

 <p><b>Brent</b></p>	<p><b>Cabinet</b> 23 October 2017</p> <p><b>Report from the Chief Executive</b></p>
For Decision	Wards affected : All wards
<p><b>I4B Holdings Ltd – matters requiring shareholder consent and plans to develop 2018/19 business plan</b></p>	

## 1. Purpose of the Report

- 1.1. This paper sets out a series of matters which require Cabinet consent as shareholder of I4B Holdings Ltd.
- 1.2. This paper also sets out the proposed process and timetable for the development of the I4B Holdings Ltd Business Plan for 2018/19.

## 2. Recommendations

- 2.1. Cabinet agrees that the Council and the I4B Holdings Ltd should enter into a new four-year Services Agreement to provide a range of support services.
- 2.2. Cabinet agrees to make available for draw-down (by I4B Holdings Ltd) £50m as the final tranche of the £100m PRS funding, to complete the purchase of 300 properties in line with the Cabinet's agreement of the Temporary Reform Accommodation Plan in March 2016 and the 2017/18 to 2019/20 budget in February 2017.
- 2.3. Cabinet agrees that the end of I4B Holding Ltd's first financial year is moved from the end of December 2017 to the end of March 2018 to bring it in line with the Council.
- 2.4. Cabinet agrees the appointment of an additional Company Director to the I4B Holdings Ltd Board.
- 2.5. Cabinet notes I4B Holdings Ltd's intention to develop its second Business Plan and seek Shareholder agreement at the Cabinet meeting in February 2018.
- 2.6. Cabinet approves the establishment of an Equity Investment Framework, restricting the Council's investment in I4B Holdings Ltd to 25% of total capital invested.

### 3. Background

- 3.1. In November 2016, Cabinet agreed a paper presented by the Chief Finance Officer entitled 'Establishing a Wholly Owned Investment Company'. Cabinet supported the setting up of the wholly owned company and the Company's PRS business plan reflecting the ownership and management of three hundred properties to support the Council's homelessness agenda.
- 3.2. The Company, 'Investing 4 Brent' Ltd ("Investing 4 Brent" / "I4B" / the Company) was subsequently set up using the agreed delegated powers and incorporated on 16 December 2016.
- 3.3. Since its initial establishment, the Company's board, with the approval of Cabinet, has taken the decision to change the name of the Company to I4B Holdings Ltd. This decision was recently executed following activation of the Company's bank account.
- 3.4. The Company is overseen by a Board of Directors, chaired by an independent voting Director. This role is fulfilled by Martin Smith, who is the former Chief Executive of Ealing Council.
- 3.5. The other Company Directors are Cllr George Crane, the Strategic Director of Community Wellbeing (Phil Porter) and the Director of Performance, Policy and Partnerships (Peter Gadsdon).
- 3.6. The Board of Directors meets on a monthly basis and has overseen the mobilisation of the Company and the execution of its Business Plan. The Board is supported by a team of Council officers who are able to provide expert legal and financial advice.
- 3.7. In the November 2016 Cabinet report 'Establishing a Wholly Owned Company', structures were proposed to enable the Directors of the Company to act with commercial freedom with all the advantages desired in terms of operational flexibility, whilst the Council retains democratic control over all of the key strategic decisions.
- 3.8. The governance structures are as follows:
  - **Company Directors** – operate with commercial freedom in the best interests of the company (as required by the Companies Act).
  - **Corporate Management Team** – acts as senior 'client', overseeing the activities of the Company
  - **Cabinet** – acts as the strategic supervisory body with ultimate responsibility for ensuring governance of the Company and approval and delivery of its business plan. This role is without prejudice to Cabinet's normal decision making powers as set out in the Council's constitution.
- 3.9. In addition, the Audit Advisory Committee plays a role in holding the Company and Directors to account through its remit to scrutinise complex financial models and forecasts and to consider the governance matters that may arise accordingly. The Audit Advisory Committee considered its first report from the Company on 20 September 2017.
- 3.10. A number of core legal and financial documents set out the role and operating arrangements for the Company. These are:

- **Articles of Association / Memorandum of Association** – these are the constitution of the Company, as agreed by Cabinet.
- **Business Plan/Financial Plan** – as agreed by Cabinet.
- **Shareholder Agreement** – agreed by Cabinet. Sets out the exact nature of the relationship between the Council (as the sole shareholder) and the Company, and matters on which shareholder consent is required.
- **Loan Agreement** – setting out the terms of the loan facility provided by the Council to the Company.

3.11. The Company has a fixed-term, six-month overarching Services Agreement with the Council which covers all of its day-to-day operational activity, including the purchasing and conveyancing process, nominations, lettings and refurbishments, the provision of housing management services and all such other activities as may reasonably be expected to be undertaken.

3.12. In turn, the Council has contracted three housing management agents to manage properties in the areas in which it has purchased units for PRS letting. The Council's housing management service, Pinnacle Housing Group and Mears Group have been appointed to provide housing management and three external buyers' agents have been procured to complement the Council's own property buyers in the acquisition of PRS properties. Pinnacle Housing Group and Mears Group have been awarded contracts to provide housing management in the Home Counties. Contracts have been signed with BHP (Brent & Greater London), Pinnacle (Home Counties) and Mears (Home Counties).

#### 4. **Matters requiring shareholder consent**

4.1. The Company has requested that Cabinet agrees a number of matters requiring shareholder consent, which will assist it in delivering the intentions set out in its business plan. These are detailed below.

##### Services Agreement

4.2. The Council has been asked by I4B Holdings Ltd to provide it with services. A medium-term (four-year) Services Agreement is considered appropriate. The Services Agreement will require the Council to procure and directly deliver a number of services and provide a number of functions in return for a fee income and reimbursement of pass through costs.

4.3. The four-year Services Agreement will replace the current six-month Services Agreement which was put in place as a temporary measure to ensure the successful commencement of the PRS programme and to support the early months of the Company.

4.4. The four-year Services Agreement will contain details of service descriptions, performance targets, service standards, lead officers, the fee structure, and clarity of how the service scope can be reviewed during the lifetime of the Services Agreement.

- 4.5. The Services Agreement includes a conflict resolution clause for resolving matters between the parties and a break clause should persistent breaches occur. The Services Agreement, or elements of the SLA, can be ended at any time by mutual consent, however, a six-month notice period is required should one party wish to end the agreement.
- 4.6. The Company is seeking to grow and diversify its business to meet the Shareholder's (Council's) priorities. The Services Agreement is designed to permit additional schedules to be incorporated as services are required and as the Company's business expands and changes.
- 4.7. The Services Agreement requests the Council to provide, directly or through contracts with external providers, three key service functions:
- Services to Support the Company structure / Governance functions
  - Acquisitions & Refurbishment services to grow the Company's PRS portfolio
  - Procurement of contractors and direct management and services supporting the Company's private rented sector housing management and repair functions
- 4.8. Services to the Company structure / Governance function include support in areas such as Board administration, business planning and business modelling, support with freedom of information requests, complaints, IT and IT systems, procurement and legal advice, financial management, treasury management, and payment systems.
- 4.9. Acquisition and refurbishment services will be provided by the Council to the Company. The nature of this service is likely to change over time. The period up to December 2018 will be a continuation of the Council's current level of service in acquiring and refurbishing individual street properties, directly or through agents, on behalf of the Company, including valuations, conveyancing and refurbishment.
- 4.10. Should the Council support the Company in pursuing new business opportunities, the Company may request support in acquiring land or blocks of properties. The Company may also seek expertise to help it work in partnership on new build developments and joint ventures or develop leasing and market rent opportunities. The Services Agreement provides for services to be in line with the Company's agreed business plan. The fee structure also allows for appropriate pricing of the Council's service to the Company.
- 4.11. The Council will procure and administer the private sector Housing Management and Repairs functions of the Company. The Services Agreement permits the Council to provide private sector Housing Management and Repairs services to the company directly or through sub-contractors. Contracts are in place with Pinnacle Group, Mears Group and BHP to provide housing management and repairs services up to autumn 2019. All housing management contractors will be managed in accordance with the Company's Assured Shorthold Tenancy agreement and policies.
- 4.12. As the Company requires new or replacement services and functions, it will work with the Council's procurement service to establish in-house or external expertise.

- 4.13. The fee value of the Services Agreement 2017-2021 is £2.8m (including VAT) over four years.

#### Agreement draw-down of the second £50m

- 4.14. Following agreement of the 2017/18 to 2019/20 budget, £100m was identified for the purchase of 300 PRS properties for the new wholly owned company.
- 4.15. To date £50m has been made available for draw-down and the Company is requesting Cabinet agreement to release the final £50m tranche. The Company has committed to purchase 61 properties and has 75 in conveyancing (136 properties in total). The total value of these properties and associated refurbishment and other costs is £48m. A number of measures have been put in place to support the property acquisition strategy, including the appointment of a team of external buyers in order to deliver the target of 300 properties.
- 4.16. The final draw-down of funds will allow the purchase of the portfolio to continue. The target date for the purchase of 300 units is 30 September 2018 with all properties refurbished and let by 31 December 2018.

#### Year end

- 4.17. The Company is required to register its annual accounts with Companies House one calendar year after it was established, in December 2017. In order to bring its year end accounting arrangements in line with the Council's, the Company intends to move its year end for 2017/18 to 31<sup>st</sup> March 2018. The Shareholder agreement sets out that changing the financial year end is a decision which requires Shareholder content and Cabinet is asked to agree this change.

#### Appointment of additional director

- 4.18. The Company's Business Plan, which was agreed by Cabinet in November 2016, sets out details of the four directors of the Company, as detailed in paragraph 3.4. The Shareholder Agreement states that Shareholder consent is required for the appointment of additional directors. Cabinet is asked to authorise the selection and appointment of a fifth Company Director to join the Board.
- 4.19. There are currently four directors with a casting vote for the Chair, if votes for and against a motion are equal. Appointing a fifth director would be good practice and would limit the need for the Chair's casting vote.
- 4.20. In addition, the standing Directors have identified a need for expertise in the commercial property business to provide additional external challenge and to strengthen the expertise available at Board level within the Company especially in its role to develop new business opportunities.

## Equity Investment Framework

- 4.21 I4B Holdings Ltd's purchase of residential properties is financed through a combination of borrowing on which the Company must pay interest, and Council equity (capital investment).
- 4.22 The need to pay interest on borrowing is the main reason why properties acquired must have a yield of around 5%, and this approximate level of return was agreed in the I4B base business plan.
- 4.23 As the business plan and financial model evolve, the ratio of equity to borrowing is likely to change and it is therefore prudent to set limits within which the amount of equity (and by default the amount of borrowing) should be contained.
- 4.24 It is recommended that Cabinet approve the imposition of an absolute upper limit on the amount of equity the Council is prepared to invest in I4B, and sets this at 25%. At this level, it is comfortably below the equity investment of comparable organisations and therefore should not precipitate any undue aid to I4B at the expense of the Council.
- 4.25 Any subsequent requests to amend the current limit on the amount of equity will be the subject of detailed reports to Cabinet.

## **5. Developing 2018/19 business plan**

- 5.1 The first Business Plan of the Company was agreed by Cabinet in November 2016. The Shareholder Agreement states that the Company should produce an annual Business Plan for Shareholder agreement and that this plan should be substantially in the format of the first Business Plan and shall be for at least a one-year period.
- 5.2 The Company intends to work on the development of its second Business Plan in October/November 2017 and provide it to Cabinet to request Shareholder consent in February 2018.
- 5.3 The revised Business Plan will include additional opportunities which the Company seeks to pursue. Examples of the types of development opportunities which the Company is considering include:
- A £7m scheme consisting of 30 new homes of modular construction within Brent. The properties would be built in partnership with the Council and have affordable, social and intermediate I4B tenancies. The scheme has been provided with an initial grant allocation from the GLA.
  - The Company may become a suitable recipient for the assets currently owned by BHP, if a decision is made to transfer assets once BHP comes back into the Council. BHP has circa 300 properties let at market and intermediate rents. Any transfer of assets would strengthen the Company

and provide benefits including shared core costs and economies of scale in relation to services provided.

- Working with the Council to increase the viability of affordable and intermediary rental products on land owned by the Council. One such example would include the purchase of ten new build leasehold units. The scheme could enable the Council to avoid losing the freehold of the site and increase the affordable (intermediate) units from 30% to 100% and enable the provision of a new community facility.
- A loan arrangement to be set aside, to be drawn upon for non-specified projects. Those projects are to meet a series of tests laid down by the shareholder and delegated to relevant officer in consultation with Cabinet.

## **6. Financial Implications**

- 6.1. Recommendation 2 is a request for a final draw-down of the remaining £50m out of the original £100m. This was already approved in principle under the original plan in March 2016. This will have an equivalent impact on the Council's cash flow, albeit that the timing is subject to requirements of the company.
- 6.2. The I4B financial model currently forecasts an equity investment of approximately 21% of the total property acquisitions' capital expenditure which is £98.1m (£20.6m equity).
- 6.3. To contain forecast capital expenditure and stay within the current £100m expenditure cap, it is feasible that the equity proportion may need to increase and setting a limit on the amount of equity allows for this to happen in a managed way.
- 6.4. Increasing the amount of equity represents only one mitigation measure that may be implemented to deliver 300 units from £100m and so it may not be necessary if other measures are put in place and that achieve the same outcome.
- 6.5. The imposition of an equity limit upper cap of 25% means that, based on the latest financial modelling (and only if required and approved), I4B would have £3.9m less borrowing to finance, which would further reduce the required yield on its property portfolio.
- 6.6. Approval of any change to the equity limit must be made by Cabinet and take account of State Aid issues.

## **7. Legal Implications**

- 7.1 The general power of competence in the Localism Act 2011 permits the Council to provide services to the Company. To date, the Council has provided such services under a short term interim contract but the Council and the Company now seek to enter into a four-year Services Agreement. Under Contract Standing Order 87(c), authority to enter into such arrangements must be agreed by the Cabinet where the contract value would exceed £150,000 per annum; or the gross cost to the Council of providing the relevant services under the contract is estimated to exceed £150,000 per annum calculating the full costs over the term of the contract. The value of a four-year contract

is £2.8m (including VAT). In the circumstances Cabinet approval is required to enter into a four-year Services Agreement.

- 7.2 The Recommendations, to include changes involving the appointment of an additional director and changes to the year end, will require certain changes to the Company's legal documentation, including the Articles of Association. Cabinet approval is required to give effect to proposed changes of the Company's Articles of Association.
- 7.3 Any changes to the Company's Articles needs to be registered at Companies House and, should the proposed change be agreed by Members, a revised version will be sealed by the Council as the sole member, initialed and sent to Companies House by the Company.
- 7.4 Cabinet agreement to financial recommendations, to include the drawing down of funds and the approval of a revised business plan, require Cabinet approval and it is noted that the intention is to revert to Cabinet in February 2018 seeking consent to a revised business plan.
- 7.5 With reference to the proposals regarding the equity investment framework, it should be noted that any capital investment has possible State Aid implications, with the potential for the whole capital investment to be regarded as State Aid. The market economy operator principle does provide an exemption to a capital investment falling foul of State Aid and this requires that any investment is made on a similar basis to that a private operator acting under market conditions and in similar circumstances would make. Financial advice should therefore be obtained prior to any capital investment if relying on the market economy operator principle.

## **8. Diversity Implications**

- 8.1. No diversity implications have been identified.

## **9. Staffing/Accommodation Implications (if appropriate)**

- 9.1. No staffing/accommodation implications have been identified.

## **Contact Officers**

Carolyn Downs, Chief Executive  
Conrad Hall, Chief Finance Officer

**CAROLYN DOWNS**  
Chief Executive