

Title of Report	Chalkhill Partners - Temporary Accommodation Acquisition and Lease Project	
Key Decision No	FCR S252	
For Consideration By	Cabinet	
Meeting Date	26 February 2024	
Cabinet Member	Cllr Rob Chapman Cabinet Member for Finance, Insourcing and Customer Service Supported by: Cllr Sade Etti, Deputy Cabinet Member for Homelessness, Housing Needs and Rough Sleeping	
Classification	Open with Exempt Appendix	
Ward(s) Affected	All Wards	
Key Decision & Reason	Yes	Result in the Council incurring expenditure or savings which are significant having regard to the Council's budget for the service/function
Implementation Date if Not Called In	6 March 2024	
Group Director	Jackie Moylan, Interim Group Director, Finance	

1. Cabinet Member's introduction

- 1.1. The proposal contained within this report continues the Council's existing strategic efforts to maintain a sustainable portfolio of temporary accommodation that will meet the needs of the growing number of residents who are experiencing homelessness or at risk of homelessness. Our strategic response continues to be based on working to increase the supply of much needed temporary accommodation, through a combination of investing in in-house properties and working with partners to secure long term leases - reducing the Council's exposure to the increasingly costly and volatile market for nightly purchased and bed & breakfast units. The Council also makes every effort to secure temporary accommodation that is within or close to Hackney, to minimise the impact of homelessness on people's support networks, wellbeing, education and employment.
- 1.2. Hackney is at the epicentre of the UK's housing crisis. The scarce and shrinking supply of affordable accommodation within the borough is having a significant impact on the wellbeing of our residents. We have over 8,300 households on the Council's housing register (with severe overcrowding and / or medical needs) and over 3,000 households in Hackney who are homeless and living in temporary accommodation (including more than 3,700 children - enough to fill eight primary schools).
- 1.3. The Council is working hard to tackle this crisis. We are committed to building 1,000 Council homes for social rent and we are delivering hundreds of new homes at dozens of sites across the borough through our in-house direct delivery model, with more than half for council social rent, shared ownership or living rent. But building homes is challenging. It costs on average more than £500,000 to build a new Council home in Hackney, and although our starting point is to build as many homes for social rent as we can, we can't build as many as we'd like to without more direct grant funding and it is getting ever harder to do given the increase in construction costs we face.
- 1.4. The failure by the Government to give councils the powers they need to regulate the private rented sector and the lack of affordable options is driving a significant increase in residents presenting to the Council as homeless and in need of temporary accommodation while we support them in finding sustainable housing solutions for their needs.
- 1.5. In the last year, the situation within Hackney and across London has become critical, with rising demand accompanied by a significant reduction in the amount of temporary accommodation available. This has been driven by the economic turbulence of the cost of living crisis, which is also impacting on landlords and is resulting in rapid increases in rents and landlords withdrawing from the temporary accommodation market, compounded by the impact of competition from central Government departments bidding for the same properties that we need.

- 1.6. This presents serious challenges for the Council, including increasing cost pressures, difficulty securing suitable temporary accommodation, and all too often the need to rehouse homeless families outside of the borough (and often well outside London), impacting on their wellbeing, employment, education and access to support networks.
- 1.7. The Council has been bold and innovative in our work to secure the temporary accommodation that we need. This includes investment in our sector leading portfolio of in-house hostels, refurbishment programmes to raise the quality of hostel accommodation, and entering into long term leases with trusted partners in both the social housing and private sectors.
- 1.8. We have seen important successes through this work, including projects like Cape House and Ivy House, where our partnerships with those landlords are raising the standard of our temporary accommodation and giving the Council longer term certainty in the units we will have available. We are also progressing with opportunities for the Council to directly acquire other properties which will add to our in-house stock.
- 1.9. The challenges that are presented by the current market, however, are clear and are illustrated by other potential deals that have not progressed to delivery, with landlords deciding that they can achieve higher returns elsewhere. This includes potential deals where the Council was in a position to bring in over £200k of Government grant to support refurbishment if the landlord had entered into a lease agreement with the Council and another where the Council was proposing to offer £4.5M for acquisition of hostel accommodation. Neither of these progressed successfully as the landlords determined that alternative options would be more profitable.
- 1.10. This is vital work but despite these efforts, our homelessness service is routinely having to resort to spot purchase arrangements to find urgently needed temporary accommodation, with no control over the location and size of properties that we are able to secure. In many cases the only offers of temporary accommodation that we can secure are outside of the borough, often well outside of London.
- 1.11. In light of the rising demand and shrinking supply of temporary accommodation, we are exploring all possible options to secure long term leases for high quality temporary accommodation so that we can support our homeless residents and keep them within London and as close to Hackney as possible.
- 1.12. The proposed leasing agreement, as set out in this report, will bring in a much needed supply of good quality refurbished temporary accommodation located within a reasonable travel distance of Hackney. This will help to alleviate some of the pressures on homeless residents and the Council in the immediate term. It is also an important part of our wider and sustained work to improve the amount, quality and range of temporary accommodation, all while

we continue work to increase the supply of permanent genuinely affordable homes in Hackney.

- 1.13. Alongside the current work to meet the immediate needs for temporary accommodation (of which this proposal is part), the Council is currently working to refresh our Housing Strategy. This will set out the broader strategic approaches that the Council will take to achieve our ambitions to tackle the housing crisis and make sure that Hackney remains a place for everyone.
- 1.14. This proposal is good for the Council, our local community and most importantly some of our most vulnerable residents in desperate need of this accommodation.

2. Interim Group Director's introduction

- 2.1. The Council's Homelessness and Rough Sleeping and Temporary Accommodation strategies highlight the lack of affordable accommodation in Hackney, including the pressure on temporary accommodation for homeless residents, and the profound impact that this has on the borough and our residents.
- 2.2. Hackney has seen some of the biggest house price increases in the country, meaning that buying a home is out of reach for most low and even middle income families. Welfare reform also makes it increasingly difficult for residents receiving benefits to afford to live in Hackney. In 2023 the average monthly rent for a two bedroom home is c £2,600 and the maximum housing benefit for the same property is £1,585. The analysis carried out for the Strategic Housing Market Assessment that is being developed to support the Council's Housing Strategy is showing us that residents need a household income of c £75,000 to be able to afford to rent in Hackney (and only 5% of our population have earnings at this level).
- 2.3. The Homeless Reduction Act places a statutory duty on the Council to provide temporary accommodation to relieve homelessness if the Council believes there is a risk of homelessness, whilst enquiries are made to establish statutory homelessness and understand if a main housing duty is owed. Where a main duty is accepted the requirement to provide temporary accommodation remains until the household are offered suitable, affordable accommodation (in either the private rented or social housing sectors).
- 2.4. Levels of homelessness are increasing rapidly, with the number of approaches from households in June 2023 up by 17% when compared to the same period in 2018-19. As a result net expenditure is up from £7.38m in 2017/18 to £12.5m in 2022/23, inclusive of running costs. Without the Council's foresight and existing proactive efforts to secure as much sustainable temporary accommodation as possible this cost pressure would be even higher - as is reflected in other London boroughs who are reporting even larger increases in their costs.

- 2.5. Whilst net expenditure on temporary accommodation has decreased slightly over the past two years this is due to the Covid pandemic and the Council's ongoing strategy to increase our own Temporary Accommodation portfolio through long term lease deals, which is the least expensive option and far better value than the most expensive forms of nightly paid temporary accommodation. To eradicate the usage of expensive nightly let temporary accommodation entirely would trim £3.2m pa from the net expenditure figure. However, this would require a total of 963 properties to be acquired / leased.
- 2.6. It is now a constant struggle to find and retain suitable temporary accommodation for our homeless households. While Hackney has established the largest in-house temporary accommodation hostel stock in London and continues to actively explore opportunities to expand our portfolio, this remains insufficient to meet the level of homelessness demand.
- 2.7. As a result we are forced to make difficult decisions. We know that local support networks are very important to residents, especially at times of stress, and we try to place them within Hackney wherever possible. Increasingly, however, we are only able to offer accommodation outside the borough. In September 2014 we had 293 households placed outside the borough; and as of June 2023 we have 562, with some of these families placed as far away as Peterborough.
- 2.8. The changing market for property and the impact of rising interest rates on landlords is also leading to private landlords leaving the market for supply of temporary accommodation. The Council currently has 197 properties that have been requested back by landlords who have served notices requiring us to vacate the properties. We anticipate that this trend will continue to grow.
- 2.9. The Council has been working strategically for over a decade to increase its portfolio of owned and leased temporary accommodation, working to secure the most cost effective and reliable ways of providing temporary housing to vulnerable residents. This includes adopting a range of innovative approaches and building strong new partnerships to grow our in-borough temporary accommodation portfolio to 900+ units via direct acquisition and leasing deals to keep as many of our vulnerable families as possible safe and close to their support networks.
- 2.10. Other long term lease partnerships with private sector landlords in recent times include the deals for Ivy House (Cabinet 18 November 2019) and Cape House (Cabinet 28 February 2022). A partnership with Local Space (a Registered Provider) was approved by Cabinet on 18 July 2022.
- 2.11. The proposed leasing arrangement set out in this report will help to address the growing gap in supply as other landlords exit the temporary accommodation market. The proposed agreement will add 300 units to our longer term leasing arrangements, providing a mixed portfolio of accommodation options within 75 minutes travel time from Hackney Central

and increase longer term certainty of supply of temporary accommodation. This is critical to fulfilling our statutory homelessness prevention duties, help to mitigate significant risk of unbudgeted cost pressures, and to the greatest extent possible retaining temporary accommodation options within Greater London to maintain local connections and support networks for people in need of temporary accommodation.

- 2.12. The Council proposes to enter into a contractual arrangement with a real estate investment trust (REIT) which will acquire and procure the renovation of 300 properties to an agreed standard (at no upfront cost to the Council) before leasing them to the Council for a term of 10 years less one day (this is the maximum period that a lease can be to qualify for receipt of housing benefit).
- 2.13. This proposed agreement does not involve any up-front capital investment from the Council. It will provide a stream of properties to an agreed standard (including a reasonable travel distance from Hackney) which the Council will lease and sublet to households in housing need on Temporary Accommodation licences. The properties will be managed day to day by an external firm of managing agents, overseen by the Council's Benefits & Homelessness Prevention service.
- 2.14. The proposed agreement will allow the Council to pilot this model of private investment using a REIT, with the potential to use equivalent investment models as part of ensuring sustainable long term supply of good quality temporary accommodation. Given the high levels of demand we will continue to look for further opportunities to use similar or other models so that we can deliver our statutory homelessness prevention duties effectively.
- 2.15. Our financial modelling indicates that the proposed lease agreements will enable cost avoidance of c 60% when compared against the cost of nightly spot purchase accommodation. While the future economic picture remains uncertain, we would expect that there will remain significant financial benefits from longer term agreements, helping to mitigate the impact of the housing crisis on the Council's increasingly pressured finances.
- 2.16. The Council will continue to consider the longer term strategic approach to delivering our housing ambitions through the Housing Strategy that is currently being developed. The proposal in this report will not predetermine any outcomes of the Housing Strategy review, but will help us to meet urgent and immediate demand.

3. Recommendations

Cabinet is recommended to:

- 3.1. Note the strategic context set out in this report, including the increasingly challenging shortages of temporary accommodation,**

growing demand, rising costs, and the need to secure longer term and more sustainable supply of temporary accommodation properties in order to meet the Council's statutory obligation.

- 3.2. Note the principles and structure of the proposed contractual arrangement for the acquisition and letting of properties, together with the reasoning supporting its implementation, both as described in this report;
- 3.3. Give delegated authority to the Director of Strategic Property Services, in consultation with the Interim Group Director, Finance, to:
 - negotiate the detailed terms of an Agreement for Lease (or a broadly equivalent contractual instrument with the same commercial effect) with the REIT (and any necessary ancillary agreements)
 - agree that the Council enters into the Agreement for Lease (or a broadly equivalent contractual instrument with the same commercial effect) with the REIT.
 - Negotiate the detailed terms of the individual leases on each property.
- 3.4. Give delegated authority to the Director of Strategic Property Services, in consultation with the Interim Group Director, Finance, the authority to negotiate the detailed terms of, and the authority to agree that the Council enters into, a management agreement with the appointed managing agents.
- 3.5. Authorise the Acting Director of Legal, Democratic & Electoral Services to prepare, agree, settle and sign the necessary legal documentation to effect the proposals contained in this report and to enter into any other ancillary legal documentation as required.

4. Reasons for Decision

- 4.1. As outlined within the report, there is a significant need to expand the stock of longer term temporary accommodation available to the Council. As set out within Part 7 of the Housing Act 1996 and the Homelessness Reduction Act 2017, the Council has a statutory duty to provide interim temporary accommodation to homeless households to whom it has a duty to provide permanent housing.
- 4.2. As set out in the report, the Council has an acute and growing pressure on supply of the temporary accommodation needed to fulfil our statutory duties. Entering into the proposed agreement for lease of 300 properties will make a significant contribution to the number of Temporary Accommodation units in the Council's long term control and at more affordable levels than comparative short term accommodation options.

- 4.3. Whilst the 300 properties covered by the proposed agreement will only represent an additional 30% to the Council's owned and leased portfolio, the number of properties that become available through other sources is continuing to decline, with particular shortages for family sized accommodation - resulting in homeless residents needing to relocate outside of the borough and often well beyond London.
- 4.4. The proposed leasing scheme will include criteria to ensure that properties are within 75 minutes journey time by foot and public transport to Hackney Central, helping to enable residents to retain local connections.
- 4.5. Discussions with other potential partners as well as Chalkhill have taken place over a number of years however they have been around longer lease commitments typically of 40 + years. Only our discussions with Chalkhill have resulted in a 10 year proposal which limits the exposure of the Council to annual inflation based rent reviews. We also expect that an attempt to take to the market an equivalent proposal would take in the order of 9-12 months and would not be expected to yield improved terms considering current market fundamentals (including recent increases in interest rates). The risks associated with the agreement have been reviewed extensively and are set out in detail in section 6.39. Overall they are not considered unduly onerous considering the experience and current property operations of the service and the mitigation options available to the Council.
- 4.6. In order to secure good quality Temporary Accommodation as close to Hackney as possible, and also to mitigate the significant financial risks presented by dependency on ad hoc spot purchasing in an increasingly challenging housing market, the Council uses longer term 10 year lease agreements as a core component of its Temporary Accommodation supply strategy. The Council has a number of long term lease agreements in place and equivalent investment models adopting REIT structures are likely to play an important role in this part of our supply moving forward. At the current time the only viable option that is in a position to move into delivery is this proposal with Chalkhill. As noted in 5.3 below, the Council will be able to consider other viable options that come forward where those will enable it to further reduce use of ad hoc spot purchasing and continue to move the Temporary Accommodation mix to that of a more sustainable long term supply.

5. Details of Alternative Options Considered and Rejected

- 5.1. Do nothing and lose this opportunity to increase the number of Temporary Accommodation units in the Council's long term control at more affordable levels than alternative short term accommodation options

This option has been rejected on the grounds that it will:

- continue to leave the Council with significant uncertainty of provision of temporary accommodation
- increase the likelihood that homeless residents will be required to relocate outside of London for temporary accommodation
- increase cost pressures for the Council
- increase the risk of needing to use expensive bed and breakfast and hotel accommodation
- leave the Council at growing risk of legal challenge for failing to fulfil its statutory obligations under the Housing Act 1996 and the Homelessness Reduction Act 2017

5.2. Raise the capital through borrowing and purchase an equivalent portfolio directly owned by the Council

This option has been rejected on the grounds that:

- there are significant capital and revenue implications, that are unaffordable in the context of the wider financial pressures on the Council (see finance comments in section 7)
- Officers have reviewed with colleagues in Housing Services the potential option of the service undertaking the management of the 300 properties that will be disbursed throughout London. They have advised that it would be very challenging and expensive for the service to manage a portfolio of this nature given likely distribution of properties and uncertain nature of the stock. Housing Services have also advised that their current priority focus is on improving the delivery of their existing services in preparation for the new Social Housing Regulator.

5.3. Approach other parties operating in the sector to enter negotiations to put together a similar proposal

This option has been rejected on the grounds that:

- the exercise would take in the order of 9-12 months and would not be expected to yield improved terms considering current market fundamentals (including recent increases in interest rates)
- other discussions with potential partners have taken place previously (including with Chalkhill and other providers) but have not identified alternative options that would be viable to be taken forward
- the scale of the proposed agreement, the number of short term and bed & breakfast units currently in the temporary accommodation portfolio (1,228 at the time of writing - see section 6 below), the continued (and accelerating) reduction in supply, and the increasing demand for temporary accommodation mean that this agreement would not prevent the Council from entering into further agreements with other providers, provided equally (or more) favourable terms were offered

6. Background

Policy context

- 6.1. There are significant demands for affordable housing in the Borough; the lack of affordable housing options is driving homelessness and increasing the number of households requiring assistance. Please find in Appendix 1 a report setting out the policy context and associated evidence.

The properties that would be sourced through the proposed agreement

- 6.2. Under the proposed property acquisition and letting structure up to 300 units will be acquired by the REIT, refurbished to the agreed letting standard and delivered in an intended 15 months with a longstop of 24 months.
- 6.3. If the REIT fails to deliver a minimum of 150 units in 15 months the Council has the option to withdraw from the arrangement. There may be the opportunity for further tranches of units if the Council and the REIT agree to extend the arrangement (this would be through a separate contractual arrangement).
- 6.4. The makeup of the units for the proposed agreement is in accordance with the Council's criteria and based on analysis of demand for temporary accommodation. This is:
- 3 Bed: 165 properties
 - 2 Bed: 110 properties
 - 1 Bed: 25 properties
- 6.5. The REIT will acquire properties from the open market within 75 minutes journey time by foot and public transport to Hackney Central.

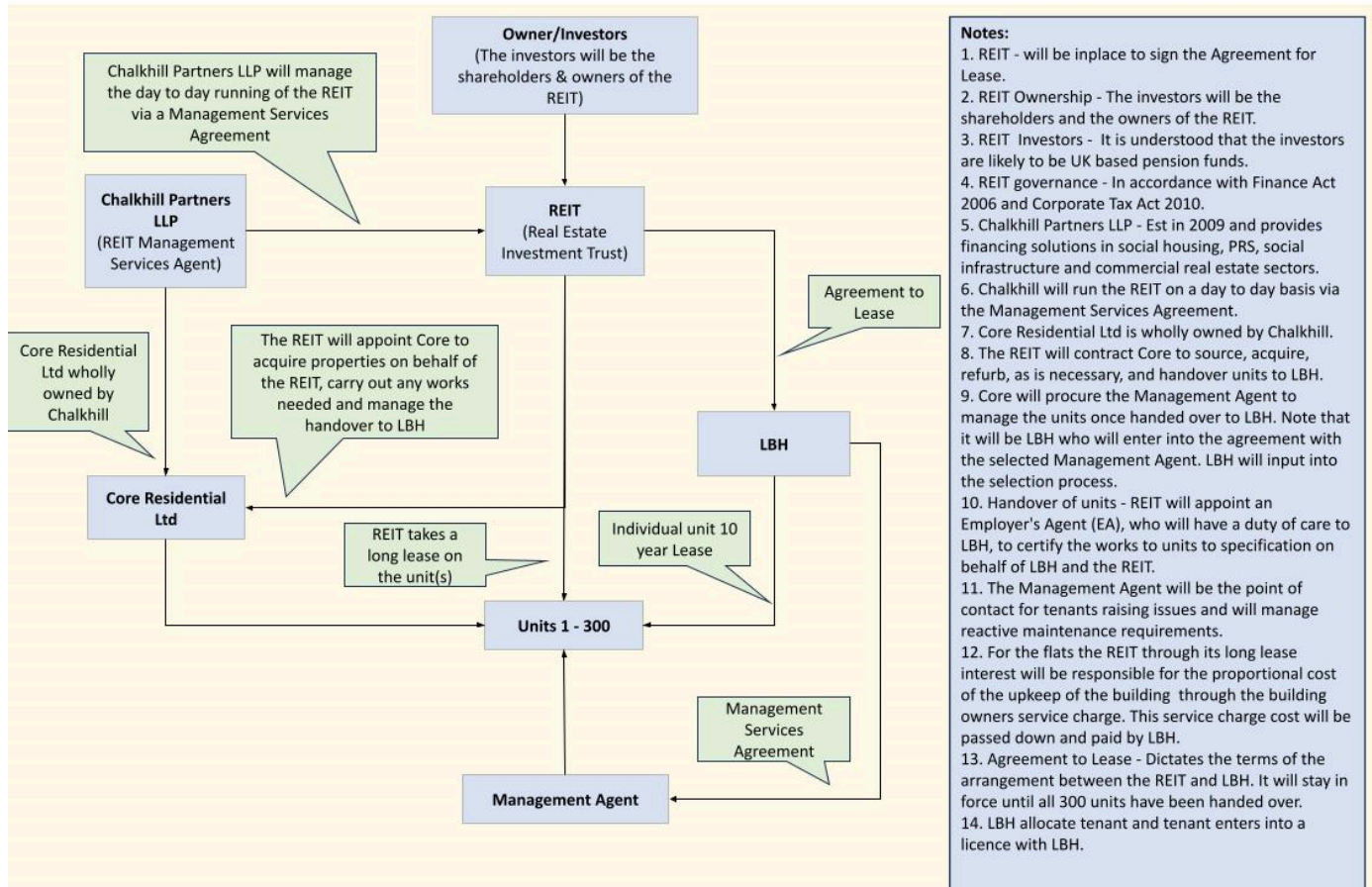
The structure of the proposed agreement for lease of temporary accommodation properties

- 6.6. The Council has been developing this proposal with Chalkhill Partners Limited (Chalkhill), a financial adviser regulated by the FCA. Chalkhill is promoting the transaction and will provide structuring services to the REIT once it has been formed, including administration of payments to the investors. Chalkhill's fees will be paid by the REIT.
- 6.7. The proposal is that the Council enters into an agreement with the REIT for the acquisition and lease of the properties. The Council will have no stake or other liabilities to the REIT, other than the proposed agreement for the lease of 300 properties and the leases for each property once agreed.

- 6.8. The REIT will be a newly established real estate investment trust and will be a UK domiciled entity. Corporate entities of this kind are typically holding vehicles for real estate in general, reflecting their tax benefits which, in turn, lower the cost of capital. It is not envisaged that the REIT will be a listed corporate entity for the foreseeable future.
- 6.9. The REIT is not yet formed and this process will begin once an approval from Cabinet has been obtained in line with the recommendations in this report, therefore the REIT's name is yet to be determined.
- 6.10. Once established, the REIT will form the holding entity for other, similar, affordable housing transactions albeit each transaction will be its own separate deal and portfolio within the REIT.
- 6.11. It is envisaged that the shares in the REIT will be sold to a broad base of investors. Chalkhill has obtained underwriting commitments to fund the entirety of the commercial proposal under discussion with the Council (ie Chalkhill have a high level of confidence that the investments needed to proceed with the 300 properties for the proposed agreement with Hackney are in place).
- 6.12. Chalkhill advise that the likely investors for the REIT will be UK pension fund providers (or asset managers acting on their behalf), with inflation linked liabilities looking to deliver social impact through the investment. The investor funds will likely all be institutional, Sterling denominated and based in the UK (eg. Local Government pension funds). It might be that some of those investors have offshore investment structures, however, the Council's lease will be with a UK based REIT, which will be owned by a UK based partnership.
- 6.13. Investors will be subject to due-diligence as per all applicable legal and regulatory requirements, with processes based on best practice industry guidance such as the ministerially approved JMLSG guidance (<https://www.jmlsg.org.uk/guidance/current-guidance/>). Sanctioned parties will be Prohibited Persons and each investor will be required to present warranties to that effect in their subscription agreement.
- 6.14. The REIT will acquire 300 properties and lease these to the Council within a targeted time frame of 15 months (up to a maximum of 24, assuming a minimum of 150 units are delivered within 15 months). Each property will be subject to an individual lease to reflect the phasing of properties as they become available (each lease will be in payment from the point that the lease begins - so the total costs and cost avoidance benefits will increase as the full 300 properties come on stream). The properties will become part of the Council's temporary accommodation portfolio for 10 years, with the individual leases expiring over an intended 15 month period (up to a maximum of 24 months) and returned to the REIT at the end of the lease (subject to a dilapidations settlement). The current Heads of Terms (which are still in negotiation) are set out in Confidential Appendix 2; LBH/Chalkhill 300 Unit Portfolio - Draft Heads of Terms. The Council's Housing Needs team will fund

any additional resources required to deliver the Council's landlord functions and responsibilities.

6.15. The simplified structure of the arrangement is set out below:



6.16. All capital investment and refurbishment expenditure will be the responsibility of the REIT, and the Council will not be investing in the acquisition or refurbishment of the properties. The Council's relationship with the REIT will be the same as for other privately leased temporary accommodation, with the overall commitment by the Council to lease 300 properties through the agreement. Responsibilities will be set out in the lease agreement for each property and payment of rents will be managed in the same way as is the case for other privately rented temporary accommodation.

6.17. On approval of the works the properties are leased to the Council (in each case for a term of 10 years less one day) pursuant to an Agreement for Lease (or a broadly equivalent contractual instrument with the same commercial effect). Each property will require a separate lease. The starting rent for each lease will be at the April 2020 LHA rate less a fixed sum for the management and maintenance of the properties. Subsequent annual increases in lease charges will be based on the Consumer Price Index (CPI). There is no cap and collar.

- 6.18. Other boroughs that are currently in talks with Chalkhill include Havering, Newham and Kensington & Chelsea, with Havering having completed the Cabinet stage of their process. The Havering deal is to procure properties that can be let via their housing company as privately rented homes based within Havering, neighbouring boroughs and Essex and Kent (and therefore is not the same profile as the properties that Hackney require).

Management of the properties

- 6.19. The REIT will enter into a contractual arrangement with Core Residential Ltd (Core Residential). Core Residential was specifically set up in 2018 by Chalkhill to manage the process of acquiring and refurbishing properties to be leased to local authorities. Core Residential Ltd has been dormant in the interim, awaiting its first transaction. It has an established panel of approved employer's agents, conveyancing solicitors and refurbishment contractors.
- 6.20. Core Residential will be a counterparty to the REIT as part of the process to acquire and refurbish the properties before they are leased to the Council as described above. Core Residential's contract will be with the REIT and its fees paid by the REIT.
- 6.21. When the Council enters into the Agreement for Lease it will also enter into a Management Agreement with Core Residential to procure the tenant and asset management (TAM) services from the market for an initial 5-year term following a competitive tender. At the 5th year the contract will be retendered. LBH will have oversight of the tender process and marking of the returns. Core Residential's cost for this service will be borne by LBH.
- 6.22. The management of the managing agent and the obligations under the leases, including decisions on repairs above a certain threshold, will sit with the Council's Benefits & Homelessness Prevention service (BHP). BHP will also make decisions regarding the allocation of units to residents in line with the service's operational arrangements and experience of managing the wider temporary accommodation portfolio.
- 6.23. The management costs for the leases includes provision for repairs, to be carried out by the managing agent's sub-contractors. The statutory compliance of the properties will need to be maintained through the period of the leases, and as noted previously BHP will need to make decisions on repairs above threshold.
- 6.24. In addition to the annual costs associated with statutory compliance and maintenance, the Council will have dilapidation obligations and to satisfy those obligations there are likely to be costs that will need to be expended towards the end of the lease. The provisions made for repairs and maintenance over the period of the lease will go some way to mitigate an accumulation of maintenance issues at the end of the lease, the cost is dependent upon the condition of the property at that time and the legal obligations of the Council under statute and case law it is recognised that

some properties will be in better condition than others, an estimate of cost for a property requiring works to the mechanical and electrical installations, kitchens and bathrooms could be in the range of £10-15k, a range of £3m to £4.5m across the 300 properties. Please also see the risk assessment table item 3 Unanticipated costs due to dilapidations.

- 6.25. Consideration will need to be given to the level of resource required within the Benefit and Housing Needs service to manage the managing agents; this is under review with the service and will be informed by the contract with the managing agents. Due account will be taken on the responsible and accountable persons under Health & Safety Law, such as the Regulatory Reform (Fire Safety) Order 2005 and Building Safety Act 2022 in common with all temporary accommodation.

Resident experience

- 6.26. Residents placed in the temporary accommodation properties leased through the proposed agreement will report all repairs to the Managing Agent in line with the Council's standard arrangements for residents in temporary accommodation. Full out of hours emergency repairs coverage is provided.
- 6.27. As is the case for all residents that the Council places in privately leased temporary accommodation, the Benefits & Housing Needs Placement and Resettlement Team will carry out periodic property inspections, liaise with the managing agent, act as an escalation point to manage any repairs disputes, and provide signposting and support for the residents.
- 6.28. Where additional support is required (e.g. from social care, support for families fleeing domestic violence etc), the appropriate specialist Council services will make an assessment of needs and provide support in line with normal service provision.
- 6.29. The proposed approach set out in this report will help the Council to provide temporary accommodation closer to the Borough than is currently the case due to very limited (and reducing) availability of suitable properties.
- 6.30. A local authority must take into account the location of the accommodation offered when assessing suitability for households, including:
- the significance of any disruption to employment, caring responsibilities or education of the person and their household,
 - proximity and accessibility of medical facilities and other support which are currently being provided and are essential to well-being,
 - proximity and accessibility of local services, amenities and transport when the accommodation is located outside the authority's area,
 - the distance from the 'placing' authority
- 6.31. The placement of residents in out of borough temporary accommodation is governed by Section 208 of the Housing Act which requires the Council to

notify other boroughs of these placements within 14 days of the placement. The Government's Code of Guidance also makes these requirements very clear, especially around the placement of families who are subject to a children's care plan and associated vulnerabilities.

Equality impact assessment

- 6.32. There is no foreseeable adverse equalities impact arising from the purchase of these properties. By acquiring these properties and adding them to our portfolio we increase the housing opportunities that the Council can provide and consequently the range of people who could benefit.
- 6.33. The proposed agreement will mean that the Council will be able to offer temporary accommodation within reasonable travel time from Hackney which would otherwise not be possible. This will benefit vulnerable households who are managing to hold down low paid employment, juggle caring responsibilities and retain educational places in Hackney schools for their children who are otherwise increasingly likely to be offered temporary accommodation well outside of London.

Sustainability and climate change

- 6.34. None of the recommendations in this report would have a direct impact on the physical or social environment. It should be noted that the specification for each unit requires a minimum EPC certificate of C.

Consultations

- 6.35. No formal consultations are required as part of this report to lease additional properties for temporary accommodation.

Risk assessment

- 6.36. The Council has carefully considered the potential risks associated with the proposed agreement.
- 6.37. It is likely that the Council's new Housing Strategy which is currently under development will include the use of REITs to provide accommodation for some of the Borough's needs, taking account of the overall supply and demand for housing and options available to meet residents' needs.
- 6.38. While the proposal recommended in this report will be the Council's first private investment deal to procure out of borough accommodation, the arrangements are in many ways similar to existing lease agreements for out of borough accommodation that the Council has with social housing providers such as Local Space. Partnership with private investors has also formed the basis for the Council's expansion and improvement of hostel accommodation in the Borough.

- 6.39. The proposal is for the Council to enter into an agreement to lease properties and the Council would not be making any capital investment in the acquisition or refurbishment of the properties. The Council has extensive experience in hostel settings of an agreement to lease / lease structure with the private sector investing capital to achieve an agreed specification on their held assets. Those risks which are common with this deal will therefore be managed in the same manner; with careful assessment of the lease agreement and property condition carried out by the Council's property team and in-house TA surveyor.
- 6.40. Officers have systematically assessed the risks, and how they are likely to manifest themselves given the best information available. The table below sets out the risks identified and assessed, and shows how each is to be mitigated. It also sets out those aspects of risk that can't be completely mitigated, and remain uncertain. Details can be found below:

Risk	Risk definition	Probability	Mitigation	Residual Risk
Commercial and Financial	Dishonest investors in the REIT and use of 'dirty money'	Low	Investors will be subject to due-diligence as per all applicable legal and regulatory requirements, with processes based on best practice industry guidance such as the ministerially approved JMLSG guidance (https://www.jmlsg.org.uk/guidance/current-guidance/). Sanctioned parties will be Prohibited Persons and each investor will be required to present warranties to that effect in their subscription agreement. This is agreed by lawyers at draft document stage and allows the Council to exit if unhappy prior to signing of the agreement to lease.	Low - investors in the REIT may change but the same due-diligence will apply.
	Unidentified costs arise due to volatility of the financial climate	Medium	<p>The Council will receive revenue from central Government (LHA) and this has been used as the basis for the financial modelling conducted. This funding does not cover the whole cost of each lease. The volatility of the current financial climate increases these risks. This is the case with any temporary accommodation lease deal but the Council will be better able to mitigate these risks than is the case with spot purchased accommodation, due to the longer term stability that the agreement will provide.</p> <p>The Council also has the option to raise revenue by privately letting a proportion or even all the units taking advantage of the 30-40% discount to market rents.</p>	Low - mitigations apply

Risk	Risk definition	Probability	Mitigation	Residual Risk
	Unanticipated costs due to dilapidations	Medium	<p>The individual leases on each unit of accommodation will have a dilapidation liability at lease expiry, as is the case with other privately leased accommodation. This is a standard risk with any lease deal and is factored into negotiations.</p> <p>The management costs for the leases include provision for repairs, which will be carried out by the managing agent's sub-contractors. This will mitigate against the risk of accumulating maintenance issues resulting in dilapidation charges at the end of the lease.</p> <p>The annual costs for each unit that have been built into the financial modelling do include planned capital expenditure in excess of general repairs and maintenance which in the years towards the end of the leases could be deployed towards meeting the Council's dilapidation obligations.</p> <p>There may also be the scope to renew the leases dependent on the parties positions at the time which may also mitigate the obligation.</p> <p>The Council also has the option to raise revenue by privately letting a proportion or even all the units taking advantage of the 30-40% discount to market rents.</p>	Low - mitigations apply however the Council will need to closely monitor the portfolio in order to make informed decisions on timely implementation of mitigation options
	Proposal is financially unviable	Low	The proposals set out the financial implications relating to the leasing and rental management of the	Low - mitigations apply

Risk	Risk definition	Probability	Mitigation	Residual Risk
			<p>properties with detailed analysis. Consideration must also be given to the accounting treatment of the leases, specifically International Financial Reporting Standard 16 (IFRS 16). This will be kept under review throughout the lifetime of the lease as accounting standards change and are often subject to clarification.</p> <p>The Council also has the option to raise revenue by privately letting a proportion or even all the units taking advantage of the 30-40% discount to market rents</p>	
	REIT encounters financial difficulties or fails	Low	The Council is protected by the leases for each property - the lease would continue to be in place with whichever party takes on ownership of the property. The Council will not have any financial stake in the REIT itself, nor will it have made any investment in the acquisition or initial refurbishment of the properties.	Low - mitigation applies
	Difficulty in collecting rent from residents placed outside the borough makes the lease deal financially unviable	Low	The Council currently has c.1000 households placed outside the borough in temporary accommodation. Residents in temporary accommodation receive Housing Benefit due to the level of rents set. Rent accounts are created with a dedicated temporary accommodation income collection team in place in the Benefits & Homelessness Prevention service. The team is responsible for assessing the Housing Benefit and collecting the rent and work closely with the Money Hub team. Collection rate is currently 96.27%	Low - mitigation applies
Legal and	Non compliance with the	Low	Enforcement of the terms of the agreement.	Low - mitigation applies

Risk	Risk definition	Probability	Mitigation	Residual Risk
Governance	terms of the agreement for lease and lease			
Political and reputational	Moving households outside of Hackney away from local support networks	High	<p>Statutory guidance governs the steps needed to ensure the safe placement of households in temporary accommodation outside their responsible borough. This includes the relevant statutory notifications of the movement of homeless families to the host borough to enable the link into relevant support services i.e. children with existing care plans etc. This is in place for all out of borough temporary accommodation placements. Statistical return to DLUCH every quarter.</p> <p>The placements and resettlement team in the Benefits & Homelessness Prevention service has three officers who support people who are moving, in making the necessary arrangements to access the local services for the area they will be moving to. This includes confirming availability of school places ahead of making the placement where these are needed. This team also acts as a point of contact for temporary accommodation residents requiring support in the event of any issues (including accessing local services and any issues with the landlord who has provided the property).</p>	Low - once the units are occupied. But ongoing scope for issues as part of the churn of residents.
	Receiving local authority unhappy with displaced homeless households	Medium	With the growth in out of borough and out of London placements for all London boroughs, this has become more important and extra advance liaison is	Low - once the units are occupied. But ongoing scope for issues as part of the churn of residents.

Risk	Risk definition	Probability	Mitigation	Residual Risk
			undertaken with host boroughs by the Benefits & Homelessness Prevention service.	
	Vulnerable households displaced from home borough	Low	Legislation and DLUCH code of guidance is clear on cohorts of residents that cannot be placed outside of the borough. This is reflected in the Council's published temporary accommodation placement procedure placement-procedure.pdf Statutory reviews process affords residents the right to challenge a placement via judicial review. Statistical return to DLUCH every quarter.	Low - mitigation applies

Risk	Risk definition	Probability	Mitigation	Residual Risk
	Ability to secure good quality accommodation.	Low	<p>An agreed property specification will form part of the leasing arrangement.</p> <p>The Council has considerable experience of ensuring that privately leased properties for temporary accommodation are of a suitable quality and is a signatory of the 'Setting the Standard' inspection vehicle that all London boroughs have committed to in order to ensure that council provided temporary accommodation is of good quality.</p> <p>The employer's agent will oversee the refurbishment and upgrade works to the agreed specification. They will be responsible for managing the contractor(s) and will then sign off the works as completed (practical completion - PC) with joint liability to the REIT (the employer) and Council (contractual party).</p> <p>Properties which do not meet the specifications set out in the agreement will not be accepted by the Council.</p>	Low - mitigation applies however the Council will need to closely monitor the portfolio in order to ensure the units are maintained appropriately once in the Council's control.
	Units purchased in permitted development (PD) schemes	Low	<p>Chalkhill has confirmed that in their modelling of the portfolio they have no PD units.</p> <p>If however PD units were purchased they would still have to meet our agreed specification criteria.</p>	Very Low - mitigation applies
	Properties procured are not maintained properly and results in disrepair	Low	The Council sets out clear expectations for all landlords and managing agents providing properties for temporary accommodation, which includes	Low - mitigation applies The Council will need to closely monitor the

Risk	Risk definition	Probability	Mitigation	Residual Risk
	and damp and mould for residents		<p>expectations relating to the quality of accommodation and repairs.</p> <p>The Benefits & Homelessness Prevention service has a dedicated temporary accommodation surveyor who inspects properties and can escalate issues to the management company if needed.</p> <p>The placement and settlement team explains our expectations to residents in temporary accommodation so that they are aware of what their rights are. Repairs are reported directly to the landlord or managing agent and the team are able to assist and liaise if any issues need to be escalated by residents for resolution.</p>	portfolio and appointed managing agents.

Operational	Demand from homeless households reduces with no requirement for additional temporary accommodation units within the 10 year lease period. The drivers of homelessness are varied and complex and will take a new sympathetic government at least two terms to make a noticeable difference to current demand.	Very Low	<p>Demand for temporary accommodation is variable, but as set out earlier in this report the demand has continued to grow significantly over time. A snapshot of the TA challenge as of 7 August 2023 shows that the Council has 371 households requiring temporary accommodation or moving to alternative temporary accommodation. This comprises:</p> <ul style="list-style-type: none"> -45 households requiring TA, including 6 households who are currently in hotels -197 temporary accommodation properties where the landlord has issued notice for handback -25 households in unsuitable TA (with the oldest dating since January 2021) -104 without a suitability review but known to be in unsuitable TA due to medical need, overcrowding etc <p>The Council is currently estimating that in the next 3-6 months it should expect c 290 households of Afghan refugees and asylum seekers to present as homeless due to the Home Office's plans for asylum applications.</p> <p>The Benefits & Homelessness Prevention service is also finding that there is considerable pressure on hotel accommodation, especially if there is an event in London.</p> <p>In the very unlikely event that demand for temporary accommodation falls the Council would initially respond to this by reducing use of other shorter term nightly paid properties that are more expensive. If there was no longer a need for the properties that have been sourced through this proposed agreement,</p>	Very Low - mitigation applies
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Risk	Risk definition	Probability	Mitigation	Residual Risk
			the leases are structured to allow the Council to sublet the properties at market rents.	
	Ability to secure properties within 75 minutes travelling time of Hackney	Low	It is already the case that the Council, along with other London boroughs, is routinely required to make temporary accommodation placements outside of the borough, increasingly well outside of London. The proposals in this report are for the supply of accommodation that is much closer to Hackney than is often the case for placements at the current time in Coventry, Derby, and Leicester. If the properties offered to the Council are further away than 75 minutes travelling time, a decision will be made to either regear the deal to 90 minutes travelling time in line with DLUCH statutory legislation or refuse the properties offered.	Low - mitigation applies
	Ability to deliver the Council's statutory obligations via the offer of suitable temporary accommodation to homeless households.	High	This is a significant and growing challenge affecting the Council and other London boroughs, with substantial increases in the number of people needing temporary accommodation and reducing supply. The proposal set out in this report will provide an important mitigation against this risk.	Low - mitigation applies up to the scope of the 300 units.

6.41. Statutory duties

- 6.41.1. The current challenges in supply of suitable temporary accommodation mean that Council is currently at significant risk of not being able to fulfil its statutory obligations under the Housing Act and Homelessness Reduction Act, presenting risk of legal challenge and adverse Local Government Ombudsman findings.
- 6.41.2. Since April 2023 the Council has experienced a 50% increase in Judicial Reviews regarding the provision and suitability of temporary accommodation and sector trends indicate that Courts and the Ombudsman are increasingly finding against local authorities when claims are lodged.
- 6.41.3. Additionally the Local Government and Social Care Ombudsman launched a special report and guidance for Local Authorities in May 2023 regarding temporary accommodation provision stating “this is an important area of our work given the challenges families suffering homelessness face and the increasing use of this type of accommodation by authorities with the difficult job of finding suitable housing for rent”. Financial modelling carried out inline with suggested financial compensation suggested by the LGO show a significant and growing financial risk to the Council due to the uncertainty of a suitable temporary accommodation pipeline.
- 6.41.4. The proposal set out in this report will provide an important mitigation against this risk. The Council will, however, need to continue to explore all other options to secure a sustainable pipeline of properties, as the wider economic context and Government policy mean that the housing crisis is highly likely to continue to worsen.

7. Comments of the Interim Group Director of Finance

- 7.1. As outlined in Section 3, this report seeks the approval for the Council to enter into an Agreement for Lease over a 10 year period (less one day) to provide an additional 300 units of Temporary Accommodation over a 15 month period.
- 7.2. This agreement provides an opportunity for the Council to significantly increase the number of Temporary Accommodation units available at more affordable rates and reduces the reliance on more expensive nightly paid accommodation to respond to demand. In situations where existing families can be relocated to more suitable accommodations from nightly paid accommodation, this will result in a tangible cost reduction for the Council. Similarly, when new families are assigned to these properties, it will prevent the need for them to be placed in more expensive nightly paid accommodations, leading to substantial cost avoidance.
- 7.3. It is anticipated that implementing the proposed recommendation for the provision of 300 units of Temporary Accommodation will result in a discounted net cost of £9 million over a span of 10 years (or an average non discounted net cost of £1.14m per year).

- 7.4. It is important to note that the Council will commence payments for the property once the units have been officially handed over to the Council. These payments will be disbursed through two separate routes - one specifically for the lease of the property, and the other designated for the management of the property.
- 7.5. The recommended option is estimated to be more cost-effective compared to utilising nightly paid accommodation, which would lead to discounted net cost of £23 million (or an average non discounted net cost of £2.94m per year).
- 7.6. The financial modelling assumes:
- The expenses associated with both options have been subject to an annual CPI uplift. The CPI uplift is based on the Office for Budget Responsibility (OBR) 10 year forecast which averages 2% per annum.
 - The LHA rate (2011) received by the council remains unchanged over the course of the next 10 years.
 - The allowances have been made for costs of management (7%) and maintenance (8%) as well as insurance (0.03%), ground rents (0.1%) and service charges repairs (7%), void costs (5%) across the 300 units. However, there exists a potential risk that these allowances might prove inadequate, leading to further unquantifiable costs that could eventually burden the general fund.
- 7.7. Sensitivity analysis shows the recommended option cost would need to increase by 8.5% per annum (over and above the 2% referred to above) for it to no longer be financially viable against utilising nightly paid accommodation. This assumes no concurrent increase in night paid accommodation which is considered unlikely.
- 7.8. Financial modelling has exclusively focused on feasible options from a delivery standpoint. Should the Council opt for direct delivery, just the initial capital expenditure for procuring 300 homes is estimated to range between £125m - £150m. This will have an impact on the Council's General Fund revenue budget as the Council will need to set aside approximately £2.5m - £3m average annual provision to repay that borrowing (the 'Minimum Revenue Provision') as well as providing for £3.4m - £4m in average annual interest charges calculated based on the current interest rate of 5.4% for the next 50 years. There will also be additional revenue costs for managing the properties. See section five which provides details of alternative options considered and rejected.
- 7.9. This proposal seeks to establish a further stable source of temporary accommodation, acknowledging the prevailing trend of dwindling supply in the market. This trend has been substantiated by recent research conducted jointly by the London School of Economics and the property consultancy,

Savills. Moreover, this situation is exacerbated by projections of a 25% rise in rents over the next four years, as landlords pass on increased costs from more expensive mortgages and stricter regulations, as outlined in a report by broker Hamptons International. London Boroughs are already grappling with substantial temporary accommodation pressures stemming from the scarcity of supply and are relying on commercial hotels, where costs have rapidly increased by far more than the underlying rate of inflation

8. VAT implications on land and property transactions

- 8.1. The Head lease to the Council for the 300 residential properties would be Exempt (i.e. no VAT charged to the Council as these are residential properties).
- 8.2. Since, the proposed acquisition programme is to meet the statutory responsibility of the Council, any cost incurred will relate to the Council non-business activity, the VAT that is incurred on this element will be recoverable in full.

9. Comments of the Acting Director of Legal, Democratic and Electoral Services

- 9.1 The proposed acquisition of land from a Real Estate Investment Trust (REIT) as recommended in this Report is permitted under the Council's general power of competence as set out in section 1 of the Localism Act 2011 which states that a local authority has power to do anything that individuals generally may do. Hence Cabinet has the legal powers to approve the recommendations in this Report.
- 9.2 The acquisition of land on a freehold or leasehold basis for a period of over seven (7) years is reserved to the Mayor and Cabinet under the Mayor's Scheme of Delegation. Further, the Financial Procedure Rule (FPR20) require that proposals for the acquisition and disposal of land or buildings, whether freehold or leasehold, shall be referred to the Group Director, Finance and Corporate Resources for recommendation to Cabinet. The proposals in this Report are to take leases for a period of ten years (less one day) and are therefore for a period of over seven years. Therefore Cabinet is permitted to approve the matters in this Report.
- 9.3 It is also proposed to delegate to the Director of Strategic Property Services, in consultation with the Interim Group Director Finance, the authority to agree the details of the agreement for lease and the leases, as well as the award of contract to a managing agent following a compliant procurement process to appoint such managing agent. Paragraph 2.3 of Part 4 of the Cabinet Procedure Rules states that if the Elected Mayor delegates functions to Cabinet, the Cabinet can delegate further to an officer. Therefore, subject to the approval of Cabinet, the Director of Strategic Property Services, in

consultation with the Interim Group Director Finance, is permitted to agree the matters delegated to them.

- 9.4 This Report primarily concerns the acquisition of leases, which are exempt from the procurement regime under Regulation 10(1)(a) of the Public Contracts Regulations 2015 which excludes public service contracts "for the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property, or which concern interests in or rights over any of them". Nevertheless, this Report also seeks approval in paragraph 3.4 in respect of a delegation to appoint a managing agent. Notwithstanding such delegation, it will still be necessary to follow the Council's procurement processes in respect of approval of business case for such procurement exercise, and ensure that the process is carried out in a compliant manner. In addition, there is a proposal to agree to pay a fee to one of the parties involved in the establishment of the REIT (Core Residential). This fee should be minimal so should not raise any concerns regarding procurement.

Appendices

Appendix 1 - Policy Context

Exempt

Appendix 2 - LBH/Chalkhill 300 Unit Portfolio - Draft Heads of Terms.

Background documents

None

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