

## MUNICIPAL YEAR 2017/2018 REPORT NO. 185

### MEETING TITLE AND DATE:

Cabinet  
- 18.4.18

### REPORT OF:

Executive Director of Regeneration  
and Environment

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<b>Agenda Part 1</b>	<b>Item: 7</b>
<b>Subject: Disposal of HRA Assets to Red Lion Homes</b>	
<b>Wards: All KD4591</b>	

### 1. EXECUTIVE SUMMARY

- 1.1 Cabinet approved the setting up of an Enfield Council sponsored Registered Provider at its meeting in November 2015. This followed an earlier report to Cabinet setting out ways in which the Council could spend its RTB receipts as part of the Government's 'One for One Replacement Scheme'. Between 2018/19 and 2022/23 the Council needs to spend £154m of RTB receipts. It is not possible to spend this level of receipts on HRA projects because the HRA does not have the available 70% match funding. Therefore housing association (RP) partners will be needed to help meet the expenditure targets if the Council is to avoid handing back RTB receipts to the Government. For every £1m of RTB receipts handed back an additional £143k is charged in interest.
- 1.2 The Council procured the services of consultants, Campbell Tickell, to assist the Council in making applications to the Homes and Communities Agency (HCA) on behalf of the formative RP. Prior to this the company was registered at Companies House; this was completed in May 2017. The company is called Red Lion Homes (RLH).
- 1.3 Following registration RLH had to secure a minimum number of Board Members to enable the Preliminary application to the Homes and Communities Agency. Two Board members were appointed, the Chair and a Council nominee, and the Preliminary application was submitted in September 2017.
- 1.4 Cabinet agreed to support the new RP through investing RTB receipts. Additional funding would be secured by the RP from financial investors or lenders. Cabinet also approved of the disposal (through the selling) of newly developed properties to RLH to help it establish itself. Existing HRA homes are not being sold to RLH. Unless required by legislation the Council intends to sell HRA assets on long-term leasehold disposal, thereby retaining its freehold interest.

## **EXECUTIVE SUMMARY continues**

- 1.5 RLH needs to demonstrate to what is now the Regulator for Social Housing (RSH), formerly the HCA, that it has a viable business plan and a source of assets (land and properties). The assets can be acquired or developed by RLH and the Council can assist it by selling completed new build units or Council owned land for designated development schemes to enable it to build up its portfolio. The majority of properties or sites released in this will be eligible for RTB receipts (where they add to new additional supply over and above existing homes) to be applied and will not require the HRA to match fund the remaining 70%. Only rented units are eligible for RTB receipts funding.
- 1.6 Disposal of up to five sites can be undertaken through the General Housing Consent 2013 which enables the Council to fund RPs in the provision of affordable housing and the rest will require new specific consent.
- 1.7 This report identifies the type of HRA properties and sites that could be sold to Red Lion Homes. It is proposed that these and other sites identified in the future would be subject to specific approval for disposal as set out in 2.4.
- 1.8 The Council's original intention was that RLH would be a For Profit Registered Provider (FPRP), in which the Council would invest in the company along with private investors. This position has been reviewed by the Council and the Red Lion Homes' Board as it is now felt that RLH and the Council would benefit from RLH becoming a Not For Profit Registered Provider (NFPRP). The main advantage of this approach is that it is likely to lead to an earlier registration with the Regulator for Social Housing and as a result enable the Council to expend its RTB receipts earlier than if RLH pursued registration as a FPRP.

## **2. RECOMMENDATIONS**

- 2.1 That the Council provides funding to Red Lion Homes Ltd up to a value of £250,000, as “Start-Up” costs, this sum to be repaid to the Council once the new company is set up. The exact terms of the loan agreement to be approved by the Executive Director of Finance, Resources and Customer Services in consultation with Director of Law and Governance.
- 2.2 Subject to Red Lion Homes receiving formal registration with the RSH as a Registered Provider, it is recommended that Cabinet:
- 2.3 Approves the principle of disposal of newly developed sites, at the appropriate relevant value, as set out in paragraph 3.15
- 2.4 Delegates future decisions and the most appropriate disposal route on specific disposals of HRA assets to the Executive Director of Regeneration and Environment in consultation with the Leader and Cabinet Member for Finance and Efficiency subject to Property Procedure Rules and value for money
- 2.5 Approves that Red Lion Homes, along with other RPs, is an acceptable body, once registered for the receipt of S.106 homes.
- 2.6 Approves delegating to the Executive Director of Regeneration and Environment in consultation with the Leader and Cabinet Member for Finance and Efficiency agreeing a Memorandum of Understanding about rent setting and strategic aims for Red Lion Homes in its relationship with the Council
- 2.7 Notes that the Board of RLH has changed its Articles of Association and will change its corporate structure as appropriate to enable it to change its type of Registered Provider designation with the Regulator of Social Housing to that of a Not For Profit Registered Provider, and further delegates to the Executive Director of Regeneration and Environment approval of the change to not for profit status subject to due diligence by Legal and Finance.

### **3. BACKGROUND**

- 3.1 Cabinet of March 2015 approved a report setting out a number of options that the Council had for delivery of the Government's Right to Buy (RTB) One for One Replacement Scheme. The scheme sets out ways in which local authorities can spend receipts obtained from the sale of properties under the RTB to invest in the re-provision of new social or affordable rented housing.
- 3.2 Funding under the scheme can be used to fund 30% of scheme costs for properties that are either acquired or developed. This applies whether it is the Council or an RP undertaking the role. The financial difference between the two approaches is that if the Council undertakes the development then it has to provide the 70% 'match funding' from HRA resources whereas an RP would be providing this itself (for these initial scenarios this will likely be from loan or investment funders). The RP route therefore saves the HRA costs through not having to provide the match funding. The HRA does not receive rental income itself as all properties developed will be within RLH's portfolio.
- 3.3 One of the options that Cabinet approved was the approval of a budget to procure the necessary expertise to advise on Registered Provider (RP) models or a consortium with other Councils and to set up the new delivery model quickly. This sum would be funded from HRA business plan resources.
- 3.4 Following the March 2015 report a further report to Cabinet in November 2015 approved: 'That Cabinet note that a maximum budget of £120k is required to engage consultants to assist with the setting up of the new RP Company, seek registration of the new RP Company as a Registered Provider, and to procure an investment partner and borrowing requirement if needed. This cost will be recouped against future corporation tax liability once the company is set up.'
- 3.5 The Council will not have a controlling interest in the new RP. As it will not be a wholly owned Council company like Enfield Innovations and Housing Gateway, RTB receipts can be used to fund it.
- 3.6 As a result of Cabinet approvals officers have been working with consultants Campbell Tickell to set up the new RP. The new company/RP is called Red Lion Homes. It will operate under the same governance and financial arrangements as existing RPs, that is under the auspices of the Regulator for Social Housing (RSH) and be able to use the Council's RTB receipts in the same way as other RPs.
- 3.7 The Council has sought to encourage existing housing associations to use RTB receipts to fund development schemes but has had limited success. Following the preparation of funding criteria in August 2016 all RPs working in Enfield were encouraged to submit bids for RTB receipts funding. The Council set out a number of parameters to be met: a strategic fit to Enfield's housing aims; deliverability of the scheme; value for money; rent affordability

for local residents and accessibility of units. Only six bids were received of which only two were subsequently supported for funding of £2.5m in October 2016. Officers followed up this announcement by writing to all RPs in Enfield about ways to improve the next round of funding. Meetings with the leading eight RPs in Enfield were held and bids received for the second round in October 2017. Two bids have been received and funding approved for the sum of £2m. Officers have advised RPs that the Council will consider further bids under a continuous market engagement (CME) exercise which allows for RPs to submit suitable bids as when they have any. Although RPs now have schemes funded via RTB receipts this level of activity is not sufficiently high enough in itself to meet the expenditure targets the Council has. By working with a Council sponsored RP, Red Lion Homes, it will have an alternative to the existing RPs and an additional route to deliver affordable housing.

The table below compares a number of key factors between the Council and its companies and RPs in providing affordable housing.

	<b>Council HRA</b>	<b>EIL</b>	<b>HGL</b>	<b>RPs</b>	<b>RLH</b>
<b>Can Provide Affordable Housing</b>	Yes	Yes	Yes	Yes	Yes
<b>Can Use 30% RTB Receipts</b>	Yes	No	No	Yes	Yes
<b>External 70% match funding</b>	No	No	No	Yes	Yes
<b>Exempt from RTB for tenants</b>	No	N/A	N/A	Some	Yes
<b>Retains Stock for LBE</b>	Yes	Yes	Yes	No	No

Note: The governing body for RPs the National Housing Federation has signed a voluntary agreement with Government accepting the principle of RTB for RP tenants. The idea is that individual RPs can allow it or not. A second RP RTB trial is currently underway that will inform this process further. Red Lion Homes, subject to a formal Board recommendation, will not allow RTB as this is part of its strategic approach in supporting the Council in its efforts to supply and retain affordable housing for Enfield residents.

3.8 RLH was registered with Companies House in May 2017. It subsequently appointed an independent Chair and a Council nominee to its Board. Following this the preliminary application to become a Registered Provider was submitted to the HCA in September. Further appointments of

independent Board members were made during November and December. The final Council nominated Board member, the Cabinet Member for Housing and Housing Regeneration, was approved by Full Council in January. As a result of this nomination any decisions about disposals to RLH cannot be made by this Member and need to be made by the Leader. In January the first stage application was approved by the RSH.

- 3.9 As part of the application process that RLH must go through it needs to provide a business plan to the RSH to show its intended stock growth. This is also a key component of the registration process and would be of increased significance to the RSH if RLH was to register as a FPRP due to the need in attracting an investment partner. RLH is drawing up a draft business plan. It is seeking to provide 500 units of housing within six years. The majority of these will be affordable housing with any other provision being used to subsidise the provision of affordable housing much as any other RP or the HRA does in developing schemes. Officers from Regeneration and Planning and Finance, Resources and Customer Services are liaising with consultants about the modelling of this. RLH will look to buy newly developed property and sites from the HRA but also seek to have assets provided from other sources in the future. The Council will be able to test the robustness of this plan once Red Lion Homes' financial advisers have also tested it themselves and with potential funders. While the Council can advise and have an opinion in whom RLH chooses to select as a financial investor or funder the final decision will be made by RLH's Board. In turn the RSH will thoroughly examine this plan as part of the financial checks it makes when assessing new registrations. RLH's Board will decide whether it wishes to extend its services beyond the provision of affordable rented housing to include shared ownership and other intermediate housing options.
- 3.10 The pressure on the Council to expend its RTB receipts is increasing. The setting up of an RP by the Council was intended to be one of the main ways of doing this and therefore the earlier it is registered the sooner it can use the money. The RSH takes a more in-depth assessment of an RP wishing to register as a FPRP as the financial risks are perceived to be greater and more onerous when an RP has shareholders. RLH via its financial advisers, Centrus, has been speaking to a number of potential funders. It has advised that in the current financial climate investment funding for start-up FPRPs is more difficult to secure than debt funding and as such this could lead to a longer registration process. As a result the Council and RLH have concluded that it would be prudent to remove the risk of delay and securing of investment funding by setting up as a NFPRP. The RLH Board has changed its Articles of Association and will amend its company structure to enable its changed application to the RSH.
- 3.11 The November 2015 report had identified two potential Council development schemes as being able to provide an initial property asset base for the RP. These were New Avenue and Upton and Raynham Roads. While it was anticipated that 70 properties from the New Avenue scheme could be made available, on further checking with the rules about RTB expenditure, only 10

homes would be eligible for funding as they constitute the amount of homes that make a 'net gain' of affordable housing on the site. Therefore no homes can be sold to Red Lion Homes at New Avenue as the 10 homes themselves are required for existing residential leaseholders. Again with Upton/Raynham not all the replacement affordable homes can be funded via RTB as the new homes will be replacing a number of existing affordable homes. At Upton and Raynham it is estimated that between 30 and 50 homes could be funded via RTB receipts. Previously it was recommended that the new RP would buy units built out by the HRA. However due to the constraints on the HRA business plan and the necessity to have increased staff resources not all potential development sites can be brought through feasibility and planning to completion and then sold on. Therefore it is proposed within this report, paragraph 2.3, that sites are considered as well as completed units. This will help speed up delivery of affordable housing supply by introducing flexibility into the development options for individual sites.

- 3.12 Notwithstanding the changes to the available profile of units from the above mentioned schemes other to be developed properties and sites have been identified that can contribute to RLH's business plan target.
- 3.13 It is intended that the RP will charge affordable rents. This may be subject to approval by the GLA as without it is expected that RPs charge social rent levels. The Council will seek a legal agreement with Red Lion Homes that affordable rents, where applied, will be set at the same levels as those in Enfield Council's Affordable Rent Policy.
- 3.14 RLH's Board is currently developing its options for the procurement of services to run both housing management and housing development for it on an initial basis while it establishes itself. A development partner would act as an agent in developing sites sold to RLH by the Council that are not developed at the time of sale.
- 3.15 Although by disposing of sites to RLH the Council will lose the opportunity to own developed units it will generate capital receipts for the HRA and the HRA does not have to provide the match funding for redevelopment. The Council will receive capital receipts from the sale of land and property at the relevant value. For example a site without planning consent will be sold for open market value or if the site has planning consent for affordable housing the value will reflect that affordable housing is being provided. In addition RLH will not be granting the RTB to its residents; RTB is a voluntary choice for each individual RP to make. By not granting the right to buy this will safeguard the supply of affordable housing for future tenants.
- 3.16 In considering which sites or properties to dispose of the Council will consider a business case in each scenario. This will cover a number of factors for example whether it has sufficient funding within the HRA to develop the site and then sell on, whether the site has planning permission, whether Red Lion Homes has funding in place, etc. While it is the intention of the Council to support Red Lion Homes the HRA will receive the financial value of any disposals and thereby not lose its asset value. The following sites and to be

built properties are ones that are currently with the HRA's development pipeline and are indicative of sites that can be disposed of subject to a business case.

- Newstead – planning approval has been granted for 22 affordable rented homes. Three of these units are additional to the existing homes; so can be funded via RTB receipts for RLH. Examples of how this site can be progressed include: selling to RLH and RLH developing, the Council can develop it and sell on or the site built out under a S.106 agreement.
- Gatward Green – planning approval has been obtained for 7 affordable homes and 5 for private sale. The affordable homes are additional as the current sites are garages. The site can be disposed of to Red Lion Homes for its development in the same way as Newstead House.
- Upton and Raynham – it is planned to develop a scheme of approximately 140 units. There will be a mix of affordable and private homes. Subject to planning it is proposed that the affordable homes are sold to Red Lion Homes. Where right to buy receipts can be used this funding will be made available. Where RTB receipts cannot be used, because the units are not additional to the original scheme, Red Lion Homes will seek to fund these themselves or use S.106 funding from the Council.
- Small Sites 3 – there are several sites that the Council is looking to obtain planning consent for redevelopment. As mentioned elsewhere these can either be sold or developed and the units sold on to RLH. Presently sites nearing submission to Planning include Southbury Avenue, Roseneath Walk and High Road, N11, which would provide approximately 20 units. Other potential schemes at feasibility stage could provide another 30 units. Others will come forward in due course

3.17 In addition to the provision of sites and new build properties directly from the Council it is recommended that Red Lion Homes, once registered as a Registered Provider, is accepted by the Council as an appropriate body to receive homes via S.106 agreements, like other RPs working in Enfield. This can apply either directly as on-site provision or where properties are in lieu of on-site provision elsewhere.

3.18 Cabinet is asked to approve that the Council lends up to £250k to Red Lion Homes whilst it is in the set-up period. This will enable it pay for Directors' remuneration, services that enable its set-up such as the services of Campbell Tickell to achieve RP status, financial support to formulate the company's business plan and pay its creditors and other day to day expenses. This sum would be repaid to the Council, with appropriate interest applied, once the company is operational and in a position to repay the debt.

Because, the sum will cover elements of set up, corporation tax can be offset against it. It is noted that Council Directors will not be remunerated.

### 3.19 Red Lion Homes' Governance Arrangements and Relationship with London Borough of Enfield:

3.19.1 Red Lion Homes is an independent company and will be registered with the RSH as a registered provider (RP) of affordable housing. The RSH has responsibility for the regulatory oversight of RPs in England and expects all RPs to meet minimum standards in organisational performance. The two main performance measures are governance and financial viability.

3.19.2 RLH will need to meet a number of minimum requirements to demonstrate its viability to the RSH. Details will be sought on its business plan and strength of its Board. RLH is drawing up its business plan based upon a six year supply of homes. This in turn will be supported by private investors or debt financing to provide match funding to that provided by the Council's investment of RTB receipts.

3.19.3 RLH has a full Board of nine members. The Council has two nominees and is limited to no more than 24% representation. The Chair and other Board members are independent of the Council. It will be one of the Chair's main roles to liaise with the Council (officers and members) about RLH's activities and plans. RLH will with the greater degree of support the Council gives have a closer working relationship with the Council than other RPs. Through the Council's representation on the Board the Council will have an on-going input into the running of the organisation.

3.19.4 Red Lion Home's Annual Report will be submitted to the Cabinet can from time to time raise issues with Council nominated Board members.

## 4. ALTERNATIVE OPTIONS CONSIDERED

4.1 The Council could decide not to provide Red Lion Homes with land and properties to help it establish itself for the provision of affordable housing. However the HRA would not be able to fund all these schemes itself as there is insufficient funding within the HRA to do so. By using Red Lion Homes match funding is provided by the RP itself and means HRA resources can be used elsewhere.

4.2 As set out elsewhere in the report the Council has had limited success in funding the other RPs working in Enfield. Of 36 RPs only 4 have schemes using RTB receipts. The Council will continue to fund these RPs as the amount of available RTB receipts will cover a variety of approaches for providing new affordable housing supply.

- 4.3 Red Lion Homes owning the homes that are developed means they will not be subject to the Right to Buy, which they would be if they remained within the Council's ownership via the HRA.
- 4.4 For RLH to continue to set up as a FPRP. Without the support of the Council to do this this is not seen as viable.

## **5. REASONS FOR RECOMMENDATIONS**

- 5.1 The Council has agreed to support/sponsor the setting up of an RP to help in the provision of affordable housing to meet housing needs in Enfield.
- 5.2 By the direct sale of sites and newly developed properties to Red Lion Homes it and the Council can demonstrate to the RSH that we are committed to ensure the establishment of the registered provider.
- 5.3 By working with an RP with a close relationship to the Council the Council is better able to expend its RTB receipts from the Government's One for One Replacement Scheme. It enables the Council to provide more homes than if it had to fund all of them through the HRA itself.

## **6. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES**

### **6.1 Financial Implications**

- 6.1.1 The HRA has successfully been spending and match funding RTB receipts since 2012. The HRA Business Plan is currently under financial strain for a number of reasons i.e. rent reduction, increased estate renewal scheme costs and post Grenfell Tower capital works. This has resulted in the HRA not being able to match fund future RTB receipts.
- 6.1.2 If the Council does not spend RTB receipts within the three year time frame it is allowed it has to repay the full amount to the Government plus interest (4% above base rate compounded). The intention is to set up Red Lion Homes as a registered provider to enable the Council to spend RTB receipts and continue to support new affordable homes. The HRA will contribute 30% funding with Red Lion Homes match funding 70% through loan or investment funding.

6.1.3 The table below shows the amount of RTB receipts required to be spent in the next 5 years by the HRA and Red Lion Homes:

	<b>Total RTB to be spent</b>	<b>Council Contribution to Red Lion</b>	<b>Red Lion Contribution - match funding</b>
	<b>100%</b>	<b>30%</b>	<b>70%</b>
18/19	10,814,973	3,244,492	7,570,481
19/20	25,739,463	7,721,839	18,017,624
20/21	52,077,133	15,623,140	36,453,993
21/22	40,061,817	12,018,545	28,043,272
22/23	25,677,756	7,703,327	17,974,429
<b>Total</b>	<b>154,371,142</b>	<b>46,311,343</b>	<b>108,059,799</b>

6.1.4 The developments shown above are currently not built into the business plan for rental income purposes so there will be no negative effect on the HRA. However, the Council Housing vision is to continue to maintain the current level of housing stock. Assurance is needed that a balance of new developments will remain within the HRA to ensure continuation of current stock levels and rental income.

6.1.5 Properties and land will be sold to Red Lion Homes at full market value (where no planning consent exists for affordable housing) with 100% nomination rights. Assessments on viability of the scheme will be tested through Proval (a financial feasibility tool).

6.1.6 Although the HRA cannot currently afford to match fund RTB receipts the loss of rental income based on 500 units over 30 years is c. £10m.

6.1.7 The Council will lend RLH up to £250k to cover its costs during the “start-up” period. This is estimated to be nine months, with the company fully operational by December 2018. At this point, the Council will charge RLH for the loan, and apply interest at a rate that complies with State Aid obligations. Some of the monies will be advanced into a RLH bank account, which is currently being set up. The rest will be paid by the Council from a separate cost code so that the full sum payable by RLH can be clearly identified. In addition, the Council will charge RLH for administrative time spent on company matters.

6.1.8 Further Business Plan modelling will be required in order to ensure that a viable plan is demonstrated to the Regulator for Social Housing (RSH).

6.1.9 By increasing the level of housing stock it is hoped we can reduce the pressure on temporary accommodation by moving some tenants into permanent council housing. This could act as cost avoidance within the general fund.

## **6.2 Financial Risks**

- 6.2.1 If Red Lion Homes cannot secure match funding from investors or by borrowing, and the HRA can't afford to match fund, receipts plus interest will be repaid to Government.
- 6.2.2 Close monitoring of the developments will be needed to ensure the spending of receipts is in line with the Government's One for One Replacement scheme rules, for example, spent within three years of receipt.
- 6.2.3 If Red Lion Homes is not eventually set up, then the Council will have to absorb the loan of up to £250,000 that it will have given the company to cover its start-up costs.
- 6.2.4 Other risks may need to be explored as the intended company structure is developed.

## **7 Legal Implications**

- 7.1 The Council is a local housing authority under section 1 of the Housing Act 1985 (**HA 85**) and is proposing to dispose of the properties set out in paragraph 3.15 to RLH. These are held in the Housing Revenue Account (**HRA**). It also intends to dispose of other HRA properties to RLH that are considered suitable within the context of this scheme. The Council has the power to dispose of HRA properties under section 32(1), HA 85 provided that Secretary of State consent is obtained (s32(2), HA 85). The Council can apply to the Secretary of State for specific consent, or can rely on one of the general consents if it can meet the required conditions. Under A.3.1.1 of the. The General Housing Consents 2013, the Council can make the first five disposals in a financial year to RLH provided they are at market value. Secretary of State consent will be required for any additional disposals in that financial year, and may be sought by providing details of the properties' valuations and the nomination rights and what the proceeds of sale will be used for/why this is the best use of Council assets.
- 7.2 If the Council decides to dispose of HRA properties for less than market value then a different consent regime is in place, and this would need to be complied with as a failure to do so will render a disposal void.
- 7.3 The Council must pool RTB receipts centrally under section 11, Local Government Act 2003 and regulation 12, The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 unless the Secretary of State agrees otherwise. The Council has entered into an agreement with the Secretary of State that permits it to retain a proportion of these receipts for use in providing social (rented) housing. It can either spend the receipts itself, or transfer them to a third party to do so provided that it does not have a controlling interest in that party. The Council does not have such an interest in RLH, and so can transfer receipts to it as long as the other terms of the RTB agreement are also met.

- 7.4 The Council has the power under section 24, Local Government Act 1988 to provide financial assistance, including by way of a loan, to any person in connection with the acquisition, construction, conversion, improvement, maintenance or management of any property to be let privately as housing accommodation. Secretary of State consent must be obtained before this power can be exercised. A number of general consents have been made, and the Council could rely on consent C of the 2010 general consents as authority for making the working capital loan to RLH.
- 7.5 RLH will be obliged to comply with the Homes & Communities Agency's Rent Standard (GLA administered in London) when determining rent levels. This applies to all registered providers, and requires social rent to be charged at the prescribed formula except in limited circumstances. These include where a housing supply delivery agreement has been entered into under the Affordable Homes Programme, or where an RP has acquired properties that are already let for affordable rent or which must be let at such a level to comply with the terms of a section 106 agreement. In the current circumstances, this means that there is potential for the GLA to enter into a form of agreement with RLH requiring it to charge affordable rent on the properties that will be disposed of by the Council to RLH.
- 7.6 RLH has not yet achieved Register Provider status. The Council could protect its interests by entering into an agreement to transfer which would be conditional on RLH achieving Registered Provider registration.
- 7.7 The Council must be mindful of state aid rules which prohibit the Council from using its resources to provide selective financial support to a third party operating in the market. There are ways in which financial support can be provided in compliance with state rules, for example if the support is provided on market terms (thereby satisfying the 'Market Economy Operator Principle') or a relevant exemption applies (such as an exemption for what are known as services of general economic interest (SGEI)). State aid compliance must be managed on an ongoing basis with legal and financial professional advice being taken as needed.
- 7.8 As explained at 1.8 above, it is now proposed that RLH becomes a Not For Profit Registered Provider. This means that the RLH's current structure as a company limited by shares is no longer appropriate and alternative structures such as a company limited by guarantee or a community interest company should be explored. The wider implications of this change in corporate structure will need to be considered when deciding the appropriate form for RLH.

## **8 Property Implications**

- 8.1 By Section 123 of the Local Government Act 1972 ("S.123 LGA") and/or Section 1 of the Localism Act 2011 the Council has the power to dispose of land in any manner it wishes, subject to certain provisions.

The Council has a statutory duty to obtain the best price reasonably obtainable, subject to certain exemptions.

General Fund and HRA assets should be disposed of in line with s123 of the Local Government Act 1972 (as amended in 1998), in certain instances to avoid State Aid implications.

- 8.2 Should appropriations take place between the General Fund and Housing Revenue Account this has to be at market value before a transfer to Red Lion Homes is authorised.
- 8.3 Formal Red Book valuations by a RICS Registered Valuer will be required for all disposals to Red Lion Homes to comply with the Council's PPRs.

## **9 KEY RISKS**

- 9.1 The Council has approved the route of supporting a new housing association to provide affordable housing to meet a range of challenges. The main challenge to the Council is that of providing enough affordable housing to meet the housing needs of residents in Enfield. Red Lion Homes provides an additional route to increasing affordable housing supply and in addition has three advantages in doing so. Firstly it can use RTB receipts for its developments and does not require match funding from the Council, as would be the case if the Council developed schemes direct. Secondly Red Lion Homes' tenants will not have the right to buy their properties thereby ensuring affordable housing supply remains available to those in need.
- 9.2 Setting up Red Lion Homes will enable the Council to take a more diverse approach to providing affordable housing and is not reliant upon funding all schemes through the HRA, which due to the debt cap and need for match funding, constrains this approach.
- 9.3 The above advantages will be at risk if Red Lion Homes is not supported, at the very least in its early years, with the provision of land and properties to build its portfolio. This in turn will have a negative impact on meeting the housing needs of Enfield's residents.
- 9.4. The Council in providing RTB receipts to Red Lion Homes will, as it does with other RPs, seek indemnity from it in the case of non-delivery. Should RLH receive RTB funding and not complete the homes for which it has received the money this will be repayable to the Council. Any such granting of RTB receipts will clearly state to which scheme the money is being allocated.
- 9.5 Properties provided by Red Lion Homes and supported with funding from the Council by way of RTB receipts will be let at rent levels that align with the Council's own Affordable Rent Policy.
- 9.6 RLH as a registered provider is overseen by the regulatory regime of the Regulator for Social Housing (RSH). Should at any future date RLH is

experiencing either severe financial difficulties or major governance deficiencies the RSH will use its regulatory powers to arrange that the company and its assets are transferred to another housing association. The RSH ensures through its powers that social housing is not lost for its continued use as such; so should RLH's stock be transferred to another provider the Council will continue to have the usual access to social housing it has supported in providing through its nomination rights.

## **10 IMPACT ON COUNCIL PRIORITIES**

### **10.1 Fairness for All**

Red Lion Homes will help the Council increase investment in the provision of affordable housing stock within the borough. This will more provide more opportunities for people in Enfield to access homes they can afford.

### **10.2 Growth and Sustainability**

The Council in conjunction with Red Lion Homes by investing in the affordable housing stock will increase the supply of affordable housing and will help enable the Council to discharge its statutory housing responsibility to households that live in the borough and meet wider housing needs.

### **10.3 Strong Communities**

Developing good quality housing in areas where people desire to live will help to create and maintain strong sustainable communities.

## **11 EQUALITIES IMPACT IMPLICATIONS**

- 11.1 The provision of affordable housing for rent will have a positive equalities impact on disadvantaged groups that are disproportionately represented on the Council's Housing Register or in temporary accommodation as homeless families.

## **12 PERFORMANCE MANAGEMENT IMPLICATIONS**

None

## **13 HEALTH AND SAFETY IMPLICATIONS**

None

## **14 HR IMPLICATIONS**

None

## **15 PUBLIC HEALTH IMPLICATIONS**

15.1 Housing is a basic human right and fundamental to health. Increasing the stock of affordable housing will increase the potential to improve health.

### **Background Papers**

None