



Cabinet
22 May 2017

**Report from the
Strategic Director of Resources**

Wards Affected:
[ALL]

Authority to sell properties purchased by the Council for PRS purposes to the Council's wholly owned company 'Investing 4 Brent' for the discharge of homeless duty

1.0 Summary

1.1 The Temporary Accommodation Reform Plan, agreed by Cabinet March 2016, identified a number of new approaches to support Homeless families and help reduce the Council's dependence and expenditure on temporary accommodation. The creation of a private rented sector (PRS) programme received support from Cabinet and approval to purchase properties in advance of the incorporation of a new PRS company wholly Council owned in order to avoid disadvantageous market conditions. The March 2016 report and subsequent reports including 'Establishing a Wholly Owned Investment Company' November 2016, did not expressly recommend the subsequent sale of the properties purchased for the PRS programme onward to the wholly owned company and Officers now seek express authority to sell such properties.

1.2 The Council's wholly owned investment company, Investing 4 Brent Ltd, was incorporated in December 2016 and is now able to purchase properties and let 100% of those purchased to homeless families to which the Council has a duty. The Company is requesting to amend its company name to I4B Holdings Ltd. The reason is primarily to support the branding of the company especially in business activities outside the Borough. The Company has developed its policies and contractual arrangements, including a service level agreement with LB Brent. The Company will report progress made to the Council's Audit Committee in September.

2.0 Recommendations

That Members:

- 2.1 Approve the sale of residential properties purchased or identified by the Council for the Private Rented Sector programme to be sold to the new wholly owned company 'Investing 4 Brent' on the basis of the valuation methodology set out in this report.
- 2.2 Delegate authority to the Strategic Director of Resources, in consultation with the Chief Finance Officer, for the sale of properties identified for the PRS programme to Investing 4 Brent.
- 2.3 Approve the change of name of the Council's wholly owned company from Investing 4 Brent Ltd to I4B Holdings Ltd.

3.0 Detail

The setting up of a new PRS landlord and the implied intention of the Council to sell properties to the new PRS landlord

- 3.1 The Temporary Accommodation Reform Plan, agreed by Cabinet March 2016, identified a number of new approaches to supporting Homeless families and help reduce the Council's dependence and expenditure on temporary accommodation. The creation of a new Private Rented Sector (PRS) landlord wholly owned by the Council was one of the key initiatives agreed.
- 3.2 The Temporary Accommodation Reform Plan identified advantages of establishing a company owned by the council outside the Housing Revenue Account (HRA) so that it could let properties within the Private Rented Sector, while drawing on the Council's borrowing capacity and give the Council greater control of the investment compared to entering into a joint venture or contract with an external organisation, allowing better management of risk and potential reward.
- 3.3 A PRS portfolio of 300 properties was proposed and an initial budget of £60m, subsequently increased to £100m, was agreed.
- 3.4 In Annex 1 of the Temporary Accommodation Reform Plan (appendix 1, 8.4.7) a rationale for starting a programme of PRS purchases in advance of the setting up of a wholly owned council company was presented. The report stated: *"There is a present opportunity to acquire PRS units in the areas mentioned but house price increases may narrow this opportunity even in the relatively short-term. It is therefore planned to directly proceed with a programme of acquisitions. In advance of a company being established any units will be used as Temporary Accommodation as this provision automatically sits outside the HRA, with these units then switching to PRS lettings on being transferred to the company once established."*

- 3.5 The first PRS property was purchased in September 2016 and as at 24th April 2017 thirty properties had been purchased from the market and three Council empty homes had been identified for sale to the new PRS Company. Although properties which have been purchased and refurbished can for a limited time be used as temporary accommodation, the value of the PRS programme is for the properties to be owned by the new company, as a private landlord, and provide permanent accommodation under an assured short hold tenancy agreement and therefore end the Council's duty to those housed.
- 3.6 In November 2016 the Cabinet agreed a paper presented by the Chief Finance Officer entitled 'Establishing a Wholly Owned Investment Company'. The Cabinet supported the setting up of the wholly owned Council Company and the company's PRS business plan reflecting the ownership and management of three hundred properties to support the Council's homelessness agenda.
- 3.7 The company, 'Investing 4 Brent' Ltd ("Investing 4 Brent " / the Company) was subsequently set up using the agreed delegated powers in December 2016. The company has a loan agreement with the Council and is in a position to purchase properties bought for PRS from the Council. In the future the intention of the company remains to use the council to find and administer property acquisitions however it will seek to maximise the use of its own funds to purchase properties directly.
- 3.8 The Value of each property purchased exceeds the amount of £250k and accordingly, Cabinet approval is required for the onward sale. Unfortunately, although the content of the report of March 2016 provided an intention for the Council to purchase the properties and sell them to the company based on an agreed valuation methodology, the approval from Cabinet to sell the properties in this way was not explicitly obtained.

Valuation of Properties

- 3.9 The Council has a duty under section 123 of the Local Government Act 1972 to dispose of land by means of the best consideration reasonably obtainable.
- 3.10 The Council need to be aware of state aid rules when setting a valuation for the properties and care must be taken not to undervalue assets and services.
- 3.11 Going forward, the sale of the properties to the Company must take place in a timely manner but in any event prior to the undertaking of any repair works.
- 3.12 The Council has purchased the properties in the open market for an agreed price via private treaty. The Council's offers were supported by independent valuations which were carried out by an independent RICS (Royal Institute of Chartered Surveyors) registered valuer to determine the market value in accordance with the 'Red Book'. In addition to the purchase price the Council has incurred Stamp Duty and Land Tax, Legal and professional fees and works costs to bring properties to an agreed lettable standard. A review by officers of the current market conditions and Land Registry data suggests that a sale of the properties to 'Investing 4 Brent' in accordance with the price paid plus

recovery of the Council's costs as set out in paragraph 3.14 to 3.16 will satisfy the best consideration requirement and ensure the Council is not breaching any state aid requirements.

- 3.13 The proposed valuation methodology for pricing the sale of the properties onward to the company is to use the recent valuation of the properties but uplift the sale price to reflect all costs incurred by the Council as well as financing and VAT costs for which it is considered the Company has a responsibility.
- 3.14 Properties purchased by the Council for PRS purposes will be sold onward at no financial detriment to the Council. The following costs will be considered in the valuation;
- Property purchase price
 - Stamp Duty and Land Tax (SDLT) costs
 - Valuation fees
 - Conveyancing Fees
 - Cost of works to achieve the agreed PRS standard
 - A fee for the purchase of properties and overseeing of refurbishment works including staffing costs
 - Insurance costs, Council tax, service charges and freehold charges for leasehold properties
- 3.15 The company also be responsible for any VAT payable in relation to works and services.
- 3.16 For each property:
- a. The Council will make an onward charge to Investing 4 Brent of the capital financing costs incurred for the period between acquisition and disposal. This charge represents the additional interest on borrowing that the Company would have incurred had it carried out a purchase direct from the third party vendor.
 - b. Investing 4 Brent will be liable to pay to London Borough of Brent the capital financing costs when property ownership transfers. These will be charged:
 - on a lump-sum amount equivalent to the total of all costs incurred for each property
 - for the full duration for which the Council holds ownership
 - c. For each property, the company will reimburse capital financing costs on the day it takes legal ownership.
- 3.17 As a result, it is anticipated that in general, there will be a significant difference between the price at which a property is acquired by the Council and the subsequent amount charged to Investing 4 Brent.
- 3.18 As an example Officers considered the first 19 properties available to sell to the company. The Council purchased these properties on behalf of Investing 4 Brent at a cost of £5.898m.

Investing 4 Brent will make available to the Council £6.665m to fund these purchases. The 13% increase results from items contained in paragraphs 3.14 to 3.16 as follows:

- Stamp Duty - £228k
- Pre-let Renovation Works and Fees - £410k
- Rechargeable VAT - £82k
- Capital Financing - £47k

As a result, the average price paid by the Council for each property (£310k) is £41k lower than the amount subsequently charged to Investing 4 Brent (£351k).

- 3.19 In deriving Capital Financing Costs, a 90-day period between Council acquisition & disposal is assumed, with daily interest compounded at effective annual rate of 2.95% (see Appendix 2).
- 3.20 The above methodology deals with valuation of the properties that the Council has purchased for PRS, but in relation to the vacant properties the Council has identified, valuation of these will be through the use of an independent valuer.
- 3.21 The Company will receive the Council's valuation and consider the price against its business assumptions. The Company will seek advice as it feels appropriate. The Council and Company will agree a purchase price.

Valuing PRS properties in the future

- 3.22 The Company is now a legal entity and has a borrowing facility (loan agreement with the council). There is also a contract in place between the Council and the company which sets out the agreed terms relating to the future sale of properties where purchased by the Council. Accordingly, should properties have been acquired by the Council the Company can in turn purchase the properties from the Council within a short space of time. In the future the intention of the Company remains to use the council to find and administer property acquisitions however it will seek to maximise the use of its own funds to purchase properties directly.
- 3.23 The risk associated with the length of time properties are in works and the resulting interest charges would be met by the Company. Investing 4 Brent and the Council are working to ensure the most appropriate process is in place to purchase properties from the market to retain risk with the Company and to minimise duplication of costs. Capital finance would still be paid by the Company to the Council should purchased properties remain with the council for a small number of days.
- 3.24 The Company will fund the costs of purchase, capital works and other related costs through the resources provided under the loan agreement.

- 3.25 For properties purchased by the Council on behalf of PRS the Strategic Director of Resources would have delegated responsibility to agree any sale of those properties to the company.

4.0 Financial Implications

- 4.1 This paper seeks authority to sell properties, purchased by the Council for PRS purposes, to a Council wholly owned company.
- 4.2 If approved, this will allow the Council to realise up to £100m of capital and revenue receipts without the need to seek Cabinet approval for each sale (or batch of property sales) to Investing 4 Brent, thereby improving the Council's cash flow position.
- 4.3 Approximately 19 properties have so far been acquired by the Council on behalf of Investing 4 Brent. The full cost of acquiring these units and preparing them for letting will be passed on to the company. This will include a charge for Capital Financing Costs (relating to the period between the Council's acquisition and disposal of each property) to address any implied provision of State Aid.
- 4.4 It is currently estimated that financing costs will be returned by the Council at a rate of approximately £2,150 for each additional property acquired on behalf of Investing 4 Brent. This is lower than the amount charged for the 19 units above as those properties were more expensive than the required portfolio average.
- 4.5 Capital Financing Costs will need to be separately itemised on invoices to Investing 4 Brent as there is otherwise a risk that they will be included as part of the aggregated capital receipts and thereafter, available for capital purposes only. They would not then be available to directly offset Capital Financing Costs, which they are intended to fund.
- 4.6 As a 'Section 33' body, the Council is able to recover VAT on its inputs (where it is the end-user of goods or services purchased, and subject to Partial Exemption rules). However, it is not permitted to commute this benefit to third parties and so VAT on VAT-able activities must be passed on to Investing 4 Brent.

5.0 Legal Implications

- 5.1 The Council has a duty to obtain the best consideration reasonably obtainable on the open market when disposing of land.
- 5.2 Circular 06/03 general disposal consent (England) 2003 which provides general consent for the Council to dispose of land other than for best consideration where the difference between the unrestricted value of the property and the consideration accepted is £2,000,000.00 or less. The General consent removes the requirement for the Council to obtain specific consent from the Secretary of State to the sale of the property at an undervalue in the circumstances specified in 5.3 below.

- 5.3 The Council believes that the purpose for which the land is disposed is likely to contribute to the economic, social or environmental wellbeing of the area or for any one or more of its residents.
- 5.4 Where the properties have been sold at an undervalue the Officer should state in writing the value of any direct or indirect value to the Council.
- 5.5 In views of the valuation methodology outlined in paragraph 3.14 – 3.16 of this report, it is not considered that there is a breach of State Aid requirements

6.0 Diversity Implications

- 6.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 Investing 4 Brent will be efficient on administration and use contracts with private companies and with the council to deliver its service.

8.0 Background Papers

- 8.1 The following paper provide background to the Councils PRS programme and the setting up and purpose of the wholly owned company
- Cabinet Report - Temporary Housing Reform Plan and Annex March 2016
<http://democracy.brent.gov.uk/ieListDocuments.aspx?CId=455&MId=2771&Ver=4>
 - Cabinet Report - Establishing a Council Wholly Owned Company November 2017
<http://democracy.brent.gov.uk/ieListDocuments.aspx?CId=455&MId=3215&Ver=4>
 - Cabinet Report - Authority to Invite Tenders for Works and Housing Management Services for the Council's PRS and NAIL Programmes March 2017
<http://democracy.brent.gov.uk/ieListDocuments.aspx?CId=455&MId=3219&Ver=4>

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