



**Executive**  
20 August 2012

**Report from the Director of  
Regeneration and Major Projects**

Wards Affected:  
ALL

**Proposed extension of the management agreement  
between the council and Brent Housing Partnership**

**1.0 Summary**

- 1.1 On 16<sup>th</sup> July 2012 the Executive agreed to enter into a new long term management agreement with Brent Housing Partnership for the purposes of managing the Council's remaining housing stock. The same Executive also agreed to the full implementation of recent reviews of efficiency and governance arrangements within Brent Housing Partnership (BHP).
- 1.2 The existing management agreement between the Council and BHP is due to expire on 30<sup>th</sup> September 2012. This report proposes to extend the existing management agreement until 31<sup>st</sup> March 2013, so as to provide sufficient time for the preparation of the new management agreement, and to ensure that future management agreement reviews are fully aligned with the Council's budget process and municipal year.
- 1.3 Further, the report seeks additional changes to BHP's Articles of Association to extend the tenure of existing tenant and independent Board Members whose terms are scheduled to end in the intervening period until 31<sup>st</sup> March 2013. This will provide for consistency at Board level during this transitional period, and will ensure alignment of Board member's tenures with the period of the new management agreement.
- 1.4 The report also seeks authority to delegate authority to the Director of Regeneration and Major Projects, in consultation with the Director of Legal and Procurement, to agree any further subsequent amendments between now and March 2013 to the Memorandum and Articles of Association of BHP which may be necessary to implement the recommendations of the BHP governance review report of Navigant Consulting and to enable the

Management Agreement to be in place by 1 April 2013. The governance review report of Navigant Consulting recommended that the number of places on the new BHP Board be reduced from 15 to 13 once the new management agreement is in place.

## **2.0 Recommendations**

Members are asked to:

- 2.1 Agree to extend the existing Management Agreement between the Council and BHP until 31<sup>st</sup> March 2013, at which time it will be replaced with a new long term Management Agreement in line with the decision of the Executive of 16<sup>th</sup> July 2012.
- 2.2 Agree to amend where necessary BHP's Articles of Association, in particular paragraph 15 thereof, to allow for the existing resident Board members of BHP to remain in situ until 31<sup>st</sup> March 2013.
- 2.3 Delegate authority to the Director of Regeneration and Major Projects, in consultation with the Director of Legal and Procurement to negotiate and finalise the long term Management Agreement with BHP pursuant to the decision of the Executive dated 16 July 2012.
- 2.4 Delegate authority to the Director of Regeneration and Major Projects, in consultation with the Director of Legal and Procurement, to approve subsequent amendments to the Articles of Association and Memorandum of Association of BHP between now and the end of March 2013 which may be necessary to enable the new Management Agreement to be in place by 1 April 2013 and to implement the recommendations set out in the report of Navigant Consulting regarding the Governance Review of BHP.

## **3.0 Detail**

- 3.1 On 16<sup>th</sup> July 2012 the Executive agreed to enter into a new long term management agreement with BHP for the purposes of managing the Council's housing stock. The existing management agreement is scheduled to expire on 30<sup>th</sup> September 2012. For a number of reasons it is proposed to extend the existing management agreement for a further period of six months, until 31<sup>st</sup> March 2013:
  - BHP is in the process of recruiting for a new independent chair, in line with the governance review agreed by the Executive on 16<sup>th</sup> July. It would make sense for the new chair of BHP to be fully involved in signing off the new long term management agreement.
  - The reform of the Housing Revenue Account (HRA) will for the first time give the Council significant choices in terms of future stock investment, rent levels and regeneration. In essence, the Council will now be running a Housing Association business, with the attendant risks and

opportunities. A thirty year business plan is being developed and will be agreed by 1<sup>st</sup> April 2013. It would make sense for the new management agreement to align with this work.

- The work required to prepare the new management agreement has not yet been undertaken. In particular it is important in the light of the governance review of BHP to ensure a robust performance management regime is contained within the management agreement.

3.2 In these circumstances it is proposed that the next six months is spent working up the details of the new management agreement, and that the existing management agreement is extended for this period.

3.3 The Council needs to ensure that it commits sufficient resources to the development of the new management agreement, and to this end it is proposed to appoint an interim project manager to drive this work. The project manager will also be responsible for developing the choices associated with the new HRA Business Plan.

3.4 It is important that the BHP Board retains its stability over this period. In September 2011 the Executive agreed to an amendment of BHP's Articles of Association to extend the tenure of the independent Board members until such time as the current management agreement expires and the new management agreement is finalised and adopted. There are a three tenant / resident board members whose tenures are due to end on 30 September 2012. It is therefore proposed that there is a further amendment to BHP's Articles of Association to extend their tenure until 31<sup>st</sup> March 2013. As for the remaining three resident Board members, they will remain on the BHP Board in 2013 after the new management agreement is in place and their tenure will expire in 2015 when they will be able to apply for re-election to the BHP Board. There is a seventh resident Board member position which is currently vacant and this vacancy will not be filled as the new BHP Board in 2013 will consist of six rather than seven resident Board members.

3.5 The recently approved governance review of BHP proposed amendments to the constituency of the BHP Board, including changes to the number of Board members. It is proposed that these aspects of the review are fully implemented on 1<sup>st</sup> April 2013. By fully aligning the tenures of independent, resident and Councillor board members this will allow these changes to be implemented in a simple and straightforward way, with the minimum of disruption and in a way which treats existing board members equitably.

3.6 The changes to the number of places on the BHP Board, as recommended in Navigant's report into the governance review of BHP, will require subsequent changes to BHP's Articles of Association in 2013. Therefore, the Executive is asked to delegate its authority to the Director of Regeneration and Major Projects, in consultation with the Director of Legal and Procurement, to approve any necessary subsequent amendments to the Articles of Association and Memorandum of Association of BHP between now and the end of March 2013 regarding the number of members on BHP's Board and any further amendments which may be necessary to enable the new

Management Agreement to be in place by 1 April 2013 and to implement the recommendations set out in the report of Navigant Consulting regarding the Governance Review of BHP. One of the recommendations in the Governance Review report of Navigant Consulting is for the number of Board members to be reduced from 15 to 13 once the new management agreement is in place, which will mean a reduction in the number of resident Board members and Council nominees. There will be three independent members and an independent chair on the new BHP Board. By agreeing to delegate authority to the Director of Regeneration and Major Projects as specified in paragraph 2.4 above, this will avoid the need to revert to the Executive again to agree subsequent necessary amendments to the Memorandum and Articles of Association of BHP between now and the end of March 2013 to implement the recommendations of the BHP Governance Review carried out by Navigant Consulting and the new BHP management agreement.

#### **4.0 Financial Implications**

- 4.1 There are no direct financial implications associated with this report. A full report setting out the issues, opportunities, options and risks associated with the new Housing Revenue Account regime will be brought before the Executive before 31<sup>st</sup> March 2013.

#### **5.0 Legal Implications**

- 5.1 Under clause 61.2 of the existing BHP Management Agreement, the Council is entitled to extend the Term of the BHP Management Agreement for one or more further periods of up to five years by the Council giving notice to that effect to BHP no later than six months before the expiry of the Management Agreement. However, clause 61.2 of the BHP Management Agreement also states that the Council's right to extend the term of the Management Agreement by giving six month's notice is without prejudice to the right of the Council and BHP to agree in their absolute discretion to extend the term of the Management Agreement for any further period or periods. BHP is agreeable to extend the term of the existing BHP Management Agreement from 30<sup>th</sup> September 2012 to 31<sup>st</sup> March 2013.
- 5.2 Standing Order 112(a) states that "Contracts may be extended in accordance with the provisions for extension contained in the contract if the parties agree and if the relevant Chief Officer is satisfied that the extension will achieve best value and is reasonable in all the circumstances".
- 5.3 Any changes to BHP'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, initialled and sent to Companies House by BHP's Company Secretary.

- 5.4 The Council's approval is required to give effect to the proposed changes of BHP's Articles of Association. This is why the approval of the Council's Executive is sought regarding the proposed changes as set out in this report. The last time in which the Council approved changes to BHP's Articles of Association was at its meeting of September 2011 where changes were made regarding the length of term of Independent Members of the BHP Board until the expiry or termination of the Management Agreement dated 1 October 2002.
- 5.5 Paragraph 15 of BHP's Articles of Association deals with the retirement and election of tenant board members on BHP's Board. Paragraph 16 deals with the retirement and election of independent board members on BHP's Board.
- 5.6 If Members do not agree to extend the existing Management Agreement from 30 September 2012 to 31 March 2013, the existing Management Agreement will expire on 30 September 2012 and the Council will not have any arrangements for the manage its housing stock until the new long term BHP Management Agreement has been agreed and signed and the necessary consent from the Secretary of State under section 27 of the Housing Act 1985 has been obtained in respect of the new arrangements that were agreed by the Council's Executive meeting on 16 July 2012.
- 6.0 Diversity Implications**
- 6.1 BHP and the Council is committed to ensuring that members of the BHP board are representative of the community in which it serves and will continue to recruit tenant and independent members who reflect this commitment.

**ANDY DONALD**  
**Director of Regeneration and Major Projects**