



SIGNED OFF BY	Head of Legal and Governance
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TO	Commercial Ventures Executive Sub-Committee
DATE	Thursday, 30 January 2020
EXECUTIVE MEMBER	Portfolio Holder for Housing and Benefits

KEY DECISION REQUIRED	N
WARDS AFFECTED	(All Wards);

SUBJECT	Joint Venture - Raven Housing Trust and Reigate and Banstead Borough Council
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RECOMMENDATIONS
(i) That the Head of Legal and Governance, in consultation with the Director of People and the members of the Commercial Ventures Executive Sub-Committee and Executive Member(s) with responsibility for Housing, be authorised to finalise terms for and establish a Joint Venture Limited Liability Partnership between Reigate and Banstead Borough Council and Raven Housing Trust, in line with the objectives set out in this report.
REASONS FOR RECOMMENDATIONS
The recommended action will facilitate effective future joint working between Reigate and Banstead Borough Council (the Council) and Raven Housing Trust (RHT) to deliver housing, particularly affordable housing, in the borough, thereby supporting the objectives of the Council's Corporate Plan and Housing Delivery Strategy.
EXECUTIVE SUMMARY
This report seeks authority for the Head of Legal and Governance to finalise terms for and establish a Joint Venture Limited Liability Partnership (LLP) between the Council and RHT. This Joint Venture is intended to facilitate effective joint working between the two organisations, to support the delivery of housing, particularly affordable housing, within the borough.

The work of the Joint Venture is intended to align with the Council's current and emerging 5-Year Corporate Plan and Housing Delivery Strategy. To support this alignment, objectives for the work of the Joint Venture are set out in this report at paragraph 9. No specific projects for the Joint Venture have been identified at this time; potential schemes will be considered as they are identified. However, the Joint Venture will facilitate joint working through providing a pre-agreed framework for cooperation between the Council and RHT, allowing the organisations to collectively act more swiftly through the use of the LLP in response to opportunities. This is advantageous when operating in a commercial and time-sensitive market environment.

Having taken appropriate advice, an LLP is the preferred vehicle for the Joint Venture as it does not require the appointment of directors, therefore allowing decision making to take place through the member organisations' own existing governance structures without necessitating extra steps (such as decisions by committees instructing directors, and then additional decisions by directors to enact those same instructions), and is also the option expected to minimise the tax liability on the members of the Joint Venture.

The Commercial Ventures Executive Sub-Committee has authority to approve the above recommendations.

STATUTORY POWERS

1. The Council has wide ranging powers to promote the economic, environmental and social wellbeing of the borough. These powers are derived from the Local Government Act 2000 and also include the powers of general competence under section 1 of the Localism Act 2011 to do anything that individuals with full capacity generally may do, subject to the provisions of the Act.
2. Supporting the delivery of housing, particularly affordable housing, within the borough, as part of schemes developed in line with local development policy, will support the economic and social wellbeing of the borough through making it easier for local people to access housing and through reducing costs for those who would otherwise be unable to access affordable housing. The provision of housing will also support local businesses through enhancing their access to local employees with required skills.
3. Limited Liability Partnerships are governed by the Limited Liability Partnerships Act 2000 and the Companies Act 2006.

BACKGROUND

4. Raven Housing Trust is a charitable Industrial and Provident Society and a registered social landlord operating in Surrey and Sussex. RHT operates much of the social housing stock previously owned by the Council and the organisations have worked closely together since the creation of RHT in 2002.
5. Housing affordability is a challenge for many households hoping to buy or rent a home within the borough. As identified in the Council's Housing Delivery Strategy (approved for publication and implementation by the Executive on 5 December 2019), the local median house price has increased from 7.6 times the median local income in 2009 to 10.8 times in 2017, putting the ratio of prices to income at well

above the national level. Rental rates have similarly increased at above national levels, with the average rent rising by 29% in the same period.

6. In addition to the general benefits of local available housing, the Council has a duty to address homelessness, which was updated by the Homelessness Reduction Act 2017. As such, the Council has an ongoing need to secure housing for those facing homelessness, including many working households and has identified this as a key component of the new Corporate Plan for 2020-2025. To secure such housing, the Council currently relies on housing stock largely provided by housing associations, such as RHT. It is therefore especially important for the Council and the borough that the Council cooperates with providers such as RHT to support the supply of affordable housing. Such partnership working also forms a key component of the new Corporate Plan.

KEY INFORMATION

7. As identified, it is proposed that the Council enter into a Joint Venture, in the form of a Limited Liability Partnership, with Raven Housing Trust.
8. This Joint Venture is intended to facilitate effective joint working on future projects to increase the supply of homes in the area, with a particular focus on affordable housing.
9. As identified, the terms of the joint venture will be established to align with the objectives of the Council's current and emerging 5-Year Corporate Plans. On this basis, the Limited Liability Partnership Members' Agreement will have regard for the following objectives:
 - a) Creating developments to be proud of, that are embedded in the community and create a sense of place that brings people together;
 - b) Making the right provision for the residents where the market is not by:
 - i. Delivering affordable housing units on the developed land beyond that which would be required by the planning process which at completion will be sold to Raven Housing Trust or to another registered provider to be made available to the community;
 - ii. Increasing the supply of private market for sale properties in Reigate & Banstead;
 - c) Delivering a financial return to the Members if possible, but otherwise ensuring that the Joint Venture can meet its own costs of operation and development of the land.
10. The LLP structure is also considered to be advantageous in that, of the available options, it incurs the smallest tax burden on the members of the Joint Venture.
11. A draft of the Heads of Terms for the Joint Venture, subject to finalisation by the Head of Legal and Governance and consultation with the Commercial Ventures Executive Sub-Committee and Executive Member(s) with responsibility for Housing, is attached as Annex 1 to this report.
12. In addition, a draft of the Limited Liability Partnership Members Agreement, subject to finalisation by the Head of Legal and Governance and consultation with the Commercial Ventures Executive Sub-Committee, is attached to the accompanying

private report set out in the Part 2 section of this agenda. This draft agreement is set out in private as it contains potentially commercially sensitive information, but is in line with the objectives set out here.

OPTIONS

13. **Option 1:** To authorise the Head of Legal and Governance, in consultation with the Director of People and the members of the Commercial Ventures Executive Sub-Committee and Executive Member(s) with responsibility for Housing, to finalise terms for and establish a Joint Venture Limited Liability Partnership between the Council and RHT, in line with the principles set out in this report. **This is the recommended option** as it will facilitate effective future joint working with RHT to deliver housing, particularly affordable housing, in the borough, thereby supporting the objectives of the Council's Corporate Plan and Housing Delivery Strategy.
14. **Option 2:** To authorise the Head of Legal and Governance to negotiate with RHT to establish a different delivery model. **This is not the recommended option as it is not the preferred way forward for RHT or the advised vehicle for joint working in this sector. It will also increase the administrative process and delay the project.**
15. **Option 3:** To not authorise the Head of Legal and Governance to finalise terms for and establish a Joint Venture Limited Liability Partnership between the Council and RHT. **This is not the recommended option** as it will not support the objectives of the Council's Corporate Plan and Housing Delivery Strategy.

LEGAL IMPLICATIONS

16. In entering into the LLP, the Council will be obliged to abide by the terms of the Members Agreement. As referenced above, the current draft of the agreement, subject to finalisation, is attached as Annex 1 to this report.
17. These obligations should not incur any substantive future liability on behalf of the Council, unless otherwise agreed, as future projects will be considered on a case by case basis. Please see the Financial Implications section below for additional information on financial obligations.

FINANCIAL IMPLICATIONS

18. There are minimal direct financial implications of the establishment of the proposed Limited Liability Partnership.
19. There are a number of administrative costs associated with the establishment and operation of the LLP. Set up costs will be charged to the Feasibility Studies Reserve that has been established to fund this type of expenditure. Thereafter a budget will be established for the Council's share of ongoing LLP administration costs.
20. The LLP Membership Agreement will be structured such that the Council has no obligation to make capital contributions to the LLP, except where agreed for specific projects. Similarly, the Council will not have any additional financial liabilities, except as regards its share of the LLP's administrative costs, unless otherwise agreed.

21. Unless agreed on specific future projects the Council and RHT will make equal capital contributions to future projects and receive an equal share of any resulting profits.
22. LLPs are 'tax transparent' and do not themselves pay corporation tax but instead each partner pays tax on the profit allocated to them. As the Council does not pay corporation tax this reduces the overall tax liability on LLP activities.

EQUALITIES IMPLICATIONS

23. The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
 - Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
 - Advance equality of opportunity between people who share those protected characteristics and people who do not;
 - Foster good relations between people who share those characteristics and people who do not.
24. The three parts of the duty applies to the following protected characteristics: age; disability; gender reassignment; pregnancy/maternity; race; religion/faith; sex and sexual orientation. In addition, marriage and civil partnership status applies to the first part of the duty.
25. Whilst the establishment of the Joint Venture is not anticipated to have any direct equalities implications, as it does not in itself affect the public, the opportunity it provides to support housing provision in the borough may enhance the Council's capacity to support those with protected characteristics through ensuring that appropriate housing is available where required.
26. Where decisions are made regarding specific future schemes, the equalities implications of these decisions will be considered as part of the associated decision-making process in each case.

COMMUNICATION IMPLICATIONS

27. The Council will work with RHT to develop a coordinated response to any enquiries relating to future joint projects.
28. The Council will maintain regular communication with RHT to support effective joint working, and will have regard to any opportunities to improve future communications.

RISK MANAGEMENT CONSIDERATIONS

29. The establishment of a Joint Venture delivery vehicle does not in and of itself present risks to the Council, except as identified above, though risks are, of course, intrinsic to the developments that the delivery vehicle will bring forward. Such risks primarily relate to the economic viability of individual schemes. Thus, each scheme will be carefully appraised during its feasibility/viability stage to ensure that it is sufficiently robust and is able to weather many possible adverse scenarios.

30. Moreover, the advantage of entering into a partnership with Raven Housing Trust is that risk exposure is shared and that additional access to the technical skills, development knowledge and experience needed to successfully develop schemes is available.
31. In considering potential future schemes, decision makers will have regard to risks around the housing sector, such as the costs of borrowing (including from the Public Works Loan Board) and the potential implications of government legislation.

ENVIRONMENTAL IMPLICATIONS

32. Where decisions are made regarding specific future schemes, the environmental implications of these decisions will be considered as part of the associated decision-making process in each case, and will have regard for the Council's emerging Environmental Sustainability Strategy.

CONSULTATION

33. RHT have been consulted extensively in the development of the LLP Members Agreement, as the proposed other party to the agreement.
34. The Executive Member for Housing and Benefits, the Director of Place and the Head of Housing have been consulted regarding the recommendation of this report.

POLICY FRAMEWORK

35. The recommendation of this report is compatible with the Council's Corporate Policy Framework and will support the objectives of the current and emerging 5-Year Corporate Plan.