

AGENDA ITEM: 7 Pages 34 – 40

Meeting	Cabinet Resources Committee
Date	30 November 2010
Subject	Extension of West Hendon Regeneration Scheme PDA
Report of Summary	<p>Cabinet Member for Resources and Performance</p> <p>The West Hendon Regeneration Scheme requires a further extension of time to the existing commercial agreement between the Council and its development partners. The existing Principal Development Agreement (PDA) expires on 15 December 2010, and this report authorises:</p> <p>a) an extension to the above expiry date by a further 12 months up to 15 December 2011.</p> <p>b) a further extension of up to 12 months can be granted by the Director of Planning, Housing and Regeneration subject to reasonable progress on a revised masterplan in line with Barratt Metropolitan LLP's programme contained in the accompanying appendix.</p>

Officer Contributors	Colin Ross, Assistant Director (Regeneration) Angela Latty, Assistant Project Manager
Status (public or exempt)	Public
Wards affected	West Hendon
Enclosures	Appendix – West Hendon Regeneration Scheme Timescales
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

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1. RECOMMENDATIONS

1.1 That approval be given to the following:

- (i) The extension of the expiry date of the Principal Development Agreement for the West Hendon Regeneration Scheme for a period of 12 months, expiring on 15 December 2011.**
- (ii) That the Director of Planning, Housing and Regeneration be authorised, to grant a further extension of up to 12 months up to 15 December 2012, by delegated powers, with the terms to be approved in consultation with the Cabinet Member for Housing, Planning and Regeneration, subject to being satisfied that reasonable progress had been achieved on a revised masterplan in line with Barratt Metropolitan LLP's programme contained in the accompanying appendix.**
- (iii) That the Commercial Director be instructed to appropriate the Council owned lands within the West Hendon Regeneration Area at the appropriate time from their existing uses to planning purposes pursuant to Section 122 of the Local Government Act 1972.**
- (iv) That the Commercial Director be authorised to grant the demolition and works licences required for the implementation of the West Hendon Regeneration Scheme to Barratt Metropolitan Limited Liability Partnership, as appropriate.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Environment and Planning Committee 27 July 2005 (Decision item 9) – approved the outline planning consent for the West Hendon Regeneration Scheme, subject to an agreed Section 106.
- 2.2 Cabinet, 30 August 2005 (Decision item 5) – approved the West Hendon Regeneration Project Principal Development Agreement (PDA).
- 2.3 Cabinet 11 October 2005 (Decision item 7) – approved the West Hendon Regeneration Project PDA following comments from Cabinet Overview and Scrutiny Committee.
- 2.4 Cabinet Decisions, 3 April 2006 (Decision item 8) – approved the entering into the West Hendon Regeneration Project PDA.
- 2.5 Planning and Environment Committee, 11 December 2007 (Decision item 10) – approved the demolition of the former Lakeview Children's Centre and the redevelopment of the site with 8 affordable housing subject to the completion of a Section 106 Agreement.
- 2.6 Cabinet Resources Committee, 25 March 2008 (Decision item 14) – approved the transfer of the former Lakeview Children's Centre site to Barratt Metropolitan llp for redevelopment of 8 new affordable houses.
- 2.7 Planning and Environment Committee, 22 December 2008 (Decision item 8) – approved the reserved matters application to develop Phase 2A of the development.
- 2.8 On 7 August 2009, the Leader of the Council approved by delegated powers (DPR 870) a Deed of Variation to extend the expiry date on the Principal Development Agreement to 15 February 2010; and make amendments to the provisions for the TUPE agreement and information on the Master plan.

- 2.9 On 15 February 2010, the Leader of the Council approved by delegated powers (DPR 993) a further extension to the Deed of Variation to extend the expiry date on the PDA to 15 June 2010, and to enter the Deed of Variation to the PDA for commencement of the Initial Phase (Pilot and Phase 2A).
- 2.10 On 16 June 2010, the Leader of the Council approved by delegated powers (DPR 1092) a further extension to the PDA expiry date by six months to 15 December 2010.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The regeneration of West Hendon Estate supports the corporate value of 'the place' and contributes to key priority of 'a successful London suburb' in the Corporate Plan 2010-13. The key priority is underpinned by the following objectives:
- ❖ Delivering the Three Strands Approach of Protect, Enhance and Grow, where West Hendon falls with Strand 3: Growth to deliver over 2,000 new homes to the Brent Cross, Cricklewood and West Hendon Regeneration Area;
 - ❖ Delivering high quality, sustainable housing growth;
 - ❖ Continuing to grow successfully but realistically;
 - ❖ Creating the conditions for a vibrant economy; and
 - ❖ Promoting independence through housing choice.
- 3.2 The regeneration of West Hendon Estate supports the 'One Barnet Programme': principles of our future approach of the Corporate Plan for 2010/13, through the following objectives:
- ❖ A new relationship with citizens – The new development will offer more choice and promote independence by providing a number of different housing options such as shared equity, shared ownership etc to residents and those in the wider community.
 - ❖ A one-public-sector approach – working together with other public sector partners to ensure the delivery of the scheme.

4. RISK MANAGEMENT ISSUES

- 4.1 The Principal Development Agreement (PDA) seeks to minimise the Council's risks whilst safeguarding the Council's desired outcomes. The Council's prime concern is to ensure that the redevelopment commences.
- 4.2 A further extension to the expiry date on the West Hendon is required to prevent the PDA from being terminated. If the PDA is terminated, the Council would be required to commence a new procurement process to find a partner to regenerate the West Hendon Estate. A new PDA would also be required for the regeneration and redevelopment of the area. This would affect the programme duration and cost to the scheme.
- 4.3 Under the existing PDA, the Council's development partners are responsible for Council costs up to £500,000 prior to the PDA being signed and annual Council costs of up to £100,000 per annum during the development period. These can be claimed at the Satisfaction Date for the PDA. If the PDA terminates, the Council will no longer be able to recover these costs.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The West Hendon regeneration scheme will deliver a mix of up to 2171 new affordable, intermediate and private sale flats and houses. The development will also provide new community facilities and commercial units for business to rent or lease.

The Council will have 100% nomination rights to the new affordable housing and re-housing offers will be made to all the existing secure tenants on the estate. The regeneration scheme will provide a new area of mixed tenure housing making this part of the borough a better place to live, aiming to improve community cohesion in an area with a highly diverse population and will provide increased choice and opportunity through the 'housing journey' for the Borough's residents.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

Finance & Property

- 6.1 There is no monetary consideration for the land transfers that would result from the implementation of the PDA but Barratt Metropolitan Limited Liability Partnership (BMLLP) will be responsible for the Council's fees and costs and any tax liability.

Value for Money

- 6.2 The PDA provides for a transparent and open book approach to the management of this development. The Council will have the right to access management accounts and other relevant documentation to ensure that information being provided in connection with financial matters is accurate and accords with 'Value for Money' criteria. The PDA makes a provision for the Council to share in any overage (excess surplus) that may arise.

7. LEGAL ISSUES

- 7.1 The Council has power to enter into the West Hendon PDA by virtue of its wellbeing powers as more particularly set out in Section 2 of the Local Government Act 2000(LGA 2000), however, in extending the agreement, it must ensure that the transaction complies with its community strategy in accordance with the provisions of Section 4 of the LGA 2000.
- 7.2 The Council has the power to dispose of land held for housing purposes under Section 32 of the Housing Act 1985; further the Council has the power to dispose of land which is not held for housing purposes under Section 123 of the Local Government Act 1972.
- 7.3 The Secretary of State has set out general disposal consents for both housing and non-housing land. In view of the substantial investment required for the West Hendon Scheme the Council at this stage proposes that it will in future seek specific consents under Section 34 of the Housing Act 1985 and Section 123 Local Government Act 1972 from the Secretary of State.
- 7.4 The Council may require consent from the Secretary of State under Section 25 of the Local Government Act 1988 for any disposal of land that results from the implementation of the PDA. This consent from the Secretary of State is required where a local authority is providing financial assistance for the purpose of, amongst other things, the acquisition and construction of accommodation which is intended to be privately let as housing accommodation. It is contemplated by the PDA, that prior to the Transfer of Land by the Council to its development partners, the Council would have to appropriate the land to planning purpose. If the lands are appropriated to planning purpose, then, the Council would have to seek the specific consent of the Secretary of state under Section 233 of the Town and Country Planning Act 1990.
- 7.5 The Council in its role as planning authority will have to consider applications for reserve matters in connection with the West Hendon Scheme throughout the regeneration/ redevelopment period.

- 7.6 The Council should be aware that the proposed PDA is a long term legally binding agreement under which all parties including the Council have obligations and responsibilities which in the event they are not fulfilled may give rise to legal liabilities.

8. CONSTITUTIONAL POWERS

- 8.1 The Council's constitution in Part 3, Responsibility for Functions, paragraph 3.6 states the functions delegated to the Cabinet Resources Committee including all matters relating to land buildings owned, rented or proposed to be acquired or disposed of by the Council.

9. BACKGROUND INFORMATION

Background

- 9.1 The Three Strands Approach identifies West Hendon housing estate and the town centre of West Hendon as key targets for regeneration as an independent part of the Brent Cross, Cricklewood and West Hendon regeneration area. The strategy envisages a new high quality neighbourhood with a mix of housing types providing impressive views from the town centre over the Welsh Harp and surrounding area.

- 9.2 In July 2005, the West Hendon Regeneration Scheme was granted outline planning consent, subject to a completed Section 106 Agreement for the main scheme. The terms of the Section 106 agreement were completed in September 2007 and a full outline consent was granted to the scheme.

- 9.3 The scheme currently proposed will see the re-development of the West Hendon Estate into a new mixed tenure development of up to 2171 new homes. The existing 680 homes on the estate will be replaced with new homes for affordable rent, shared equity and share-ownership. The remaining 1491 new homes will be for private sale.

- 9.4 The West Hendon Regeneration Scheme is being carried out in partnership with BMLLP, a consortium made up of Metropolitan Housing Trust (MHT) Limited and Barratt Homes Limited.

- 9.5 The Council approved the Principal Development Agreement (PDA) in August 2005, but the implementation of West Hendon regeneration has been delayed for a number of reasons, one of which is viability. The Council and their development partners are still in the process of resolving this, and need to look at this issue in the context of the changes to public funding.

- 9.6 The original expiry period for the PDA was 10 August 2009; however, the parties have previously extended the PDA expiry date, in accordance with the terms of the PDA, on three occasions to 15 February 2010, 15 June 2010 and 15 December 2010. During these periods all parties have been working on various aspects of the programme, predominately on matters and activities relating to the pilot and phase 2A (initial phase) and this includes satisfying the conditions precedents, completing section 106 agreements, phasing and securing funding for the initial phase.

The Initial Phase

- 9.7 BMLLP are due to commence works on the Pilot Phase for 8 affordable houses and Phase 2a Lakeside for 186 apartments in November 2010, following the allocation of £1.2million of HCA Kickstart funding, £3.85million of the Council's Growth Area Fund (GAF) towards infrastructure and the deferment of S106 payments for education provision to later phases. This work is being undertaken through a Deed of Variation to the PDA which allows development to commence without triggering the main PDA provisions.

Reviewing the Masterplan

- 9.8 With the start on the initial phase, the Council and BMLLP can now fully concentrate on improving the financial viability by undertaking a review of masterplan for rest of the scheme. BMLLP needs sufficient time to complete this exercise, and this would require a further extension to the PDA.
- 9.9 In October 2010, BMLLP provided a recent options appraisal showing that by making sufficient changes to the masterplan, the scheme deficit was reduced significantly. The remaining deficit could be eliminated by an increase on property values during the 15 year life of the project. As a consequence, all parties feel that it is worthwhile to pursue the regeneration programme.
- 9.10 The Council have been working closely with the development partners over the last 6 months to identify areas where changes could be made to the masterplan to ensure that the momentum now secured on the regeneration can be maintained right through to completion. As mentioned earlier, BMLLP have identified a number of possible amendments to the current masterplan approach which would significantly improve project viability.
- 9.11 The accompanying appendix sets out BMLLP's programme of review for the next year. These activities will be closely monitored by officers, and regular reports will be scheduled with lead members to update on progress.
- 9.12 Accordingly, it is recommended that it would be preferable to extend the PDA expiry date by a further 12 months to allow further work to take place to develop a detailed delivery plan and propose an amended masterplan. If BMLLP makes significantly progress by the end of this extension, it is recommended that a further extension be granted by the Cabinet Member for Housing Planning and Regeneration.
- 9.13 If the expiry date is not extended the PDA would expire and the Council would not be able to secure its historic expenditure from the developers and would have to re-procure another regeneration scheme with new partners or identify other funding sources to upgrade the homes on the West Hendon Estate.

10. LIST OF BACKGROUND PAPERS

- 10.1 None.

Legal – TE

CFO – MC

West Hendon Regeneration Scheme

Barratt Metropolitan Limited Liability Partnership (BMLLP) Masterplan Review Programme

Partnership Action	Timescale	Cumulative Timescale
Agree nature of works <i>Output:</i> scope of work document	4 weeks	End November 2010
Agree scope of consultant assessments <i>Output:</i> scope assessment document	5 weeks	Early January 2010
Undertake impact assessments & Statutory Consultation <i>Output:</i> impact assessment document	14 weeks	End March 2011
Review scope of impacts <i>Output:</i> officers sign off on impact assessments	5 weeks	End April 2011
Public consultation <i>Output:</i> consultation assessment document	5 weeks	End May 2011
S.73 application finalisation <i>Output:</i> application and supporting documents	4 weeks	End June 2011
S.73 application submission/ determination <i>Output:</i> submission of application and supporting documents	13 weeks	End September 2011
Completion of JR period	3 months	End December 2011