature for negotiations regarding the future scale, scope and terms of the future management agreement to commence approximately 18 months before the expiry of the existing arrangement. In this case this would require negotiations to commence during 2015.
- 7.4 Given the progress that Lewisham Homes has made, the additional services that it is taking on, and the need to commence negotiations over the long term renewal of the management agreement, it is also recommended that the changes that are proposed here should be considered to be part of a longer term plan for the provision of affordable housing management in Lewisham. On that basis, the Mayor is recommended to agree that officers should now commence formal negotiations with Lewisham Homes and its board over the renewal of the management agreement, and the schedule of services that it contains.
- 7.5 As part of this process, it will also be possible to explore the potential that Lewisham Homes might further evolve the role it plays on behalf of the Council and its tenants, by registering with the Homes and Communities Agency (HCA) as a Registered Provider of affordable housing in its own right. In order for this to be achieved a lengthy process of negotiation with the HCA will be required, and it is not anticipated that this could be concluded before the autumn of 2015 at the earliest. However it is recommended that the Mayor agrees that including the potential of enabling Lewisham Homes to work towards Registered Provider status should form part of the management agreement negotiations that will take place in the coming year.

- 7.6 In principle, it is possible that by becoming a Registered Provider (RP), Lewisham Homes could further contribute towards meeting the Council's housing priorities, addressing the challenges it faces, and meet the housing needs of a wider range of Lewisham residents. As an RP, Lewisham Homes could offer a wider range of tenancy types to a wider range of tenants than is currently possible. For instance it could develop a shared ownership product, and develop new shared ownership homes in the borough. As an RP it could bid for grant directly to the GLA, develop homes of its own accord, and further contribute towards meeting the level of new housing supply required in the borough.
- 7.7 It is proposed that these and other potential benefits be tested as part of the negotiations for the extension of the management agreement, in conjunction with the HCA, and with due regard for the longer term regeneration vision for the borough and the role that Lewisham Homes as an RP could play in delivering that vision.
- 7.8 In the short term, and for absolute clarity, the evolution of Lewisham Homes will take place, if it is agreed by the Mayor, by enabling it to purchase and own properties as one of the tools in addressing the homelessness crisis. The longer term evolution, including moves towards RP status, will be further developed over the coming months separately to this proposal and updates will be brought back for consideration by Mayor and Cabinet in due course.

## **8 Outline financial model for the acquisition programme**

- 8.1 The short term change that is proposed here is for Lewisham Homes to lead a property acquisition programme in its own right. In order to enable this to happen it is proposed that the Council provides a loan facility to Lewisham Homes to finance the property acquisitions.
- 8.2 The outline proposed terms of that arrangement are set out here, and it is proposed that these are agreed in principle by the Mayor in order for officers to negotiate and finalise those terms with the Lewisham Homes board, and that the authority to finalise those terms be delegated to the Executive Director for Resources and Regeneration.
- 8.3 The basis of the financial agreement would be that the Council provides a loan facility to Lewisham Homes of up to £20m, which is intended to fund the purchase of approximately 80 properties, at an estimated average cost of £240,000 per property. Loan finance will be provided at a commercial rate, and will therefore generate a revenue to the Council over and beyond the financial savings attained by having access to more, cheaper, alternatives to bed and breakfast. In addition to these financial benefits, the other policy benefits for the Council set out previously will also be achieved, and most importantly a large number of residents who are currently housed in nightly paid accommodation will benefit from much higher quality and more suitable accommodation.
- 8.4 Once acquired, Lewisham Homes would let the properties to households who would otherwise be housed in temporary accommodation, on ASTs and at Local Housing Allowance rent levels. Officers expect that, by setting rents at

this level, Lewisham Homes will be able to fund the on-going costs of management and maintenance and make interest only loan repayments for the coming ten years. The current modelling assumption is that at the end of 10 years Lewisham Homes would dispose of the properties at market value, and use the capital receipts to repay the principle of the Council's initial loan to it.

- 8.5 As set out above, the Mayor is requested to agree that officers negotiate with Lewisham Homes regarding the detail of this proposal, but based on the outline terms set out here.

## **9 Changing the Lewisham Homes Constitution and Management agreement**

- 9.1 Changes will be required to the Lewisham Homes Management Agreement with the Council and to its current constitution to enable it to acquire and let properties in the manner specified here. The following section provides an overview of the key variations and additions that will be required to do this, and also proposes some changes that will be required in order to enable Lewisham Homes to enter into discussions with the HCA about the potential of it becoming a registered provider of affordable housing.
- 9.2 The nature and type of potential changes is set out below, and the Mayor is requested to allow officers to commence negotiations with the Lewisham Homes board on this basis, and to delegate the authority to finalise these terms, on the basis of that negotiation, to the Executive Director for Customer Services on the advice of the Head of Law.

### Lewisham Homes Constitution

- 9.3 The constitution is the Lewisham Homes' governance manual and comprises two key company documents. The Memorandum of Association is the primary document and details the company objects (i.e. 'what the organisation wants to do') and the authority (or 'powers') the company needs to deliver its objectives and functions. The company's Articles of Association relate to the internal working, structure and governance of the company.
- 9.4 It is proposed that Lewisham Homes will issue tenancies direct to those tenants for the properties it owns and will continue to manage those tenancies relating to existing, Council, tenants. To provide clarity and distinction between Lewisham Homes tenants and leaseholders, and Council tenants and leaseholders, it is suggested that the company's Articles be updated to include specific mention to Lewisham Homes' tenants and leaseholders.

### Management Agreement

- 9.5 The existing Management Agreement (MA), or contract, between the Council and Lewisham Homes, is a 10 year contract which commenced in June 2007 and is due to expire in June 2017 and contain provisions for the extension, termination and variation of the Agreement.
- 9.6 The MA can be extended by either one or two terms of 5 years. Any extension must be made in writing to Lewisham Homes by not later than 6 months before

the Agreement expires, being December 2016. It is proposed elsewhere here that negotiations with Lewisham Homes now commence regarding the extension of the Agreement, whether it be for a further one or two terms.

## **10 Next steps and timetable**

- 10.1 If the recommendations set out in this report are approved, then officers will commence the negotiation process with the Lewisham Homes board in late January. These negotiations would take place at as quick a pace as is reasonable, with a view to enabling Lewisham Homes to commence an acquisition programme within this financial year.
- 10.2 The negotiations with the HCA, referred to here, relating to the potential for Lewisham Homes to become a Registered Provider, are expected to take a nine month period at a minimum. Further updates relating to this process will be brought back to Mayor and Cabinet in due course, to enable final decision making relating to these negotiations.
- 10.3 The Management Agreement between the Council and Lewisham Homes will end in 2017, and negotiations relating to the scale, type and scope of services to be included in its replacement agreement will commence immediately, if the Mayor authorises officers to do so.
- 10.4 The negotiations will be undertaken alongside, and in conjunction, with a full options appraisal of all the key options available to the Council for the future management of existing Council housing stock. The options appraisal will also link in with the outcomes that arose from the 'Housing Matters' programme and the consultation that was undertaken with residents. Further updates relating regarding the negotiations and full options appraisal will be brought back to Mayor and Cabinet in due course, to enable final decision making relating to the future management arrangements.

## **11 Financial Implications**

- 11.1 The recommendation is to extend the budget by £0.35m to complete works on the Hamilton Lodge and Canonbie Road properties. This increase is on the original budget for these works of £0.5m as part of the overall £4.3m agreed for the scheme. This additional funding will come from resources available through Housing Capital Receipts and Right to Buy receipts.
- 11.2 The recommendation to allow Lewisham Homes to acquire properties and let them on assured short hold tenancies to alleviate bed and breakfast pressures will be funded by the Council advancing Lewisham Homes a fixed rate loan. Initial modelling is based on a loan for £11m for ten years to acquire 40 or more properties in the North of the Borough (i.e. within the areas eligible for the higher inner Local Housing Allowance). If successful the proposal is to extend the loan up to a maximum of £20m over ten years to enable further properties to be bought.
- 11.3 The Council will require Lewisham Homes to pay a commercial interest rate for this loan under State Aid rules. The addition of this borrowing to the Council's debt must meet the requirements of the Local Government Act 2003, the

CIPFA Prudential Code, the Department for Local Government guidance on Minimum Revenue Provision (MRP) and Investments and the CIPFA Treasury Management Code as set out in the Council's Treasury Strategy. This Strategy is set annually as part of the Council's budget.

- 11.4 The risk to the Council is Lewisham Homes ability to meet the interest and capital repayments over the life of the loan and refer sufficient tenants for these properties. These risks are mitigated by Lewisham Homes being able to make the properties available on the private rented sector market if necessary and then dispose of them at the end of the loan period.
- 11.5 The risks to Lewisham Homes include: the ability to acquire suitable properties and issue tenancies quickly to access rental income; a change in Local Housing Allowance policy over the period of the loan that results in rents falling and higher than expected voids and bad debts, or a lack of capital appreciation in the value of the properties at least in line with inflation over the period of the loan. Subject to Lewisham Homes Board agreeing, it is anticipated that these risks can be mitigated by: Lewisham Homes knowledge of the housing stock in Lewisham; experience and resources for managing properties and tenants; ability to make some of the properties available to the private rented sector if necessary; and adequate reserves to manage the necessary cash flow over the period of the loan until the properties are sold and the capital repaid.

## **12 Legal Implications**

### Duties and powers

- 12.1 The Housing (Homeless Persons) Act 1977 places a duty on local housing authorities to secure permanent accommodation for unintentionally homeless people in priority need. Authorities' duties towards homeless people are now contained in Part 7 of the 1996 Housing Act (as amended) and are briefly summarised in 12.2 below.
- 12.2 When a household makes an application to a local authority for assistance with homelessness the authority is under a duty to carry out inquiries in order to satisfy itself as to what level of duty is owed to a homeless applicant. If an authority has reason to believe that a homeless applicant has nowhere to stay and is in priority need, then there is an immediate duty to make suitable temporary accommodation available pending further inquiries. The 'priority need groups' include households with dependent children or a pregnant woman and people who are vulnerable in some way e.g. because of mental illness or physical disability, having been in care, in the armed forces or subject to domestic violence.
- 12.3 One recommendation in this Report is to permit Lewisham Homes to acquire properties on the open market to provide temporary accommodation for homeless households. Lewisham Homes is a legal entity separate from the Council and can let tenancies in accordance with the assured tenancy regime set out in the Housing Act 1988 (the 1988 Act), in particular on an assured

shorthold tenancy basis. The consequence is that the tenants would be subject to the limited protections afforded by the 1988 Act to assured shorthold tenants, chiefly, a minimum six month term, subject to termination on two months' notice. Rents can be charged at market levels although as indicated in the Report at paragraph 8.4, it is the intention of the Council and Lewisham Homes that the properties will be let at Local Housing Allowance level. Lewisham Homes' tenants would not have the benefit of the right to buy (RTB), notwithstanding the parent/subsidiary relationship between Lewisham Homes and the Council.

- 12.4 The power to permit Lewisham Homes to acquire and let these properties for temporary accommodation can be found in Section 1 of the Local Government Act 2011) which gives power to a local authority to do anything that individuals generally may do. Section 4 of the Localism Act provides that if a local authority is doing anything for a commercial purpose it must do so through a company. As Lewisham Homes is a company which is an existing wholly owned subsidiary of the Council Section 4 can be relied upon if the purpose was deemed to be for a commercial purpose.
- 12.5 The exercise of this discretionary power has to be reasonable. The Council could alternatively acquire these properties under S9 of the Housing Act 1985. However, paragraphs 6.3 to 6.11 of this Report set out the reasons for recommending that Lewisham Homes acquire the properties. Importantly, this is only one element in a housing strategy to meet the needs of all homeless persons and is strictly for the much needed provision of high quality temporary accommodation for eligible homeless households pending their assessment for secure accommodation. In these circumstances and provided that this purpose is not strayed from it can be justified on the grounds of reasonableness.
- 12.6 Section 1 of the Local Government Act 2003 (the 2003 Act) provides a local authority with power to borrow money for any purpose relevant to its functions (or for the prudent management of its financial affairs). Given the requirements of Part 7 of the Housing Act 1996 the Council can rely upon the first "limb" of this Section 1. The borrowing needs to be within the prudential limits which the Council determines for itself in accordance with its duty under Section 3 of the 2003 Act and the Council is required to have regard to the Prudential Code for Capital Finance in Local Authorities (the Code) when carrying out these duties. This includes a requirement to have regard to its financial commitments and obligations to any companies or similar entities in which it has interests (such as Lewisham Homes).
- 12.7 In providing the proposed "on-lend" finance to Lewisham Homes the Council can rely upon the power in Section 24 of the Local Government Act 1988 which provides that a local housing authority has power to provide any person with financial assistance for the purposes of, or in connection with amongst other things the acquisition of any property which is or is intended to be privately let

as housing accommodation. It requires Secretary of State consent to do so under Section 25 of the same Act. There is a general consent available in these circumstances. It covers any financial assistance (other than the disposal of an interest in land or property).

#### State Aid

- 12.8 The loan to Lewisham Homes is at market rate so no issues of State Aid arise which under EU law prevents Member states from granting aid to an organisation which would result in it being anti competitive in the market. There is in any event an exemption to the State Aid prohibition for affordable housing.

#### Procurement

- 12.9 As Lewisham Homes is a wholly owned subsidiary and 10-15% of its turnover relates to activities for the Council it is exempt from the EU procurement regime and the new build activity will not jeopardise this provided that a substantial housing management and maintenance service continues to be delivered by it to the Council.

#### Lewisham Homes Memorandum and Articles and the Management Agreement

- 12.10 Lewisham Homes Memorandum and Articles currently extend to providing and constructing housing to be available for letting in areas where the Council owns or manages stock and carrying out any activity which contributes to regeneration or development in the Council's area. These objects will require amending to extend its powers to this acquisition of property, ownership of the same and letting such property as landlord for the purpose of temporary accommodation activity. The scheme of delegation in the Management Agreement between the Council and Lewisham Homes will need amending to reflect this new function.
- 12.11 The term of the Management Agreement is currently for 10 years expiring on the 25<sup>th</sup> June 2017. If the Mayor was to approve the recommendation to permit Lewisham Homes to acquire and let property as landlord for temporary accommodation but the Management Agreement was not extended, the acquired properties would return to the Council as sole shareholder. In this event the status of any tenants in the properties at this time could change as the Council would be the landlord and there is a risk of the tenants on assured shorthold tenancies becoming secure.

#### Nomination rights

- 12.12 The Council would have to be granted nomination rights in respect of the properties acquired by Lewisham Homes as the Council still retains the homeless function.

#### Equalities Legislation

- 12.13 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 12.14 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.
- 12.15 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 12.16 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:  
<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>
- 12.17 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
1. The essential guide to the public sector equality duty
  2. Meeting the equality duty in policy and decision-making
  3. Engagement and the equality duty
  4. Equality objectives and the equality duty
  5. Equality information and the equality duty
- 12.8 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good

practice. Further information and resources are available at:  
<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

### **13. Crime and disorder implications**

13.1 There are no specific environmental implications arising out of this report.

### **14. Equalities Implications**

14.1 There are no specific equalities implications

### **15 Environmental Implications**

15.1 There are no specific environmental implications arising out of this report.

### **16. Background documents and originator**

16.1 There are no background documents to this report.

16.2 If you would like any further information on this report please contact Genevieve Macklin, Head of Housing at [Genevieve.macklin@lewisham.gov.uk](mailto:Genevieve.macklin@lewisham.gov.uk) or on 020 8314 6057.