



Executive
18th March 2008

**Report from the Director of
Housing and Community Care**

Wards Affected:
Kilburn

**Housing Management Arrangements For South Kilburn
Temporary Accommodation Scheme**

Forward Plan Ref: n/a

1.0 Summary

- 1.1 The report concerns the management of voids created due to the South Kilburn regeneration scheme and proposes that these voids be used as temporary accommodation for homeless households on a short-term basis.
- 1.2 This report requests approval to enter into a formal agreement with Brent Housing Partnership Limited in respect of the provision of housing management services for the South Kilburn Temporary Accommodation Scheme for an initial one year period and to then procure a longer term contract for the provision of housing management services for both the South Kilburn Scheme and the Brent Direct Leasing Scheme.

2.0 Recommendations

- 2.1 That the Executive agrees that on the basis of the reasons set out in this report there are good financial and operational reasons for the proposed agreement with Brent Housing Partnership Limited ("BHP") to be exempt from the requirements of the Council's Contract Standing Orders as set out in paragraphs 3.1.3 – 3.1.5, 4.2 and 5.4 – 5.5.
- 2.2 That the Executive agrees to the delegation of certain additional housing management functions to BHP, namely the management of the South Kilburn voids as temporary accommodation.

- 2.3 That the Executive authorises the Director of Housing and Community Care to apply for Secretary of State consent under section 27 of the Housing Act 1985 in respect of the transfer of those housing management functions to be carried out by BHP and to note that such transfer of functions will be subject to obtaining the necessary approval.
- 2.4 That the Executive authorises the Director of Housing and Community Care to enter into a formal arrangement with BHP in respect of the delegated functions.
- 2.5 That the Executive authorises the Director of Housing and Community Care to apply to the Secretary of State for a direction under section 74(3)(d) of the Local Government and Housing Act 1989 to hold the South Kilburn void properties outside the Housing Revenue Account.

3.0 Detail

3.1 Homelessness and Temporary Accommodation

- 3.1.1 Members will be aware of the Government's target of a 50% reduction in temporary accommodation usage by 2010 as well as the Council's on-going regeneration project in South Kilburn. The South Kilburn regeneration project continues to progress and the intention is for work to begin on decanting council blocks which will be demolished to make way for the development of high quality, affordable housing for South Kilburn residents (please refer to the South Kilburn Master Plan, as approved by the Executive on 12 July 2004).
- 3.1.2 As noted by officers in the Temporary Accommodation Update report, which was submitted to the Executive on 14 January 2008, in certain South Kilburn accommodation blocks voids are no longer being allocated on a permanent basis to assist the decant process. Instead, the plan is for these void properties to be used as temporary accommodation on a short-term basis for homeless households until the blocks are demolished ("the South Kilburn Temporary Accommodation Scheme").
- 3.1.3 Although using the void properties generated from the South Kilburn regeneration project will not reduce the overall numbers in temporary accommodation, this proposal will achieve a reduction in the use of hotel accommodation as temporary accommodation.
- 3.1.4 Hotel accommodation is the most expensive form of temporary accommodation and should only be used on an emergency basis. In addition, as opposed to hotel accommodation, the void properties in South Kilburn will be self-contained and furnished and therefore more appropriate for use by homeless households.
- 3.1.5 Other advantages to the Council of implementing the South Kilburn Temporary Accommodation Scheme include:
- a) Making best use of empty properties;

- b) Assisting the Council in meeting Government targets by minimising the length of stay for homeless families in hotel accommodation and increasing the availability of self-contained accommodation;
- c) Assisting the Council in reducing its overall Housing Benefit Subsidy Loss on hotel placements; and
- d) Reducing the risk of squatting and vandalism, should the void properties in South Kilburn remain empty for a length of time.

3.1.6 On 16 July 2007 the Executive approved a variation to the Council's Allocations Policy to incorporate the allocations process to the Granville New Homes project (this project forms part of the South Kilburn Master Plan). The approved variation included agreeing to the Director of Housing and Community Care having the discretion to let any vacant properties created by tenants moving out of certain priority South Kilburn blocks on a non-secure basis in order to facilitate the South Kilburn regeneration programme. This is relevant as South Kilburn tenants have priority to the properties in the Granville New Homes project and this should maximise the supply of temporary accommodation generally.

3.2 **Brent Direct Leasing Scheme**

3.2.1 The Council has already implemented one temporary accommodation scheme with the assistance of Brent Housing Partnership Limited ("BHP"), being the Brent Direct Leasing Scheme ("BDL Scheme"). The BDL Scheme was implemented as part of the Council's Bed and Breakfast action plan to reduce the number of homeless families occupying hotel accommodation and provides good quality temporary accommodation for homeless households.

3.2.2 The BDL Scheme allows the Council to enter into a direct leasing arrangement with private sector landlords. Under this scheme private sector landlords lease properties to the Council and are required to ensure that the properties are habitable and in a good state of repair. The landlords are responsible for all repairs and maintenance obligations towards the property for the duration of lease.

3.2.3 As noted above, the BDL Scheme is delivered with BHP's assistance. The Council awarded a contract to BHP in 2004 (with the Executive's approval which was granted 14 June 2004) for the provision of housing management services for the Brent Direct Lease properties. This contract included the delegation of housing management functions to BHP, which the Secretary of State consented to (as required by housing legislation). This contract was for an initial three-year period but was extended for a further twelve-month period last year to 15 August 2008. The Council has the option to grant a further one-year extension to August 2009, in accordance with the terms of the BDL Scheme contract.

3.3 **South Kilburn Temporary Accommodation Scheme**

3.3.1 Unlike the BDL Scheme, the properties which will become available under the South Kilburn Temporary Accommodation Scheme are Council-owned and

will be created over a period of about one year on an ad hoc basis; it is anticipated that the Scheme will run for up to two years (at a minimum).

- 3.3.2 Under the South Kilburn Temporary Accommodation Scheme it is proposed that approximately 70 vacant properties could be let to homeless households prior to demolition on a temporary basis, though there is no guarantee that the void numbers projected will actually be created. The size of these properties range from 1 bedroom to 4 bedroom units.
- 3.3.3 The Council-owned properties identified for this new temporary accommodation scheme currently sit in the Housing Revenue Account and are managed by BHP under the Council's general housing stock management agreement with BHP ("the Main Management Agreement"). However, it makes financial sense to take the South Kilburn void properties outside the Housing Revenue Account to be used as short-term accommodation for homeless households under the South Kilburn Temporary Accommodation Scheme before they are demolished. An application for a Direction from the Secretary of State to hold those properties outside the Housing Revenue Account will be required. The Main Management Agreement with BHP does not cover the management of temporary accommodation.
- 3.3.4 The reasons for applying for a Direction to hold the South Kilburn void properties outside the Housing Revenue Account are financial in addition to the fact that the properties are due to be demolished in due course. On the basis that the properties will be used as temporary accommodation, there will be a higher turnover of non-secure tenants residing at the properties than would be the case for permanent secure tenants residing in properties within the Council's housing stock. As a result, there will be more costs for furnishing and decorating the properties and more intensive housing management will be required for temporary accommodation properties which will mean increased expenditure. The obvious answer as to how to pay for the increased expenditure is to increase the rent. However, rents within the Housing Revenue Account are structured within the national formula through the operation of the Housing Revenue Account Subsidy (HRAS) system and they are phased in line with the Government's Rent Restructuring regime so that all Social Housing rents in the local area will converge in 2016-2017. Government housing subsidy rules provide financial incentives to Councils through the HRAS system to comply with Rent Restructuring policy. Increasing rents in the HRA for these dwellings would conflict with the rent restructuring policy that the Council is following, and it would bring the Council's average rent much closer to our limit rent under Rent Rebate Subsidy Limitation. If the Council's average rent exceeds the limit rent, then Housing Subsidy will be reduced.
- 3.3.5 The best way to meet the increased expenditure is for the properties to be held outside the Housing Revenue Account, meaning that rents can be increased at a higher level than those for permanent secure tenancy properties and the higher rents will be met by housing benefit (for those who are entitled) without affecting the subsidy paid to the Council by the Government in respect of its properties that are held within the Housing

Revenue Account. If a Direction was not granted by the Secretary of State for the Council to hold the South Kilburn void properties outside the HRA, either one of two things would happen. The first option would be not to rent out the South Kilburn voids and leave them vacant until their demolition, meaning a loss in rental income pending demolition. The second alternative option would be to charge the rents within the existing rent structure and absorb the additional expenditure through existing budgets and this is an issue which have to be discussed with BHP as to how such additional expenditure can be absorbed.

- 3.3.6 The length of the short-term tenancies are likely to range from 1 year to 2 years, depending on the South Kilburn regeneration programme and when the void properties become available for use as temporary accommodation. It is also possible however that the South Kilburn Temporary Accommodation Scheme could be extended past the initial 2 year period subject to the South Kilburn Development Agreement being entered into with Hyde Housing Association. Once the agreement with Hyde Housing Association is concluded, the voids used in the South Kilburn Temporary Accommodation Scheme will transfer to Hyde under that agreement. The timing of such transfers will depend upon the development proposal for each site.
- 3.3.7 Based on 70 voids, and an estimated management fee of £44.60 per unit per week, the estimated value of the proposed SK Scheme services is approximately:
- (i) £87,760 for an initial 12 month-period (commencing late March 2008);
 - (ii) £248,015 for an initial 2-year period (March 2008 – February 2010).

These figures are rough estimates only. They are based on the presumption that the full 70 units will not be available for short-term letting from the commencement of the scheme's implementation. Instead 10 units will be available as at the end of March 2008 with the remainder of the 70 units becoming available on a staggered basis (5 units per month until March 2009). As noted at paragraph 3.3.1 above, it is not clear when each of the identified units will become available for use as temporary accommodation and there is no guarantee that the projected total number of properties will in fact become available for use under this scheme. Further, as already mentioned above at paragraph 3.3.6, it is not certain how long this scheme will run for.

- 3.3.8 Members should note that at the beginning of February 2008 there were already 6 void properties which could be made ready for letting to homeless households, with an additional 4 void properties anticipated to become available for letting by the end of March 2008. This means that the Executive's approval of the recommended option for implementation of the South Kilburn Temporary Accommodation Scheme is required as soon as possible in order to let the properties in a timely and cost effective way. Officers will provide a verbal report at the Executive meeting on 18th March 2008 to update Members on the number of voids which could be made ready for letting under this scheme.

3.3.9 Works have already begun on two of the 6 void properties at the instruction of the Director of Housing & Community Care. As the continuation of these works is subject to the Executive's approval of the recommendation in this report, if the Executive does not give its approval BHP will simply be paid for the works done to date.

4.0 Implementation of the South Kilburn Temporary Accommodation Scheme: The Options

4.1 There are five options available to the Council for the implementation of the South Kilburn Temporary Accommodation Scheme, in particular the provision of the housing management services. These options are as follows:

- **Option 1:** Treat the provision of the South Kilburn Scheme services as a separate contract for services and therefore formally tender the services in accordance with the EU Procurement Rules and the Council's Contract Standing Orders;
- **Option 2:** Treat the provision of the South Kilburn Scheme services as a separate contract for services and enter into a formal agreement with BHP for the provision of these services and:
 - treat the proposed service provision arrangement with BHP as exempt from the EU Procurement Rules by application of the *Teckal* derogation; and
 - seek an exemption from the requirement to formally tender the services as a Medium Value Contract per the Contract Standing Orders by obtaining the Executive's agreement in accordance with Contract Standing Order 84(a);
- **Option 3:** Treat the provision of the South Kilburn Scheme services as a variation of the existing BDL Scheme contract with BHP for the provision of housing management services for Brent Direct Lease Properties and therefore vary the BDL Scheme contract per Contract Standing Orders, seeking the Executive's approval to vary the contract; or
- **Option 4:** Treat the provision of the South Kilburn Scheme services as a variation of the overarching Main Management Agreement between the Council and BHP.
- **Option 5:** Opt for a hybrid of Options 1 and 2:
 - Seek the Executive's approval for an exemption from the requirement to formally tender the services as a Medium Value Contract in accordance with Contract Standing Order 84(a); and
 - Enter into a formal agreement with BHP for the provision of these services as a fixed 12-month interim arrangement; then
 - Formally tender the BDL Scheme services together with the South Kilburn Scheme services in sufficient time prior to the expiry of the Council's contracts with BHP for the delivery of both service provisions.

4.2 Officers recommend Option 5 as the best means to implement the South Kilburn Temporary Accommodation Scheme rather than any of the other options for the following reasons:

4.2.1 The South Kilburn Temporary Accommodation Scheme is a short-life scheme that can and needs to commence as soon as possible. Depending upon the progress of the South Kilburn regeneration scheme the Council will need to start vacating the properties for demolition within around 18 months to 2 years (approximately) on a phased basis.

4.2.2 The Scheme needs to get up and running very quickly as there are already void properties in the blocks which will attract squatters and be open to vandalism etc.

4.2.3 The Council has one of the highest numbers of homeless households in the country in bed and breakfast/hotel accommodation. Tendering the South Kilburn Temporary Accommodation Scheme housing management services will significantly delay the Scheme's implementation which officers believe would be detrimental to the Council's interests and the needs of homeless households.

4.2.4 The void properties identified for this new scheme which result from allocations to the New Granville Homes project are not stand alone properties but are located within blocks already managed by BHP under the Main Management Agreement. It would be simpler and more practical in terms of the management of all properties in these blocks if BHP were to manage these void properties still, even if under a contract separate from the Main Management Agreement.

4.2.5 Formally tendering the services in accordance with the EU Procurement Rules and the Council's Contract Standing Orders will entail setting aside sufficient staff resources, time and money. Undertaking an EU compliant procurement exercise can take at least 6 months on average to complete. The time it will take to formally tender the services will therefore result in a delay to the use of available, usable housing stock by homeless families. The properties will be left vacant until the conclusion of the procurement process with the risk that the empty properties will be vandalised. The Council meanwhile will be incurring the ongoing higher cost associated with the provision of hotel accommodation for homeless households.

4.2.6 Legal Services have advised that the proposed variation to the BDL Scheme Contract with BHP is not within the confines of that contract. This view is based on the following:

- (i) The South Kilburn Temporary Accommodation services are not what the Council originally intended when procuring the BDL Contract and are therefore not contemplated by the contract's

provisions. The BDL Scheme Contract relates directly and solely to the BDL Scheme. Although the South Kilburn Temporary Accommodation Scheme has the same aim, to provide temporary accommodation to homeless persons, this new scheme relates to the provision of temporary accommodation by leasing Council-owned properties in South Kilburn.

- (ii) The nature/scope of the variation is wholly different from what was contemplated at the time of contract – the South Kilburn Temporary Accommodation Scheme was not envisaged.
- (iii) Payment for the proposed variation will not be covered by the prices in the BDL Contract's Pricing Document; a separate different unit/per week rate for the South Kilburn Temporary Accommodation Scheme Services would need to be agreed as the BDL Contract unit/per week rate will not be used.
- (iv) The functions to be delegated in respect of the delivery of the South Kilburn Temporary Accommodation Scheme Services differ from those delegated to BHP under the BDL Contract (i.e. delegation of new functions; certain functions will not apply to the new Scheme Services and other functions differ in scope).
- (v) The term of the BDL Contract is not coterminous with the term proposed for the South Kilburn Temporary Accommodation Scheme – the BDL Contract will end in August 2009 (if extended one further time) whereas the new Scheme may continue until the beginning of 2010, if not beyond.

4.2.7 Legal Services have advised that seeking to vary the Main Management Agreement to include the management of temporary accommodation by BHP would be very cumbersome and would take a considerable period of time. A variation of the Main Management Agreement would require approval from both the Executive and BHP's Board.

4.2.8 A new contract with BHP for the provision of the South Kilburn Temporary Accommodation Scheme services can be put in place quickly, enabling properties to be turned round for letting from the beginning of 2008/09, as opposed to Options 1, 3 and 4.

4.2.9 There is a clear advantage of tendering the services, being that the Council will procure (via a transparent competitive procurement process) a contractor which offers the best value for money. However officers consider that this advantage is well outweighed by the reasons outlined above, in the interim for the commencement of the Scheme in any case. Undertaking a competitive tendering exercise once the new Scheme has commenced will ensure that this advantage is still obtained.

Combining the tendering of both the BDL Scheme and South Kilburn Scheme service provisions will also reduce the amount of staff resources, costs and time that two separate tendering exercises will entail. One contract can be procured for the two 'lots' of services; each service provision can begin on a different date to address the differing expiry dates of each contract.

- 4.3 For the reasons outlined above in paragraph 4.2, and for those stated at paragraphs 6.3 and 6.5 (Legal Implications), officers recommend that the Council proceed with Option 5:
- A separate formal agreement should be entered into with BHP for the provision of the housing management services for the South Kilburn Temporary Accommodation Scheme for a fixed 12-month period.
 - During this period officers will undertake a formal competitive tender process in accordance with the EU Procurement Rules and the Council's Contract Standing Orders.

The specific legal implications of this recommendation are detailed in section 6 of this report (Legal Implications).

- 4.4 The proposed functions to be delegated by the Council to BHP in relation to the South Kilburn Temporary Accommodation Scheme are shown in the table at Appendix 1 to this report.

Council's Contract Standing Orders and Financial Regulations

- 4.5 The Executive has the power to agree that tendering requirements of the Council's Contract Standing Orders need not be complied with provided that there are good operational and/or financial reasons (Contract Standing Order 84(a)).
- 4.6 Officers consider that there are good financial and operational reasons for the Council to not follow the usual requirements of the Standing Orders, being those reasons detailed at paragraphs 3.1.3 – 3.1.5, 4.2 and 5.4 – 5.5.

5.0 Financial Implications

- 5.1 The financial savings of the implementation of the South Kilburn Temporary Accommodation Scheme are outlined in this section and include what officers consider to be good financial reasons for the proposed new contract with BHP to be exempt from the requirements of the Council's Contract Standing Orders.
- 5.2 The cost of void repairs, provision of furniture and management of the temporary lettings will fall within the Temporary Accommodation budget but will be financed through the rental income to be obtained from the short-term accommodation tenants under the new scheme.

- 5.3 As outlined previously in this report, the Council currently has a number of homeless households in hotel accommodation. The proposed new temporary accommodation scheme in South Kilburn will assist the Council in reducing the number of hotel placements resulting in a reduction in the Council's overall Housing Benefit Subsidy loss. This saving of approximately 30K has been taken into account in the TA Budget for 2008-09.
- 5.4 The proposal to enter into a separate short-term contract with BHP as an interim arrangement, treating the new service provision as exempt from both the EU Procurement Rules (as the value of the contract will be below the EU threshold) and Contract Standing Orders, and procuring a contract covering both the BDL Scheme and South Kilburn Scheme services by competitive tender will mean that the Council can reduce the costs associated with undertaking a formal EU compliant procurement exercise for two separate contracts.
- 5.5 If the proposal is not approved by the Executive it is anticipated that costs will be incurred by the Council with regards to the management of the void properties, which will involve in particular addressing vandalism or squatting issues.
- 5.6 Subject to the Secretary of State giving the necessary Direction, these dwellings will be taken out of the Housing Revenue Account (HRA). This will mean that all the expenditure (such as management and maintenance) and the income (rent income) will no longer be attributed to the HRA. Housing Subsidy will also no longer be payable on these dwellings. The change will be broadly neutral on the HRA. This issue is discussed in further detail in paragraphs 3.3.3 to 3.3.5 above.

6.0 Legal Implications

Homelessness

- 6.1 The requirement to provide accommodation to homeless households arises under Part VII of the Housing Act 1996, as amended by the Homelessness Act 2002 and the Homelessness (Priority Need for Accommodation) (England and Wales) Order 2002 which introduced extensions to the priority need categories and came into force in August 2002.
- 6.2 Local authorities have a duty under Part VII of the Housing Act 1996 to house homeless persons in temporary accommodation who satisfy the qualifying criteria (i.e. eligibility, homeless, priority need, not intentionally homeless and local connection). The Council can only discharge its duty to house qualifying homeless persons in temporary accommodation under the circumstances set out in section 193 of the Housing Act 1996. The circumstances in which this duty can be discharged (in addition to the circumstances where the homeless applicant loses his accommodation by being no longer eligible for assistance, ceasing to occupy his temporary accommodation as his main or principal home or becoming homeless intentionally from the temporary accommodation provided) are as follows:

- (i) if the homeless person accepts an offer of permanent accommodation from the Council in the form of a secure tenancy under Part VI of the Housing Act 1996;
- (ii) if the homeless person accepts an offer of an assured tenancy (other than an assured shorthold tenancy) from a private landlord; or
- (iii) if the homeless person accepts a qualifying offer of an assured shorthold tenancy with the Council's approval and is advised in writing in advance that he is under no obligation to accept the offer and is advised that should he accept the offer of accommodation.

Formal Agreement with BHP

6.3 With reference to the estimated value of this contract with BHP calculated over its two-year lifetime (as noted at paragraph 3.3.7) and the nature of the South Kilburn Scheme services, it appears that the services would be classified as Part A services under the Public Procurement Regulations 2006 ("the EU Procurement Rules"). As the estimated value of the services exceeds the EU threshold for public services contracts the procurement of these services is subject to the full EU Procurement Rules (i.e. advertising in the Official Journal of the EU, timescales for tendering, tender evaluation requirements, contract award decision notification requirements etc).

However given the estimated value of this contract for a one-year period is below the EU threshold for public services contracts, the procurement of these services would not be subject to the EU Procurement Rules.

6.4 If the Council procures either a one-year or two-year contract for the provision of the services, compliance with the Council's own Standing Orders and the Council's Financial Regulations applicable to Medium Value Contracts is required.

6.5 Although the new two-year service provision is subject to the application of the EU procurement regime, it may be regarded as exempt on the basis of the "in-house" derogation developed in the EU *Teckal* case.

6.5.1 In sum the *Teckal* "in-house" derogation provides that the EU procurement rules do not apply where:

- (i) The contracting authority has control of the supplying entity which is similar to that which it exercises over its own departments; and
- (ii) The supplying entity is funded wholly or for the most part by the controlling contracting authority and the essential part of the supplying entity's activities is provided to the controlling contracting authority.

6.5.2 Legal Services have considered the application of the *Teckal* case to the proposed services arrangement with BHP and have advised that the Council does not have a strong case for the *Teckal* "in-house" derogation apply to this arrangement. Even though there are good operational and/or financial reasons for not tendering these services

in the first instance, officers consider that there is a risk of challenge that the Council is in breach of EU law if the Council sought to rely upon the *Teckal* case.

6.5.3 Therefore the recommended option is for the Council to enter into an agreement with BHP for the provision of the South Kilburn Temporary Accommodation Scheme services for an initial 12-month term (the contract being outside the ambit of the EU Procurement Rules due to its value) and to then undertake a competitive tender exercise (as detailed at paragraph 4.3 of this report) prior to that term's expiry.

6.6 As noted above at paragraph 6.4, the Council's own Standing Orders and the Financial Regulations also apply to the procurement of the South Kilburn Temporary Accommodation Services. However Standing Order 84(a) provides that the Executive may decide that a contract need not be procured in accordance with the Council's Standing Orders if there are good financial and/or operational reasons for this. As outlined in paragraphs 3.1.3 – 3.1.5, 4.2 and 5.4 – 5.5 of this report, officers consider that there are such reasons. Further, the EU Procurement Rules do not apply to the proposed fixed one-year contract so it would be illogical to still be required to undertake a competitive procurement process.

6.7 If Executive approval is granted, and subject to Secretary of State consent (as described below), a separate formal 'in-house' agreement will be drafted by Legal Services and entered into with BHP for the provision of the new South Kilburn Temporary Accommodation Scheme services.

6.8 On the basis that the new combined contract covering the South Kilburn Scheme services and the BDL Scheme services will be a High Value Contract for the purposes of the Council's Contract Standing Orders and Financial Regulations, officers will submit a report to the Executive at a later date seeking Members' prior approval to tender the new combined contract in accordance with Contract Standing Orders.

Secretary of State Consent

6.9 Section 27 of the Housing Act 1985 (management agreements) permits delegation by the Council of management responsibility for its housing stock to a third party with the consent of the Secretary of State.

6.9.1 For any of the options for implementation of the South Kilburn Temporary Accommodation Scheme, the Secretary of State's approval would need to be sought and obtained. The Council has sought such approval on previous occasions in relation to the private sector leasing arrangement (as described in paragraph 3.2), for example for the award of the BDL Scheme contract to BHP. Although the BDL Scheme and the South Kilburn Temporary Accommodation Scheme are part of the South Kilburn Master Plan, separate Secretary of State consent needs to be sought and obtained for this new scheme.

6.9.2 Subject to and following the Executive's decision as to the way forward for the South Kilburn Temporary Accommodation Scheme, an application for approval of the Council's delegation of housing management functions to BHP for this scheme will be submitted to the Secretary of State. It is anticipated that approval will be granted within 1 – 2 months based on previous applications made for such consent.

6.10 It is necessary to apply to the Secretary of State for a direction under section 74(3)(d) of the Local Government and Housing Act 1989 to hold the properties outside the Housing Revenue Account (HRA). Local housing authorities (which include Brent Council) are required by section 74(1) of the Local Government and Housing Act 1989 to keep a Housing Revenue Account in respect of property provided, acquired, accepted or otherwise held under certain powers, primarily under Part II of the Housing Act 1985.

6.10.1 The HRA is a record of revenue expenditure and income relating to an authority's own housing stock which is separate from an authority's General Fund. The Housing Revenue Account is ring-fenced as local authorities do not have general discretion to transfer sums out of the HRA or to support the HRA from the General Fund, save in limited and prescribed circumstances.

6.10.2 Under the HRA (Exclusion of Leases) Direction 1997, leases of up to ten years for dwellings that are taken out by local authorities since 31 March 1997 for the purpose of housing homeless households were directed to be excluded from the Housing Revenue Account. With the South Kilburn voids, the Council owns the freehold interest of these properties so this 1997 Direction does not apply. Therefore, it is necessary to apply to the Secretary of State for a specific direction to hold the South Kilburn voids outside the HRA. The financial reasons for having the South Kilburn voids held outside the HRA are set out in paragraph 3.3.4 and 3.3.5 of this report.

7.0 Diversity Implications

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

8.0 Staffing/Accommodation Implications (if appropriate)

8.1 The South Kilburn Temporary Accommodation Scheme is a new scheme and there are no implications for Council staff or accommodation arising from the proposed formal agreement with BHP for the delivery of the housing management functions in respect of the South Kilburn voids.

9.0 Background Papers

- Report to the Executive, 14 June 2004 – Award of Contract For Housing Management Services For the Private Sector Leasing Scheme.
- Report to the Executive, 12 July 2007 – South Kilburn Master Plan.
- Report to the Executive, 16 July 2007 – Proposed Allocations Policy for Granville New Homes.
- Report to the Executive, 14 January 2008 – Temporary Accommodation Update.

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Appendix 1

SOUTH KILBURN TEMPORARY ACCOMMODATION SCHEME

PROPOSED DELEGATED FUNCTIONS TO BRENT HOUSING PARTNERSHIP

	FUNCTIONS	LBB	BHP
1	Units For Nomination		
1.1	Minor works to the accommodation in order to bring the property to a lettable standard.		√
1.2	Provision of list of accommodation available for nomination and subject to works		√
1.3	Accommodation is to be provided unfurnished.		√
1.4	The provision of white goods		√
1.5	Details of furniture to be supplied will be subject to client's requests and in accordance with the BDL furniture specification.		√
2	Nomination		
2.1	Nominating potential tenants	√	
3	Viewings		
3.1	Arranging viewings by potential tenants and accompanying them, including identification of utility locations and identification of any disrepair or other maintenance issues		√
4	Tenancy Sign up		
4.1	Signing tenancy agreements and complying with the Council's tenancy sign-up procedures		√
4.2	Provision of information to tenants about housing management service including how to report repairs		√
4.3	Assistance with completion of applications for Housing Benefit and Council Tax Benefit including liaison with relevant Council departments when necessary		√
4.4	Provision of information about support services including education, health and translation		√
4.5	Obtaining a photograph of each tenant		√
4.6	Deciding the terms and conditions of tenancy	√	
4.7	Consulting with tenants on changes to terms and conditions		√
5	Rent		
5.1	Rent setting	√	
5.2	Notification of rent changes to tenants		√
5.3	Rent collection (payment of the tenant to the council)		√
5.4	Creation of a rent account on the Council's computerised		√

	FUNCTIONS	LBB	BHP
	rent accounting system (or other Council-approved system)		
5.5	Compliance with the Council's Income Collection and Arrears Procedure		√
5.6	Weekly reporting to the Council on rent recovery levels		√
6	Legal Action against Tenant		
6.1	Issuing warnings of legal action for rent arrears or other breach where necessary and taking steps to alleviate breach/discourage further breach		√
6.2	Deciding to take eviction action for rent arrears or other breach	√	
6.3	Instructing the Council's legal service to take legal action against tenants, acting as witnesses where necessary		√
6.4	Signing statements of truth in statements of case as a party (or legal representative)	√	
6.5	The payment of Legal Invoices for evictions/arrears action	√	
7	Repair & Maintenance		
7.1	Responsible for carrying out repairs & maintenance during the duration of the scheme		√
7.2	Maintaining records of all repair and maintenance requests		√
7.3	Receiving and investigation decant requests and submitting decant requests to the Council where properties become uninhabitable		√
7.4	Arranging emergency decants where necessary		√
7.5	Informing tenants of (non-emergency) decant decisions	√	
7.6	Providing an out of hours service for reporting repairs and maintenance and notifying tenants of the availability of the service		√
7.7	Visiting properties in respect of which out of hours urgent repair and maintenance have been made		√
7.8	The request for pest control inspection		√
8	Voids		
8.1	Notifying the council of any vacant properties.		√
9	General Monitoring of Property conditions		
9.1	Inspecting the condition of all properties periodically, including liaising with tenants in respect of such inspections		√
9.2	Reporting to the council the outcome of periodic inspections		√
10	Transfer		
10.1	Receiving tenants requests for transfer or rehousing		√
10.2	Notifying the Council of any emergency transfers requests		√
10.3	Making decisions about transfer and rehousing requests and notifying contractor	√	
10.4	Notifying the tenant of the Council's decision	√	

	FUNCTIONS	LBB	BHP
11	Complaints		
11.1	Stage One investigations and response to tenants		√
	Stage Two and Three investigation and responses to tenants	√	
12	Consultation, Access & Records		
12.1	Attending consultation meetings with tenants as and when required to do so by the Council		√
12.2	Providing tenants with a newsletter at least twice each year (to be published jointly)	√	√
12.3	Providing a local office and staff presence		√
12.4	Maintenance of records relating to each tenancy including tenancy agreements, rent accounts allegations of breach, repair and maintenance history and copies of all correspondence		√
12.5	Maintaining records of tenant representatives supporting customer involvement initiatives and supporting Council recognised tenants associations		√
12.6	Providing of information in accordance with the Data Protection Act, Freedom Of Information Act and related legislation		√
12.7	Providing information in respect of all functions as and when required by the Council		√
13	Decants		
13.1	To notify the Council of the progress of the South Kilburn Development Programme		√
13.2	To implement the Council's decant programme following request for the contractor	√	