

MEETING

CABINET RESOURCES COMMITTEE

DATE AND TIME

WEDNESDAY 4 APRIL 2012

AT 8.00PM

OR AT THE CONCLUSION OF THE CABINET MEETING, WHICHEVER IS LATER

VENUE

HENDON TOWN HALL, THE BURROUGHS, HENDON NW4 4BG

TO: MEMBERS OF THE COMMITTEE (Quorum 3)

Chairman: Councillor Daniel Thomas

Councillors:

Brian Coleman Andrew Harper Robert Rams
Richard Cornelius Sachin Rajput

**You are requested to attend the above meeting for which an agenda is attached.
Aysen Giritli – Head of Governance**

Governance Service contact: Jeremy Williams, 020 8359 2042

Media Relations contact: Sue Cocker, 020 8359 7039

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CORPORATE GOVERNANCE DIRECTORATE

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23.	MOTION TO EXCLUDE THE PRESS AND PUBLIC: That under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 9 of Part 1 of Schedule 12A of the Act (as amended):	
	EXEMPT AGENDA	Exemption Category
X1.	Award of Housing-related Contracts for Young People	3 X1 – X4
X2.	Freehold Disposal of Surplus Lands adjacent to Broadfields School and Northway Fairway School	3 X5 – X8
X3.	2 Salisbury Road, High Barnet, EN5	3 X9 – X11
X4.	ANY OTHER EXEMPT ITEMS THAT THE CHAIRMAN DECIDES ARE URGENT	

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Meeting	Cabinet Resources Committee
Date	4 April 2012
Subject	Legal Service proposed shared Service with London Borough of Harrow – Business Case
Report of	Leader of the Council
Summary	This report sets out the business case for a shared legal service with Harrow Council
Officer Contributors	Jeff Lustig, Director of Corporate Governance Andrew Travers, Deputy Chief Executive John Hooton, Assistant Director of Strategic Finance
Status (public or exempt)	Public
Wards Affected	All
Key Decision	Yes
Reason for urgency / exemption from call-in	Not applicable
Function of	Executive
Enclosures	Appendix 1: Business Case Appendix 2: Employee Equalities Impact Assessment Appendix 3: Trade Union Comments
Contact for Further Information:	Nandu Valji Nandu.Valji@barnet.gov.uk 020 8359 7533

1. RECOMMENDATIONS

Cabinet Resources Committee is asked to:

- 1.1 Approve the business case for the creation of a shared legal service with the London Borough of Harrow;
- 1.2 Agree to the delivery of the Council's legal services requirements through the proposed shared legal service on the basis set out in the report for a period of five years to commence on 2 July, 2012; and
- 1.3 Instruct the officers to:
 - (i) Develop and finalise the formalisation of the proposed arrangements for the shared legal service into an Inter Authority Agreement to be entered into by the London Boroughs of Barnet and Harrow.
 - (ii) Report on the finalised terms of the proposed Inter Authority Agreement to the Leader and the Deputy Leader and Cabinet Member for Resources and Performance and seek their authorisation for its completion.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet, 20 February 2012 (Decision Item 5), as part of business planning for 2012/13 – 2014/15, approved savings in respect of the Corporate Governance Directorate incorporating those specifically relating to the Legal Service over the period 2012-15; and
- 2.2 Council, 6 March 2012 (Item 4.1) approved the business planning report described in section 2.1 (above).

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 These proposals will ensure the delivery of a cost effective legal service that is fit for purpose to support the Council's corporate priorities:
 - better services with less money;
 - sharing opportunities, sharing responsibilities;
 - a successful London suburb.
- 3.2 The legal shared services project is being taken forward through the corporate transformation programme, which is the London Borough of Barnet's primary vehicle for implementing significant changes to the provision of public services. The work of this programme is led by three principles:
 - a relentless drive for efficiency;
 - a new relationship with citizens;
 - a one public sector approach.

4. RISK MANAGEMENT ISSUES

- 4.1 Risks will be actively managed in line with the corporate risk management approach.
- 4.2 The key risks in respect of the creation of a shared legal service are as follows:

ID	Risk Description	Mitigation
1	Not being able to deliver a viable business case due to lack of financial information	Due diligence has been carried out to understand the costs of the future service, alongside considerations of overheads, set up costs, and pension costs
2	Buy back of legal service by New Support and Customer Service Organisation (NSCSO) and Development and Regulatory Services (DRS) providers	If buy back of legal service by future providers does not happen, Barnet Council will indemnify Harrow Council for any associated redundancy costs. This risk currently exists for Barnet Council and therefore this position is no different under a shared service arrangement
3	Staff may not buy into the proposed shared service	Information needs to be shared with staff in order that individuals understand the purpose and benefits of entering into these arrangements for future service delivery
4	The re-designed service is not flexible enough to cope with unexpected demand from either the retained council or the outsourced services	Governance arrangements will be developed to enable this Council to have strategic oversight of the joint legal service, including approval of annual business plans, and agreement of key policies and strategies

- 4.3 The Legal Services Project Board and One Barnet Programme Board will continue to provide appropriate escalation routes.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 An Equalities Impact Assessment (EIA) has been conducted for the shared legal service. A phased milestone approach will be taken to reviewing any equality impacts of the proposed transfer. The in scope staff have been compared against the profile of the council at the outset of this project. This analysis shows that the Legal Services has a higher proportion of female employees as well as a younger staff profile compared to the general council profile. As part of the council’s continued commitment to equalities and towards its employees, any equality issues that are subsequently identified will be addressed through the agreed monitoring process.
- 5.2 London Borough of Barnet has a relocation protocol which will address the issues identified in the EIA. Prior to the transfer LBB will discuss with the new provider, and its recognised trade unions, plans for relocation of employees and work to identify practicable and cost effective solutions where the relocation affects current employees.

- 5.3 An employee EIA has been carried out and attached as Appendix 2. Consideration was given to do an external EIA but given that this proposal refers to the transfer of staff, an outward EIA is not required.

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

Financial Implications

6.1 Current baseline

The baseline for the legal service for 2012/13 is set out below. This factors in savings identified in the budget that was approved by Council on 6 March 2012. The total net budget is £1.69m, which includes £606,000 of income generated by the service.

6.2 Future service costs

a) Direct Costs

The Joint Legal Service (JLS) will provide a fixed number of hours of legal service for the same direct cost of the current Legal Service for 2012/13 based upon the hours presently delivered directly by the in house team. The exact number of hours to be provided (likely to be in the 35,000 to 39,000 range) is undergoing a due diligence process, and will be confirmed prior to the signing of the Inter Authority Agreement. This means that the proposed joint service will enable the £90,000 saving included in the budget proposals to be realised in 2012/13.

There is also an ongoing commitment that the unit cost of the service will reduce year on year to enable the medium term financial strategy savings of £50,000 in 2013/14 and a further £50,000 in 2014/15 to be realised.

b) External Costs

The total projected expenditure on external legal costs in 2011/12 is £1.76m (excluding expenditure on One Barnet and the Regeneration schemes), and this is split between external legal "spend" incurred by the Legal Service budget, and external legal "spend" paid for from other Services budgets.

The hourly cost of external legal support will vary, but analysis of current external costs suggests that an average "blended" rate of £150 per hour is currently being incurred. The business case then assumes that, over time, 23% of the legal support currently externalised will be commissioned from the JLS. This would be commissioned at £90 per hour, making a saving of approximately £150,000 per annum.

The £145,000 saving would not necessarily be immediately cashable, as current legal budgets are not sufficient in service departments to cover actual costs. However, there will still be a benefit to the Council that will need to be tracked and realised over the life of the contract.

6.3 Overheads

An analysis of the current overhead costs (estates, finance, HR, IT) to the Legal Service shows that it has a current support cost of £220,000. Some of these support costs are variable and can be reduced and/or transferred to the JLS. Other costs are fixed (office accommodation, servers) and cannot be scaled back until the Council enters into the NSCSO project. The proposed agreement with Harrow includes £221,000 of overheads annually which will be chargeable to Barnet. This means that the proposed levels of overheads in the contract for the JLS with Harrow are affordable and in line with current overheads incurred in respect of the service.

6.4 Set-Up Costs

There will be set up costs in respect of the joint service, including information technology, communications and training and development. Barnet's contribution to these set up costs amounts to £200,000 and this sum will be re-charged by Harrow to Barnet but spread over a 5 year period.

6.5 Relationship between JLS and other contracts

There is an important interdependency between the Legal Service in scope as part of this project, and the legal support currently being provided to services that will be part of either NSCSO or DRS.

An analysis of client and provider side activity, and the hours assigned to these activities, suggests that approximately 9,500 hours will relate to provider activities in scope for NSCSO or DRS. It is proposed that staff involved in delivering this work will transfer to the JLS, but the Council indemnifies Harrow for potential redundancy costs that might arise as a result of the NSCSO and DRS contracts. It is projected that, should a redundancy liability arise, this could equate to approximately 6FTE.

Procurement Implications

6.6 There will be an inter authority agreement (IAA) between Barnet and Harrow to ensure that the requirements of the service are clearly specified and agreed and legally binding. It is proposed that this IAA will be developed and finalised by officers from both authorities and be entered into pursuant to authorisation by the Leader acting under executive powers prior to the implementation of the JLS.

6.7 The provision of legal services is currently exempt from the advertisement and tendering requirements of the Public Contracts Regulations 2006. This may change if the European Commission's proposed reforms to procurement legislation are implemented into UK law. The procurement law implications of this proposed arrangement will therefore need to be monitored over the next two years to ensure the arrangement continues to be exempt and compliant.

Performance and Value for Money Implications

6.8 The shared service will be based at Harrow Civic Centre and the staff will be employed by Harrow. In this context, whilst both authorities view the proposed arrangement as a partnership, the responsibility for day to day operational

management of the JLS will sit with Harrow. The IAA acts as a contract and service level agreement between the two parties.

- 6.9 Strategic oversight of the service will take the form of a strategic management board. It is anticipated that Barnet representatives would include the Leader of the Council, the Chief Executive and the Director of Corporate Governance or their nominees. This Board will ensure that the partnership aspirations, service requirements and cost effectiveness are being delivered through the JLS.
- 6.10 A business plan will be submitted to the strategic management board on an annual basis for approval.

Staffing Implications

- 6.11 The Council will continue to meet all of its statutory and contractual obligations in regard to change and its impact upon our staff. This process will be managed in compliance with the Councils Managing Organisational Change Procedure. The Council has recently implemented a Relocation Protocol which we would expect a new employer to adhere to. Where the change results in a TUPE transfer the Council will meet all of its statutory obligations provided by the Transfer of Undertakings (Protection of Employment) Regulations 2006, and, under the TUPE Transfer Commitments LBB implemented in the summer of 2011, all terms and conditions are protected for at least a year including pension provision.
- 6.12 The scope of services to be provided by the JLS will incorporate all aspects of law and legal practice currently delivered by the in-house team, whether directly or commissioned subject to the scope of the successful bidders' solutions for the DRS and NSCSO procurements which are currently in dialogue.
- 6.13 Staff will transfer on a "fully funded basis". This means that the pensions deficit will not transfer to Harrow from Barnet in respect of these staff. To reflect that the liability will remain with Barnet, the employee budget associated with the recovery of the pension deficit (the difference between the total contribution rate of 24.8% and the fully funded contribution rate) will be removed from the Legal Service funding and will remain with Barnet.

7. LEGAL ISSUES

- 7.1 The proposal would be effected by a delegation by Barnet of its legal function to Harrow under section 101 of the Local Government Act 1972 and the relevant Executive Function Regulations. The Barnet staff will transfer to Harrow's employment then all staff in the team will be made available to Barnet under section of the 113 Local Government Act 1972 which will enable each council to delegate decisions to them etc as if they were their own staff.
- 7.2 To satisfy the fiduciary to council tax payers, it is necessary for the Committee to be satisfied that the IAA represents value for money and adequately protects the council's risk.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 The council's constitution, in Part 3, Responsibility for Functions, paragraph 3.6 states the terms of reference of the Cabinet Resources Committee including "approval of schemes not in performance management plans but not outside the council's budget or policy framework".

9. BACKGROUND INFORMATION

- 9.1 Historically the provision of legal services has been provided "in-house" as this was seen to be the most cost effective method of provision to the Council.
- 9.2 In 2001, when the Housing Regeneration schemes were about to progress, it was determined that there was insufficient capacity, expertise and resource within Legal Services to deal with these highly specialised and complex schemes. External lawyers were procured to advise on the schemes. In the following years, other large schemes such as Cricklewood / Brent Cross Regeneration and Primary Schools Capital Investments Programme (PSCIP) have also necessitated the procurement of external firms.
- 9.3 More recently, due to capacity issues arising from growth of instructions in various areas such as contract and employment, some individual matters have had to be outsourced. Counsel is also instructed mainly in employment matters or child protection or other cases in the High Court where there are no rights of audience for solicitors.
- 9.4 The Legal Service was initially part of the New Support and Customer Services (NSCSO) project but was taken out of the scope of this project after the options appraisal recommended that options for in-house transformation of the Legal Service and other delivery options be explored.
- 9.5 Alternative delivery options with a number of local authorities have been investigated. Harrow is viewed as the preferred partner for the shared service arrangement. Representatives of both Authorities confirmed that delivery of savings and more efficient and effective services were seen as prime objectives of any shared arrangement. Geographic proximity and Harrow's membership of the West London Alliance are further persuasive factors towards an examination of business case viability.
- 9.6 Financial due diligence has been carried out to compare the costs of the proposed shared service with the current legal service budgets and medium term financial strategy projections.
- 9.7 The core cost of the service as set out in the Harrow proposal (Section 7, Appendix 1) is in line with the Legal Service budget for 2012/13. The Harrow proposal reduces the cost of the service in 2013/14 by £50,000 and in 2014/15 by a further £50,000 to enable the Legal Service Medium Term Financial Strategy targets to be met.
- 9.8 The pension fund deficit in respect of the staff transferring will not transfer to Harrow. It will remain with Barnet, and the employee budgets associated with

the recovery of the pensions deficit will also remain with Barnet. These total £121,000 and have been removed from the Legal Service baseline.

- 9.9 Support costs of £220,000 will be levied on top of the cost of the service. This reflects the costs of ongoing accommodation and information technology costs. These costs do not sit within the Legal Service budget, but sit within other support service budgets in Barnet. Analysis of the current support costs of the Legal Service confirms that this figure is reasonable. Variable costs will be removed from support service budgets on transfer of the service, and fixed costs have been stripped out of the baseline for the NSCSO procurement process. These will transfer into a commissioning budget for the legal service.

10. JOINT LEGAL SERVICE

- 10.1 The Harrow business case proposal is set out in Appendix 1. This paper explains how the transfer of the Barnet legal team to Harrow will enable the Council to access the same volume of legal resource as currently available, with a high quality and more resilient service, at a reduced cost.

The key benefits identified within the proposal are as follows:

- A reduction in direct cost base;
- A greater range and depth of services available at a single point, with less need for onward referral;
- The active cost management of work which is outsourced to external lawyers;
- The potential for significant savings through work which is currently outsourced being done by the legal team at a reduced hourly rate;
- The ability to manage changing workload requirements more effectively due to the greater number of staff;
- Lower management costs, as the management team can support more staff;
- Greater operational flexibility to deliver services whilst staff are on leave;
- An improved ability to plan work efficiently, with a wider population of staff;
- An improved ability to manage peaks and troughs in workload;
- Increased viability of employing specialists – e.g., personal injury lawyers, as the demand across a wider client base is likely to make it financially sound. This will reduce the cost of external services;
- Attracting and keeping the best staff, through the greater opportunity for career progression within a larger department; and
- Reduced overheads – a larger department needs to fund only one law library & case management system, the per capita training cost is cheaper with volume, overall space usage is generally less (leading to reduced overhead allocations).

The effect of the above incremental cost reductions is a lower cost of service delivery, but with a greater range and resilience of service.

- 10.2 Appropriate governance will need to be put in place to enable the arrangement to operate as a partnership. This will include strategic oversight of the service, regular monitoring of the IAA and development and approval of key strategies and policies.

Appendix 1 - Business Case

Business Case for Legal Services Agreement between the London Borough of Barnet and the London Borough of Harrow

Dated: 13th March 2012

EXECUTIVE SUMMARY

This Business Case proposes arrangements for Barnet's legal services to be provided by a merged team of lawyers based in, and managed by, Harrow. This would be one of the most ambitious shared services arrangements for professional services in local government. The proposal offers significant benefits for both councils and will ensure the continued provision of high quality, cost effective legal support to key services. It will also form a platform for future growth opportunities with increased scale and resilience.

Whilst it is necessary to frame this arrangement by setting out how Harrow will deliver Barnet's legal services, it is fully the intention of the Harrow management to integrate the staff from Barnet into the new joint team and to operate the agreement with Barnet in the manner of a partnership, with consultation on major changes and consideration of differing views and needs between the parties.

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- 1. Background**
- 2. Proposal**
- 3. Anticipated benefits to Barnet**
- 4. Service Delivery Model**
- 5. Services**
- 6. Governance and Agreement**
- 7. Financial forecast**

1. Background

The spending constraints facing local authorities have necessitated detailed reviews of the services that they offer, the costs of those services and consideration as to whether they can be delivered in a more cost effective manner. This has led to a number of both support and front line services being shared by a group of (usually geographically adjacent) authorities, to outsourcing of services and to the termination of some services.

The legal services operated by many local authorities typically deal with a core case load of work which can generally be fairly well forecast, and have to respond to additional work to respond to additional works initiated by third parties, which is outside their control and difficult to predict and plan for. Examples of the latter include planning inquiries, judicial reviews and employment tribunal claims. They also have to deal with emerging and developing areas of law such as procurement and information governance.

These demands are usually met by a mix of in-house staff (usually solicitors), and external barristers and solicitors, typically procured through a panel.

Harrow

Harrow has a legal team of 29.5 lawyers (FTE) and 8 support staff. The team was 'Highly Commended' in last year's MJ Awards (and shortlisted in this year's LGC ones) for

innovation in service efficiency. Systematic performance management, investment in staff well-being, the application of lean management principles, developing in-house expertise to reduce external spend, 'paper lite' working practices, Lexcel accreditation and shared procurement opportunities developed through the London Boroughs' Legal Alliance all mean that Harrow enjoys a high quality legal service at the lowest possible cost to its Council tax payers.

Barnet

Barnet has a legal team of 31.6 FTE lawyers and support staff. Barnet has been seeking to join its legal team with another practice for some years as part of its drive for efficiency and to deliver better services with less money.

Although both councils have sizeable in house legal teams, a volume of work is outsourced to external suppliers (because of specialisms and/or capacity issues) and there are also pinch points in service delivery caused by workloads peaks and/or staff availability.

2. Proposal

This paper explains how, by transferring its legal team to Harrow, Barnet can enjoy the same number of lawyer hours as now, an excellent and more resilient legal service, all at a reduced cost.

These benefits would be delivered through:

- Reduction in direct cost base;
- Greater range and depth of services available at a single point, with less need for onward referral;
- The active cost management of work which is outsourced to external lawyers;
- The potential for significant savings through work which is currently outsourced being done by the legal team at a reduced hourly rate;
- Ability to manage changing workload requirements more effectively due to the greater number of staff;
- Lower management costs, as the management team can support more staff;
- Greater operational flexibility to deliver services whilst staff are on holiday, ill etc;
- Improved ability to plan work efficiently, with a wider population of staff;
- Improved ability to manage peaks and troughs in workload;
- Increased viability of employing specialists – e.g., personal injury lawyers, as the demand across a wider client base is likely to make it financially sound. This will reduce the cost of external services;
- Attracting and keeping the best staff, through the greater opportunity for career progression within a larger department;
- Reduced overheads – a larger department needs to fund only one law library & case management system, the per capita training cost is cheaper with volume, overall space usage is generally less (leading to reduced overhead allocations).

The effect of the above incremental cost reductions is a lower cost of service delivery, but with a greater range and resilience of service.

3. Anticipated benefits to Barnet

These will include:

- Reduced headcount for Barnet;
- Reduced space requirements;
- Greater clarity over the core service costs of the department;
- Reduction in cost of service over time;
- Broader skills base;
- Greater depth from larger teams;
- Opportunity to significantly reduce spend on external legal advice through 'in-sourcing' to the enlarged department.

4. Service Delivery Model

The expanded service will be hosted by Harrow, with those Barnet staff that form part of the legal service transferring to Harrow under TUPE regulations, other than the Monitoring Officer for Barnet who will remain employed by and based in Barnet.

New Practice

Both Councils have put a lot of effort into ensuring that the merged practice is a conspicuous success. Research suggests that the main reason why mergers fail to realise their potential is a neglect of the different cultures in the merging teams. Both authorities believe that at least as much attentions should be given to 'human due diligence' as to the financial and governance elements of the proposed arrangement.

The starting point of the due diligence exercise is a cultural audit which attempts to identify the key elements of and differences between the cultures in the two teams.

The results of this audit will underpin the programme for individual appraisal, team building and practice development planned for the months after the new practice starts.

The aim is to develop a unified practice which builds on the strengths brought to it by all members of staff. Transferring staff will be inducted into Harrow in the same way as all new LB Harrow staff, and a senior Barnet manager will be invited to explain Barnet's way of doing things and its plans for the future to Harrow staff.

Training will also be undertaken with the enlarged team in order to more quickly assimilate the combining groups into a cohesive and effective unit.

The defining characteristics of the service will be the following:

Quality

- The provision of responsive, high quality legal services at a competitive cost
- Effective quality assurance standards, including external accreditation where appropriate
- Performance management and development based on continuous improvement
- The collection and acting on client feedback, including complaints
- Bespoke service standards based on client needs
- Effective risk management
- Delivery of solutions focused advice, offering the best legal solution to deliver the client's aims
- Advice includes alternatives, options and risks
- Approach which is risk aware not risk averse

Client Relationship Management

- regular client liaison to ensure clients' needs are met

- variety of communication methods, according to client's needs and preferences
- project management approach to casework
- identification of client relationship leads for each key client
- negotiation and agreement of service level agreements to capture scale and nature of work, plus relevant KPIs for delivery

Innovation

- exploit technology to enable efficiencies in working practices
- use management techniques, such as lean, to streamline administrative processes
- develop staff in leadership and management
- reduce costs by delivering services in house where appropriate e.g. in-house advocacy & training
- exploit opportunities for income generation to deliver quality services at lower cost
- reduce carbon emissions by reducing car travel and paper

Collaboration

- work with other legal practices to share knowledge and best practice
- undertake joint procurement to drive down costs
- work with suppliers to develop solutions for the future and to share risks
- work with public sector and voluntary sector in our local community

Knowledgeable and motivated staff

- staff wellbeing and development programme that attracts and keeps the highest calibre staff
- project management approach to ensure appropriate level of staff undertaking tasks
- effective knowledge management systems
- lean management structure with effective team working that encourages autonomy and creativity
- in house training
- flexible working practices to allow staff to manage work/life balance & improve productivity

5. Services

The Service will offer legal services in all the major areas of local government law, including child and adult protection, procurement, employment, FOI, etc as well as training tailored to meet the needs of specific staff groups.

A full list of the services which the team will be able to provide is attached as Annex 1.

Initially at least it is expected that the current Barnet staff will work on its projects post transfer, but as the new team settles down, teams will take on work for both councils who will enjoy the benefits of a wider and more experienced staff team with increased resilience.

6. Governance and Agreement

The proposal would be effected by a delegation by Barnet of its legal function to Harrow under section 101 of the Local Government Act 1972 and the relevant Executive Function Regulations. The Barnet staff will transfer to Harrow's employment then all staff in the team will be made available to Barnet under section of the 113 Local Government

Act 1972 which will enable each council to delegate decisions to them etc as if they were their own staff.

The delegation would need to be agreed by both Councils' Cabinets. The basis on which Harrow will exercise the delegation will then be captured and agreed in an Inter Authority Agreement. It is necessary to have a robust legal agreement to set out the councils' respective obligations and responsibilities. In this respect the arrangements will cover similar ground to a commercial agreement. However, the arrangement is based on co-operation between the two councils for their mutual benefit, recognising the shared aims of the two councils to ensure high quality cost effective legal support – aims which they can each achieve more readily by working together.

This section of the proposal sets out the key terms of the arrangements.

Core terms

- Barnet will commit to an agreed number of legal service hours in each year, which reflect (initially) the current level of service and subsequently (on an annual basis) the budget hours requested by Barnet;
- All the legal work required by LB Barnet will be offered to the legal team (other than in agreed areas, for example work already externally committed or work which is outsourced as part of the transformation programme);
- The following year's budget hours requirement will be agreed 3 months prior to the commencement of any budget year. This should enable any changes to be implemented to the benefit of both parties;
- The agreement will run for 5 years.

Staffing and hours

- If staff in the legal team have to be made redundant as a result of any outsourcing or service delivery changes¹, Barnet will pay all the redundancy and other costs arising within the legal team as a result of this. The redundancy liability will be capped at a sum which is the maximum which Barnet would have paid had they remained the employer dealing with any redundancies flowing from their programme;
- Following the current outsourcing projects, the core budget hours will be reduced in proportion to the reduction in the volume of legal work required by Barnet. The calculations assume no reduction in the overhead being charged as it is significantly discounted (see below). Incremental increases in future years, however, to be paid for from the savings generated, will be at a proportionately lower rate, reflecting the effective lower base hours requirement.²
- Barnet will keep Harrow informed on the progress of its transformation programme more generally and will do what it can to explore opportunities for the legal team to continue to support Barnet in relation to any service delivery through alternative means.

Overheads and set up costs

- An agreed element of overhead cost including a reduction over time to reflect efficiency benefits is included in the forecasts. The overhead base will be scaled

¹ There needs to be further discussion as to exactly what outsourcings are included in this catch all description of One Barnet/other outsourcings and therefore the scope of Barnet's commitment to cover consequential redundancy and other costs

² This proposal is still being discussed

back in the event that there is a reduction in hours needed as a consequence of the current outsourcing programme³

- Set up costs of £200,000 has been agreed, subject to finalising costs from Harrow, where the finalisation is dependent upon their access to detailed information to enable them to provide the required solution. These are set out in Appendix 4. The Barnet element of these will be paid for in equal monthly instalments over 5 years.

Pension

- Barnet employees who TUPE transfer to Harrow will be admitted into Harrow LGPS. These employees will also have the option to transfer their accrued pension benefits from Barnet LPGS to Harrow LGPS. For those employees who do elect to transfer their accrued pension benefits, this will be managed through a bulk transfer payment from Barnet LGPS to Harrow LGPS.

Billing

- The budget year will run from April to March;
- The costs of delivering the basic hours service, including the agreed overhead, will be paid for in equal monthly instalments;
- The annual hours to be provided will be allocated into 12 months by dividing the total annual number of hours by 12;
- Any hours requested over the monthly allocation will be invoiced separately at the agreed standard blended rate;
- Once agreed in the annual budget process, the required hours volume will be fixed for that year, except through written agreement with Harrow. The purpose of this is to ensure that Harrow is not exposed through sudden downward changes in demand to costs that it would not otherwise bear;
- Detailed reporting of the hours worked for Barnet will be provided electronically to Barnet each month;
- The legal team management will seek to fill any short-term capacity availability by selling the time to other local authorities/public bodies/clients.

Time required over the agreed contract hours

- All hours required in excess of the agreed monthly hours will be charged at the rate of £90/hour. This rate reflects current market rate for charges between local authorities and will also be used to fill capacity gaps, where possible. The rate reflects the costs of hiring, redundancy, downtime, training and overheads for these staff. It is anticipated that the principal source of this work will be in sourced legal work which is currently being undertaken by third party firms.
- Any surplus arising on this work will be available for distribution as described below.

Surpluses

- If, after taking into account all the applicable costs expended in running the CLS (and a reasonable agreed amount for "working capital" purposes) a surplus results, that surplus will be distributed to the participating local authorities on the ratio of contracted hours for each authority in that budget year;

Client relationships and reporting

³ This proposal is still being discussed

- Service Level Agreements will be entered into for the key service areas, setting out areas of legal work required, resources needed to deliver services, skills and experience relevant for the service, client liaison and reporting arrangements and agreed KPIs for measuring performance
- There will be designated client relationship lead officers in the legal team for each of the key service areas to ensure clarity of reporting and communication lines
- The legal team management will hold regular meetings with the department directors and senior management of Barnet and will discuss with them, inter alia, the likely demands for time over the forthcoming weeks and months.
- To recognise the "shared services" nature of the arrangements and the importance of strong governance, there will be quarterly meetings with Barnet's designated contract manager to review operational efficiency, statistics, KPIs, trends and projections and to enable the development of the service to meet both councils' aims.
- Any concerns about performance or breaches of the terms of the agreement will be dealt with under the dispute resolution provisions. Either council can take action for breach of the terms, ultimately leading to the ability to terminate the agreement.

7. Financial forecast

The forecast has been prepared using base data for costs and hours provided by the participating authorities together with estimates of the benefits of savings. Where this data is not known, conservative estimates have been made to seek to ensure that any benefits will not be overstated.

The summary base financial forecasts for the combined practice for the five years from April 2012 are as follows:

	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Harrow	v12 £	v12 £	v12 £	v12 £	v12 £	v12 £
Income	(463,770.00)	(463,770.00)	(463,770.00)	(463,770.00)	(463,770.00)	(463,770.00)
Expenditure	2,264,640.66	2,114,640.66	1,964,640.66	1,964,640.66	1,964,640.66	1,964,640.66
Net Direct Cost	1,800,870.66	1,650,870.66	1,500,870.66	1,500,870.66	1,500,870.66	1,500,870.66
Central overheads	717,000.00	717,000.00	717,000.00	717,000.00	717,000.00	717,000.00
Total	2,517,870.66	2,367,870.66	2,217,870.66	2,217,870.66	2,217,870.66	2,217,870.66
Barnet	v12 £	v12 £	v12 £	v12 £	v12 £	v12 £
Income	(606,400.00)	(606,400.00)	(606,400.00)	(606,400.00)	(606,400.00)	(606,400.00)
Expenditure	2,466,586.03	2,296,586.03	2,246,586.03	2,196,586.03	2,196,586.03	2,196,586.03
Net Direct Cost	1,860,186.03	1,690,186.03	1,640,186.03	1,590,186.03	1,590,186.03	1,590,186.03
Central overheads	594,000.00	221,000.00	221,000.00	221,000.00	221,000.00	221,000.00
Total	2,454,186.03	1,911,186.03	1,861,186.03	1,811,186.03	1,811,186.03	1,811,186.03
Combined Budget	2011-12 £	2012-13 £	2013-14 £	2014-15 £	2015-16 £	2016-17 £
Income	(1,070,170.00)	(1,070,170.00)	(1,070,170.00)	(1,070,170.00)	(1,070,170.00)	(1,070,170.00)
Expenditure	4,731,226.69	4,411,226.69	4,211,226.69	4,161,226.69	4,161,226.69	4,161,226.69
Net Direct Cost	3,661,056.69	3,341,056.69	3,141,056.69	3,091,056.69	3,091,056.69	3,091,056.69
Central overheads	1,311,000.00	938,000.00	938,000.00	938,000.00	938,000.00	938,000.00
Total	4,972,056.69	4,279,056.69	4,079,056.69	4,029,056.69	4,029,056.69	4,029,056.69

The figures above include the anticipated ongoing external legal spend for Barnet.

The cost reductions above are amplified by the reduction in the effective hourly costs of running the combined service. This is because the base model assumes that Barnet will continue to have 35,500 hours of staff time, as at present, despite planned reductions in

cost, both in the figures for the standalone departments and as a result of the operation of the Combined Service. The effects of this in each of the five years of the contract are as shown below:

Recalculation of Unit costs

Hourly Rates (excluding External Legal and Income)

		2010/11	2011/12	2012/13	2013/14	2014/15
	Hours	£/h	£/h	£/h	£/h	£/h
Harrow	31,000	57.67	52.83	47.99	47.99	47.99
% Reduction over contract term						16.78%
Barnet	35,500	49.56	44.77	43.36	41.95	41.95
% Reduction over contract term						15.35%
Combined	66,500	53.34	48.53	45.52	44.77	44.77

Hourly Rates (with overheads)

		2010/11	2011/12	2012/13	2013/14	2014/15
	Hours	£/h	£/h	£/h	£/h	£/h
Harrow	31,000	80.79	75.96	71.12	71.12	71.12
% Reduction over contract term						11.98%
Barnet	35,500	66.29	51.00	49.59	48.18	48.18
% Reduction over contract term						27.32%
Combined	66,500	73.05	62.63	59.62	58.87	58.87

The table above indicates that on departmental controllable costs alone (the effect of external legal fees and department income are omitted here), the combination will save Barnet about 15%. When overheads are included, the benefit to Barnet over the contract term increases to 27%.

The combination offers greater opportunities than purely synergistic cost savings. These will become viable through the increased size of the Harrow practice, where the greater demand for specialist lawyers will make it cost-effective to hire this resource rather than buying it externally. Greater flexibility that comes from a larger team will allow for more effective holiday and absence cover. Where external legal services are required, the expanded practice should be able to source this cheaper as it is a larger buyer than either Harrow or Barnet separately. Management costs for the enlarged Service will be lower per lawyer than is currently the case.

A number of these variable cost savings opportunities should significantly reduce the operating costs of the Barnet Legal Department. These relate to:

- Improved operating efficiencies;
- In-sourcing of work currently outsourced to third parties;
- Adding new complementary services to those currently being offered;
- Lower headcount and space requirement which, when taken with other savings opportunities, may permit savings in central costs for Barnet in future.

The last of the bullet points above cannot meaningfully be factored into the forecasts, but the estimated (prudent) potential of the first two items is as follows:

	2011-12	2012-13	2013-14	2014-15	2015-16	2106-17
	£	£	£	£	£	£
Savings - insourcing	0.00	(35,714.29)	(71,428.57)	(107,142.86)	(142,857.14)	(142,857.14)
- insurance		0.00	(50,000.00)	(50,000.00)	(50,000.00)	(50,000.00)
- efficiencies through size and process		0.00	(50,000.00)	(100,000.00)	(150,000.00)	(150,000.00)
Total	0.00	(35,714.29)	(171,428.57)	(257,142.86)	(342,857.14)	(342,857.14)

The above opportunities total £1.15m benefit over the five year period.

The biggest potential savings relate to legal services currently being provided by third parties to Barnet. These are running at approximately £1.2m per year, i.e. £6m over the contract term. It has been assumed that £1.4m of this total is carried out by Harrow staff over this period at a saving of £50/hour to Barnet. This savings assumption for Barnet is understated if the blended rate of external legal cost is higher than £140/hr, and further savings could be obtained by transferring a higher proportion of this external work than the current 23% to the expanded practice. By way of example, every £100,000 worth of external work at a blended rate of £140/hr that is brought within the expanded practice saves Barnet £35,700 approximately. At a blended rate of £160/hr, that saving is £43,700 approximately. Clearly, therefore, there is the potential to save in excess of 35% on the proportion of this significant external cost that is brought in-house. This saving provides both a direct benefit to Barnet, as it reflects a direct reduction in cash spent. In addition, it provides the opportunity for an indirect benefit, in the form of a distribution, which is discussed further below.

The savings from insurance relate to the in-sourcing of Personal Injury legal work for Barnet. In 2010/11 this totalled some £300,000. We are conservatively assuming a net saving of £50,000 per annum after year one by Harrow undertaking some of this work. This too is the anticipated benefit to Barnet as a result of reducing the cash cost of obtaining the service.

Efficiencies relating to better workflow management, more efficient process etc are anticipated to save some £450,000 over the contract life. This figure will be refined once the teams have been brought together.

In terms of cost/hr, the impact of the projected insourcing and other savings is projected to reduce the full hourly cost for the Barnet service from £70.46 for the 2011/12 year to £51.62 in 2016-17, a saving of 26.7%.

Barnet outsourcing projects

Barnet has already committed to two major outsourcing projects. It is not clear whether the legal services aspects of these will be part of the final contract but the possibility exists that a number of the current legal staff will be TUPE'd to the new provider in January 2013, or will be made redundant.

If this occurs, it is proposed that the base hours in the contract will be reduced proportionally to the reduced headcount compared to that transferred to Harrow and the direct costs (the costs of the legal department except for those costs allocated to the department as part of the central costs of the authority) will also reduce proportionally.

Overheads

Overheads are calculated in a different way by different organisations. The costs which are included also vary by organisation. The basis adopted in establishing the increased overheads of the enlarged practice has been to consider what costs might be required if the service were to operate semi-autonomously. This results in a notional charge for accommodation, light heat etc, departmental management but a true charge for IT, as this is outsourced by Harrow. The charges are calculated to cover only the costs of the contracted hours, as the rate for additional time is calculated to include an element for overheads.

Overheads of £221,000 are chargeable on Harrow's cost base for the accommodation and servicing of the Barnet legal team. This is approximately 37% of the overhead cost currently charged to the Barnet Legal department.

Set up costs

The set up costs are those costs required to get the Barnet legal team operating from Harrow. They include the transfer of data, people and archives and setting up operations in Harrow. Integration and training costs are also included to accelerate the integration and efficiency of the Combined Service. Barnet's share of these costs is £200,289. It has been agreed that these costs will be paid by Barnet in equal instalments over the life of the contract.

Surpluses

Following completion of each financial year, a surplus may be available for distribution, to the extent that there is one available after accounting for all the costs of running the enlarged practice and for any required contingencies. The timing of settlement of any surplus will be at the discretion of Harrow, and will be based upon the department's working capital requirements. The surplus will be allocated to each participating Authority on the basis of that Authority's base contracted hours as a proportion of the total base hours contracted by the enlarged practice in the year to which the surplus relates.

List of services currently provided by the Harrow and Barnet Legal Departments

Commercial, Contracts and Procurement

- Advice on the application of EU procurement rules and individual Council Financial Regulations and Standing Orders
- Advice on contract matters
- Drafting and negotiation of contracts
- Advice on State Aid
- Establishment of special purpose vehicles - e.g. partnering arrangements; companies limited by guarantee
- Major commercial projects - e.g. PFI/PPP not listed in the section above
- Complex company or trust structures
- Construction contracts

Property

- Property law advice
- Encroachment/trespass
- Right to buy (prior to conveyance)
- Sales
- Purchases
- Leases
- Agreements
- Licences

Enforcements/Prosecutions

Advice and conduct of proceedings in relation to [all Council enforcement functions]* including:

- [Trading Standards]*
- Education Welfare
- [Planning enforcement]*
- [Highways]*
- Anti-social behaviour
- [Car parking fines]*

- [Statutory and other nuisance]*
- Benefits
- [Environmental]*
- [Housing]*
- [Food standards]*
- [Advice on enforcement policy and procedures]*

Employment

- Advice to the employer, its managers and HR advisers on employment law and procedure
- Conduct of disciplinary appeals and employment tribunal cases
- TUPE

Litigation

- Advice on litigation and how to avoid it
- Advice to either Party's insurers
- Advice and conduct of proceedings in relation to negligence
- Personal injury
- Property damage
- Trespass
- Commercial litigation
- Professional negligence
- Judicial review and defending civil claims
- Debt recovery
- Housing repossessions and advice
- Statutory appeals
- Injunctions
- Homelessness appeals
- Disrepair

Exclusions

Insured litigation for anyone other than Barnet that accesses legal representation for insured cases through its insurers.

Planning

- [Advice on town and country planning matters]*

- [Road naming orders]*
- [Building Regulations advice]*
- [Advice on common land and village greens]*
- [Orders and advice on and including drafting section 106 Planning Obligations, Enforcement Notices and Stop Notices]*
- [Listed buildings (Enforcement and Repair Notices)]*
- [Conservation Areas (Order and enforcement) plus Article 4 Directions]*
- [Tree Preservation Orders]*
- [Compulsory purchase]*
- [Rights of Way]*
- [Appeals]*
- [Other orders etc under the Localism Act 2011]*

Highways

- [Rights of Way]*
- [Inquiries relating to Definitive Map Modification Orders]*
- [Highways enforcement notices]*
- [Stopping up of highways]*
- [Compulsory purchase]*
- [Side roads orders and bridge schemes]*
- [Parliamentary procedure]*
- [Special Parliamentary Orders]*
- [Major highway schemes]*

Information and Complaints

- Legal advice on Freedom of Information Act applications and Data Protection Act subject access requests
- Legal advice on corporate complaints and Ombudsman investigations

Children's Services

- Advice to social workers and multi agency conferences on all aspects of child care law
- Conduct of child protection proceedings
- Advice to adoption panels

Adult Social Care

- Advice on community care law including charging and contracting
- Advice to approved social workers on mental health issues
- Conduct of proceedings under mental health and community care legislation

Education

- Advice to schools on full range of legal issues(or will we ask Barnet schools to pay separately for this which is the preferred option)
- Specialist education law advice to the authority in its capacity as Childrens Services authority
- Special Educational Needs Tribunals and advice
- Arranging and administering and clerking school admission appeals where the council is the admission authority and independent appeal panels for exclusions for maintained schools.

Electoral law

- Legal advice on the conduct of elections

Housing

- [General Advice all aspects of housing including policy and homelessness]*
- Homelessness
- Possessions

[Licensing]*

- [Advice]*
- [Attendance at licensing hearings where required]*

Regulation of Investigatory Powers Act

- Legal advice on the application of the Act to Council activities
- General legal advice including advice relating to legislation affecting local government

Training and Information

- Updating and advice on forthcoming legislative changes; and
- Whatever legal advice and assistance the Parties may from time to time require.

Those areas of legal services denoted []* are associated with functions which may be outsourced by Barnet as the first phase of the procurement of the One Barnet Programme.

Appendix 2 – London Borough of Barnet Employee Equality Impact Assessment

Legal Shared Service with London Borough of Harrow

[This document remains live with information being added at each critical milestone]

EIA Contents

- 1 Introduction
2. Any Anticipated Equalities Issues at each milestone and identified mitigation
3. Monitoring Summary
4. Project Milestone Outcomes, Analysis and Actions
5. Briefing, Sharing and Learning

1. Introduction

1.1 Aims and objectives

The London Borough of Barnet's strategic change programme has at its heart an aim to become a truly citizen-centric council ensuring that our residents can lead successful and independent lives. This is the council's response to address several drivers for change that have been identified:

- The financial pressures resulting from the global recession has brought the era of consistently increasing public sector budgets to an end. Within the council there is a funding gap of £53m over the next three years, and our public sector partners face challenges of a similar scale.
- Despite consistent improvements in service delivery, satisfaction with Barnet Council, as with other local authorities, has been on a consistently downward trend.
- Digital technology continues to change and develop, as do the ways that people use it to change and grow. Residents will continue to expect us to deliver against those standards of instant information and access to services.
- Our identification of the need to develop a new partnership with our residents to deliver services in future is echoed by the Coalition Government's focus on a Big Society.
- The Government's focus on localism and devolution sets a national context for our aim to provide local leadership and join up services across the public sector.

The strategic change programme is delivered through adoption of three key principles:

- **A new relationship with citizens** - Enabling residents to access information and support and to do more for themselves
- **A one public sector approach** - Working together in a more joined up way with our public sector partners to deliver better services
- **A relentless drive for efficiency** - Delivering more choice for better value

The specific objectives of the proposed Legal Services shared service with Harrow are set out in the CRC paper and this also addresses how this shared service proposal will link with the programme objectives.

1.2 Description of the critical milestones

This Equality Impact Assessment will take a milestone approach to assess equality impacts as the project progresses.

Proposed milestones identified are:

- **Outset data**
- **Confirmation of in scope to transfer**
- **Post transfer**

1.3 Key Stakeholders

Key stakeholders are employees, managers and Trade Unions

A range of information and consultation mechanisms will be put in place and these will include:

- Provision of information to Trade Unions will be in line with the Council's TU Engagement Process for One Barnet Projects
- Staff Groups
- TUPE briefings for in scope employees and managers
- Consultation with Trade Unions on any proposed measures
- 1-1 consultation

2. Anticipated Equalities Issues at each milestone and identified mitigation

2.1 Outset data

The proposed transfer of Legal Services as described in this business case will place 31.6 FTE members of staff in scope to TUPE transfer to the London Borough of Harrow (LBH). This transfer will be a TUPE transfer as described in the TUPE Regulations 2006. In addition to the employment protections provided by the TUPE Regulations the Council's TUPE agreement will apply to this transfer and will form part of the contract between LBB and LBH. The main protections are:

- Terms and Conditions may not be changed in the first year after transfer
- In scope employees to remain within LGPS
- Continuation of current Trade Union Representation
- A central Trade Union facility pot

The analysis of the data at Section 3 when compared against the profile of the Council shows that there are material differences (>5%) for the following characteristics:

Females, Age Group with a Date of Birth 1975-1984 and Ethnic Groups: White Irish; Asian and Asian British: Indian; Black or Black British: African. There are no declared disabilities.

The reason for this is because of the profile of those in scope - it is not about how the 'in scope' list has been drawn as all staff within Legal Services have been identified as in scope at the outset.

It is known that this service will move location to London Borough of Harrow offices and as part of the measures consultation process the equality impacts of this move will be assessed.

2.2 Confirmation of in scope to transfer

There hasn't been any significant change to the groups following the most recent EIA.

LLB and LBH will continue to consult with those in scope, and consult on travel time's and working arrangements as part of the process of staff engagement to mitigate the impact of the change to the large female cohort.

Please refer to EIA data overleaf.

2.3 Post transfer

An EIA will be completed for this purpose later in the process.

3. Monitoring Summary

Table 1- Employee EIA Profile (this profile is in accordance with the requirements of the Equality Act 2010 and the Council will collect this information so far as we hold it)

Where the information on the table relates to less than 10 people this is marked as ** to protect confidentiality. The full data set is held by HR and the detail is reviewed at each milestone.

Critical Milestones									
		Council Comparator data		Project Outset		Confirmation of in scope		Post Transfer	
Number of employees		3183	22.5%	37	46.3%	36	45%		
Gender	Male	2009	37.4%	6	16.2%	5	13.9%		
	Female	1174	62.6%	31	83.8%	31	86.1%		
Date of Birth Range	1985-1996	156	4.9%	**	**		2.7%		
	1975-1984	670	21.0%	13	35.1%		37.8%		
	1965-1974	888	27.9%	9	24.3		24.3%		
	1951-1964	1262	39.6%	15	40.5%		35.1%		
	1941-1950	204	6.4%	**	**		**		
	<1940	3	0.1%	**	**		**		
Ethnic Origin	White: British	1606	50.5%	**	**		24.3%		
	White: Irish	106	3.3%	**	**		8.1%		
	Other White	209	6.6%	**	**		2.7%		
	White: Greek Cypriot	38	1.2%	**	**		2.7 %		
	White: Turkish Cypriot	17	0.5%	**	**		2.7%		
	Mixed: White and Black Caribbean	0	0.0%	**	**		0.0%		
	Mixed: White and Black African	0	0.0%	**	**		0.0%		
	Mixed: White and Asian	18	0.6%	**	**		0.0%		
	Other Mixed	52	1.6%	**	**		0%		
	Asian and Asian British: Indian	220	6.9%	**	**		18.9%		
	Asian and Asian British:	34	1.1%	**	**		0%		

	Pakistani							
	Asian and Asian British: Bangladeshi	25	0.8%	**	**		2.7%	
	Other Asian	59	1.9%	**	**		0%	
	Black or Black British: Caribbean	175	5.5%	**	**		5.4%	
	Black or Black British: African	274	8.6%	**	**		16.2%	
	Other Black	25	0.8%	**	**		0%	
	Chinese	19	0.6%	**	**		0%	
	Other Ethnic Group	56	1.8%	**	**		0%	
	Not declared/Not assigned	250	7.9%	**	**		16.2%	
Disability	Physical co-ordination	0	0.0%	0	0.0%	0	0.0%	
	Hearing	7	0.2%	0	0.0%	0	0.0%	
	Vision	3	0.1%	0	0-0%	0	0.0%	
	Reduced physical capacity	10	0.3%	0	0.0%	0	0.0%	
	Learning difficulties	11	0.3%	0	0.0%	0	0.0%	
	Mental illness	5	0.2%	0	0.0%	0	0.0%	
	Mobility	9	0.3%	0	0.0%	0	0.0%	
	Other disability	9	0.3%	0	0.0%	0	0.0%	
	Not stated/assigned	3129	98.3%	0	0.0%	0	0.0%	
Faith or Belief	Christian	1484	46.6%	16	43.2%		37.8%	
	Buddhist	16	0.5%	**	**		**	
	Hindu	191	6.0%	**	**		10.8%	
	Jain	14	0.4%	**	**		**	
	Jewish	98	3.1%	**	**		5.4%	
	Muslim	133	4.2%	**	**		5.4%	
	Sikh	15	0.5%	**	**		2.7%	
	Other Faith/religion	113	3.6%	**	**		8.1%	
	No religion	528	16.6%	**	**		10.8%	
	No response on faith	249	7.8%	**	**		5.4%	
	No form returned	40	1.3%	**	**		**	
	Atheist	47	1.5%	**	**		**	
	Agnostic	39	1.2%	**	**		**	
	Humanist	9	0.3%	**	**		**	
Not assigned	207	6.5%	**	**		13.5%		
Sexual	Heterosexual	2138	67.2%	26	70.3%		70.3%	

Orientation								
	Bisexual	12	0.4%	0	0.0%		**	
	Lesbian or Gay	39	1.2%	0	0.0%		**	
	prefer not to say	666	20.9%	**	18.92		18.9%	
	Not Assigned	328	10.3%	**	10.81		11%	
Marital Status	Married	1036	32.5%	10	27.0%		35.1%	
	Single	806	25.3%	**	**		16.2%	
	Widowed	20	0.6%	**	**		**	
	Divorced	92	2.9%	**	**		5.4%	
	Civil partnership	7	0.2%	**	**		**	
	Cohabiting	38	1.2%	**	**		**	
	Separated	12	0.4%	**	**		**	
	Unknown	1163	36.5%	12	32.4%		43.2%	
	Not assigned	9	0.3%	11	29.7%		**	

4. Project Milestone Actions

4.1 Outset data

To start early discussions – in advance of the measures consultation - about the individual implications of a change of location

In addition actions look at the impact of the project on the following, amongst other potential factors:

- Flexible working arrangements and their impacts on parents and carers
- Working from home
- The impact of potential changes to holidays / term-time working
- The impact on staff of changes to their working culture
- The impact on staff of additional health and safety training
- The impact on staff of a different programme of investment and development

4.2 Confirmation of in scope to transfer

*Were there any unexpected equalities impacts that you did not identify at the first stage
How will the learning be brought forward to the next milestone.*

Since the start of this project, and when we last ran the equalities data set, there had been a decrease of 1 employee, in scope. As we have not recruited replacements, there has been a reduction in some of the protected characteristics. This workforce change and the change showing the retained posts will be reflected in the post-transfer review data set.

Having reviewed LBH's tender, the equality impact for staff that has been identified is the change of location to Harrow. We know some employees choose to work locally as they have caring arrangements. There may also be employees who cannot drive/travel long distances due to medical or disability reasons.

In addition, we have designed a Relocation Protocol which has been shared with the trade unions. This document sets out our expectations on how relocations should be managed by the new provider.

The council has also decided to advertise all established posts (that are currently filled by agency temps) to all staff so that staff can apply for them where their preference is to remain locally.

4.3 Post transfer

Any unexpected equalities impact on those in-scope post transfer will be addressed through an Equalities Impact Assessment conducted closer to the final milestone

5. Briefing, Sharing and Learning

This table summarises the briefing activities. This EIA forms the primary briefing tool and has been shared as detailed below.

Milestone Description	Briefing Date	OBPB	Cabinet/ CRC	Overview and Scrutiny – if applicable	GFC	Trade Unions	
<i>Outset data</i>	20 Dec 2012	20 Dec 2012	16 Jan		17 April 2012	20 Dec 2012	
<i>Confirmation of in scope to transfer</i>							
<i>Post transfer</i>							

Appendix 3 – Trade Union Comments

In accordance with the Trade Union and Employee Engagement Framework the CRC report has been circulated and the following responses were received from the various Unions concerned.

1. UNISON had no comments to make but was eager to consult with its members following publication.
2. GMB commented on the absence of TUPE transfer commitment from paragraph 6.11 which has been rectified. GMB also stated that it would respond once the document is made public and it had considered the report in more detail, as well as the opportunity to meet with its members.

AGENDA ITEM: 6

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Meeting Cabinet Resources Committee
 Date 4 April 2012
Subject Dollis Valley Regeneration Scheme
 Report of Leader of the Council
 Summary The report seeks confirmation of the Committees resolutions on the Dollis Valley Regeneration Scheme which were made at its meeting of 7 November 2011, approve the scheme site boundary plan and authorise appropriation of land.

Officer Contributors Susan Botcherby, Senior Project Manger, Strategic Planning and Regeneration
 Angela Latty, Assistant Project Manager, Strategic Planning and Regeneration
 Status (public or exempt) Public
 Wards Affected Underhill
 Key Decision
 Reason for urgency / exemption from call-in N/A
 Function of Cabinet Resources Committee
 Enclosures Appendix 1 - Dollis Valley Cabinet Resources Committee Report Decision 5.
 Appendix 2 - Drawing no 23577/2c – Dollis Valley Regeneration Boundary Map, including the opportunity sites.
 Contact for Further Information: Angela Latty, Regeneration Service (SPR) 0208 359 7188

1. RECOMMENDATIONS

- 1.1 That in exercise of its Powers under Section 1 of Chapter 1 of the Localism Act 2011 and all the other statutory powers referred to in the legal issues column of the Cabinet Report attached to this report and marked Appendix 1, the Committee reaffirms and confirms all the resolutions made under Agenda item 5 of its meeting of 11 November 2011, such that all such resolutions, to the extent applicable, are now made under the said Chapter 1 of Section 1 of Localism Act 2011.**
- 1.2 That, subject to the prior grant of the planning permission for the regeneration of the Dollis Valley Regeneration Area (“ Regeneration Area”), the appropriate Chief Officers be authorised to (1) advertise the Council’s intention of appropriating open space lands within the Regeneration Area pursuant to Section 122(2A) of Local Government Act 1972 and to report to a future meeting of the Committee if any representations are made and (2) subject to any relevant consents of the Secretary of States being obtained, to appropriate to planning purposes, the Housing, Highway, Education and any land held for any other purpose of the Council, within the Regeneration Area, prior to the disposal of such lands:**
- 1.3 That the area edged red on plan no 23577/2c attached to this report and marked Appendix 2, be approved as the Dollis Valley Regeneration Area Site (Regeneration Area Plan) and confirmed as the area to which the resolutions made under item 5 of the Committees meeting of 11 November 2012 and the recommendations in this report, apply.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet, 1 December 2003 (Decision 9) – approved the Council entering into further negotiations with the previous partner for the regeneration of Dollis Valley Housing Estate in order to consider possible amendments to the two schemes under consideration.
- 2.2 Cabinet, 27 September 2004 (Decision 13) – approved that the previous partner redevelop the estate excluding the houses.
- 2.3 Cabinet, 22 November 2004 (Decision 8) – approved the Council’s development, regeneration and planning strategy the Three Strands Approach to Protect, Enhance and Grow Barnet as a “successful city suburb”.
- 2.4 Cabinet Resources Committee, 16 December 2004 (Decision 4) – approved the entering into the proposed underwriting agreement with the previous partner.
- 2.5 Cabinet, 21 February 2005 (Decision 6) – approved the Dollis Valley Vision Statement.
- 2.6 Cabinet Resources Committee, 8 December 2009 (Decision 6) – approved the Council entering into a Competitive Dialogue Process to procure a commercial developer and Registered Social Landlord to regenerate the estate.

- 2.7 Cabinet Resources Committee, 11 November 2011(Decision 5) – approved Countryside Properties (UK) Limited, London & Quadrant Housing Trust as the Council's preferred development partner for the regeneration of the Dollis Valley Estate.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The regeneration of the Dollis Valley contributes to the delivery of the 'successful London suburb' priority in both the Corporate Plan 2011-2013 and the –'A Sustainable Community Strategy for Barnet 2010-2020'.
- 3.2 The regeneration of the Dollis Valley estate also supports the 'A Sustainable Community Strategy for Barnet 2010–2020' through the following objectives:
1. A new relationship with citizens - the new developments will offer more choice and promote independence by providing a number of different housing options such as social rent, private sale, shared ownership and Shared Equity to residents and those in the wider community.
 2. A one public sector approach - the Council is working together with other public sector partners to ensure the delivery of the scheme.
 3. A relentless drive for efficiency - the Council is working with development partners to ensure that the schemes are delivered in the most cost effective way.
- 3.3 The re-development also complies with strategic objectives in the Council's Housing Strategy 2010- 2025, which include:
- Increasing housing supply, including family sized homes, to improve the range of housing choices and opportunities available to residents; and
 - Promoting mixed communities and maximising opportunities available for those wishing to own their home.

4. RISK MANAGEMENT ISSUES

- 4.1 The initial authorisation for the scheme was given under Section 2 of the Local Government Act 2000. Consequential amendments to the Localism Act 2011 in the form of *Localism Act 2011 (Consequential Amendments) Order 2012* includes the repeal of the "Well Being" powers created by Section 2 of the Local Government Act 2000 is billed to come into force later this year and may result in the repeal of the said Well Being power by the time the Regeneration Agreement for the scheme is agreed and executed. If the recommendation at 1.1 of this report is agreed, then, the risk of not having the appropriate power to enter into the Regeneration Agreement would no longer exist.
- 4.2 There are various consents required from the Secretary of State, prior to the appropriation of land, within the Regeneration Area and there is a risk, albeit minor, that these consents may not be granted. Discussions are ongoing between officers of the Council's Property Services Department and the Communities and Local Government Department regarding this and the Council will work with the development partners to ensure that this risk does not affect the delivery of the scheme or the scheme timetable.

- 4.3 Confirmation of the plan to which the Regeneration Area applies would remove the likelihood of challenge regarding the extent of the regeneration site and any ambiguity around the area included or excluded in the approval/authorisation for the regeneration of the Dollis Valley Regeneration Area, thereby ensuring that there are no delays as a result of any such challenges.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The Council is committed to improving the quality of life and wider participation for all in the economic, educational, cultural, and social and community life of the Borough. The Dollis Valley Regeneration Scheme will provide a mix of affordable and private sale properties. The new mixed tenure housing will improve the community cohesion in an area with a highly diverse population. It will provide increased choice and opportunity for Barnet residents. This supports the overall aim of the council's Equalities Policy and supports the equality priorities outlined in Barnet's Equality Scheme.
- 5.2 It is not considered that the issues involved will give rise to any issues under the Council's Equalities policies and do not compromise the Council in meeting its statutory equalities duties.

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

Finance and Property

- 6.1 Where possible the Council will use in-house resources to minimise costs in seeking the relevant consents for the scheme. Within the draft Regeneration Agreement, provision has been made to recover the council's costs.

7. LEGAL ISSUES

- 7.1 Section 1 of Chapter 1 of the Localism Act 2011 was brought into force by the Communities and Local Government Department by means of *Localism Act 2011 (Commencement No.3) Order 2012*. This legislation provides local authorities with a broad power to do anything that individuals may do subject to any specific restrictions on local authorities contained in legislation.
- 7.2 Consequential amendments to the Localism Act 2012, in the form of *Localism Act 2011 (Consequential Amendments) Order 2012* includes the repeal of the "Well Being" powers created by Section 2 of the Local Government Act 2000 and the current proposal is that this will be brought into force later this year.
- 7.3 The Council has the power to appropriate land which it owns from one of its functions to another, if, the said land is no longer required for the purpose for which it is held. This power is contained in Section 122 of the Local Government Act 1972. Section 2(A) of Section 122 of the Local Government Act 1972 provides that, if the land to be appropriated consists of or forms part of Open Space Land, then, the requirement to advertise the proposed appropriation for two consecutive weeks in a newspaper circulating in the area must be complied with. The Local Authority must also consider any representations or objections that it receives.

- 7.4 The legal comments in the attached report to Cabinet Resources Committee, 11 November 2011, as well as the entire content of the said report and Decisions related to it remain relevant to the recommendations that have been made in this report and should be read with it.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Constitution – Part 3 Responsibility for Functions – Section 3.6 Functions delegated to the Cabinet Resources Committee – All matters relating to land buildings owned, rented or proposed to be acquired or disposed of by the Council.
- 8.2 Management of Real Estate Property and land -_Council Procedure Rules - Section of the Council's constitution deals with the Council's procedure for disposal and appropriation of land.

9. BACKGROUND INFORMATION

- 9.1 In November 2011, Countryside/London & Quadrant (L&Q) were selected as the Council's preferred development partners for the regeneration of the Dollis Valley Estate.
- 9.2 The development partners' proposals will see the re-development of the Dollis Valley Estate into a new mixed tenure development of approximately 616 new homes. The existing 436 homes on the estate will be replaced with 250 new affordable homes, which will be a mix of social rent and intermediate homes and 366 new homes for private sale, subject to planning.
- 9.3 It is envisaged that the regeneration of Dollis Valley will take approximately 8 years to be delivered in 5 phases, with the first phase being Phase 1 (formerly Phase 0). Phase 1 is located on the site of the former Barnet Hill School and this phase will provide 42 new homes for social rent and 66 homes for private sale.
- 9.4 During the procurement competitive dialogue process for the selection of a development partner, the Council identified four opportunity sites shown coloured blue on the attached plan, which bidders were asked to consider together with the Dollis Valley core regeneration area. The sites are all located on the periphery of the estate and are currently occupied on the following basis:
1. Lease to Barnet South Community Association
 2. 131-135 Mays Lane all occupied on secure tenancies
 3. Brent Place garages
 4. 81 Barnet Lane occupied on a secure tenancy.
- 9.5 Phase 1 includes 2 opportunity sites, (1) Barnet South Community Association and (2) 131 to 135 Mays Lane. The Council is undertaking Ground 10A consultation with the residents on the core area of the estate, and they are now extending this process to include the tenants on Mays Lane.

- 9.6 The other opportunity sites, 3 and 4 will not be required by the council's development partner until a later phase. Therefore, appropriate consultation will take place with the relevant occupants in due course.
- 9.7 In relation to opportunity area 4, as detailed in Appendix 2 map 23577, the Council will retain a strip of land the length of the area abutting Barnet Lane. The Developers draft Master plan indicates a vehicular turning area with no access onto Barnet Lane.
- 9.8 Subject to a confirmed planning consent, Countryside Properties\L&Q are proposing to commence work on Phase 1 of the scheme in spring 2013. Countryside/L&Q will be submitting a hybrid planning application, with outline planning for the whole scheme as well as a reserved matters application for Phase 1.
- 9.9 As part of the proposals for the delivery of the scheme , the council will be required to seek the relevant consent of the Secretary of State to transfer the land to their development partner. The proposals include obligations to extinguish third party interests by appropriating land to planning purposes under Section 236 of the Town and Country Planning Act 1990 and subsequently for land to be transferred under S.233 Town and Country Planning Act 1990. In order to achieve the said extinguishments, the Council would be required to appropriate land from its existing use to planning purposes, in accordance with S.122 Local Government Act 1972.
- 9.10 Countryside Properties\L&Q held a Dollis Valley exhibition day on 28 February 2012 for residents on the estate. Partners have been consulting with the Dollis Valley Regeneration Association, now reconstituted as the Dollis Valley Partnership Board and further consultation is planned.
- 9.11 The Council and its partners will be in a position to sign the draft Regeneration Agreement in April 2012 and in order to ensure that there is authorisation under the appropriate statutory powers at the time of execution of the contract there is a need to confirm that the various authorisations given for entering into the agreement and proceeding with the scheme are given under Section 1 of Chapter 1 of the Localism Act 2011.

10. LIST OF BACKGROUND PAPERS

- 10.1 Dollis Valley Developer Appointment CRC Report, November 2011.

APPENDIX 1

Meeting	Cabinet Resources Committee
Date	7 November 2011
Subject	Dollis Valley Regeneration Scheme
Report of	Leader of Council/Deputy Cabinet Member for Resources and Performance/Cabinet Member for Housing
Summary	To report on the competitive dialogue process to procure a development partner to redevelop the estate, and to seek approval to appoint the Council's development partner.

Officer Contributors	<p>Tony Westbrook, Principal Project Manager Strategic Planning and Regeneration</p> <p>Susan Botcherby, Senior Project Manager, Strategic Planning and Regeneration</p> <p>Angela Latty, Assistant Project Manager, Strategic Planning and Regeneration</p> <p>Susan Lowe, Procurement Manager, Corporate Procurement Team, Commercial Services</p>
Status (public or exempt)	Public with separate exempt reports
Wards affected	Underhill
Enclosures	<p>Appendix 1 – Dollis Valley Regeneration Boundary Map</p> <p>Appendix 2 – Evaluation Criteria</p> <p>Appendix 3 – Key Provisions (Bidder A and Bidder C)</p>
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in	Not applicable

Contact for further information: Susan Botcherby, Senior Project Manager, 020 8359 7671.

1. RECOMMENDATION

- 1.1 That, in exercise of the council's powers to secure the promotion or improvement of the social and environmental well-being of the council's area, pursuant to Section 2 of the Local Government Act 2000, the other statutory powers referred to in the Legal Issues Section of this report and all other relevant powers and taking account of its Community Strategy, authority be granted to:**
- 1.1.1 appoint Countryside/London & Quadrant consortium comprised of Countryside Properties (UK) Limited, London & Quadrant Housing Trust and as guarantor, Countryside Properties PLC (Bidder C) as detailed in the Exempt Report be as the Council's preferred development partner for the regeneration of the Dollis Valley Estate.**
- 1.1.2 approve the selection of Ideal LLP consortium comprised of Willmott Dixon Homes Limited, Stadium Islington Limited, Savills (L&P) Limited and as guarantors of a number of obligations Willmott Dixon Holding Limited and Network Stadium Housing Association Limited (Bidder A) as detailed in the Exempt report be the Council's reserve development partner for the regeneration of the Dollis Valley Estate.**
- 1.2 Delegate authority to the Deputy Chief Executive in consultation with the Leader of the Council to finalise any outstanding matters and the Agreement for the Regeneration of Dollis Valley and any other related legal agreements:
with Bidder C; or
with Bidder A if in his opinion it is not feasible to reach a timely agreement on outstanding matters with Bidder C.**
- 1.3 That the Council shall enter into the Agreement for the Regeneration of Dollis Valley and any other related legal agreements with Bidder C (or Bidder A if applicable under paragraph 1.3) subject to the Deputy Chief Executive being satisfied as to the terms of such agreements and the Assistant Director-Legal, or authorised delegate, being satisfied as to the form of such agreements.**
- 1.4 Delegate authority to the Deputy Chief Executive in consultation with the Assistant Director-Legal to decide whether:**
- (a) to rely upon one or more of the General Housing Consents 2005; or**
- (b) subject to the authorisation of the full Council to make a specific application for the consent of the Secretary of State for Communities and Local Government;
for the Council to dispose of land to Bidder C (or Bidder A if applicable under paragraph 1.3) in the Dollis Valley regeneration site which it holds under Part II of the Housing Act 1985.**
- 1.5 Delegate authority to the Deputy Chief Executive in consultation with the Assistant Director-Legal to decide whether:**
- (a) the Council is not required to seek the consent of the Secretary of State for Communities and Local Government; or**
- (b) to rely on the General Consent (Circular 06/03: The Local Government Act 1972 general disposal consent (England) 2003); or**

(c) to make a specific application to the Secretary of State for his consent;

for the Council to dispose of land to Bidder C (or Bidder A if applicable under paragraph 1.3) in the Dollis Valley regeneration site which it holds other than under Part II of the Housing Act 1985.

1.6 Delegate authority to the Deputy Chief Executive in consultation with the Assistant Director-Legal to determine whether:

(a) the Council is providing financial assistance in respect of the regeneration of Dollis Valley as described in Section 24 of the Local Government Act 1988; and if so whether:

(i) to rely on one or more of the general consents under Section 25 of the Local Government Act 1988 (Local Authority assistance for privately let housing) 2010; or

(ii) to make a specific application to the Secretary of State for his consent under Sections 25 and 26 of the Local Government Act 1988;

in connection with the proposed regeneration of Dollis Valley.

1.7 Authorise the Interim Director for Planning, Environment and Regeneration to notify secure tenants affected by the proposed regeneration of Dollis Valley and enable the same to make representations to the Council in accordance with the requirements of Part V of schedule 2 of the Housing Act 1985.

1.8 Delegate authority to the Interim Director for Planning, Environment and Regeneration in consultation with the Leader of the Council to consider any representations made by secure tenants received under the process set out in paragraph 1.8, and if as a consequence of such representations, she believes it appropriate, to seek relevant changes to the proposed regeneration of Dollis Valley.

1.9 Subject to undertaking the actions required under paragraphs 1.8 and 1.9 delegate authority to the Interim Director for Planning, Environment and Regeneration to apply for the Secretary of State's approval for the proposed regeneration, disposal and redevelopment of Dollis Valley for the purposes of ground 10 A in Part II of Schedule 2 of the Housing Act 1985.

2. RELEVANT PREVIOUS DECISIONS

2.1 Cabinet, 1 December 2003 (Decision 9) – approved the Council entering into further negotiations with the previous partner for the regeneration of Dollis Valley Housing Estate in order to consider possible amendments to the two schemes under consideration.

2.2 Cabinet, 27 September 2004 (Decision 13) – approved that the previous partner redevelop the estate excluding the houses.

2.3 Cabinet, 22 November 2004 (Decision 8) – approved the Council's development, regeneration and planning strategy the Three Strands Approach to Protect, Enhance and Grow Barnet as a "successful city suburb".

- 2.4 Cabinet Resources Committee, 16 December 2004 (Decision 4) – approved the entering into the proposed underwriting agreement with the previous partner.
- 2.5 Cabinet, 21 February 2005 (Decision 6) – approved the Dollis Valley Vision Statement.
- 2.6 Cabinet Resources Committee, 8 December 2009 (Decision 6) – approved the Council entering into a Competitive Dialogue Process to procure a commercial developer and Registered Social Landlord to regenerate the estate.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The regeneration of the Dollis Valley Estate contributes to the delivery of the Corporate Plan 2011-2013 priority of a 'successful London Suburb' and its Sustainable Community Strategy. Strategic objectives under the above include to deliver sustainable housing growth, to support strong and cohesive communities and to ensure residents continue to feel that Barnet is a place where people from different communities get on together including through effective management of our regeneration programmes.
- 3.2 The Dollis Valley Regeneration also supports the corporate priority of 'sharing opportunities, sharing responsibilities'. The new development will offer more choice by providing a number of different housing options such as shared equity, shared ownership etc to residents and those in the wider community.
- 3.3 The Dollis Valley Vision Statement adopted by Cabinet, and issued on 21 February 2005 also outlines a vision for a high quality successful and sustainable community including well designed new homes. It sets out key principles and opportunities for regeneration on an appropriate scale, and high quality design in keeping with this sensitive location adjacent to Green Belt.

4. RISK MANAGEMENT ISSUES

- 4.1 There is a risk that should the Council not give approval to Bidder C as the Council's preferred development partner and Bidder A as the reserve development partner, the Council is under an obligation to bring the current housing stock at Dollis Valley up to Decent Homes Standards, and then to maintain the estate. This represents a significant financial liability for which there is currently no provision. In the event that the regeneration did not proceed this liability will have to be met.
- 4.2 There is a risk that should the Council not give approval to Bidder C as the Council's preferred development partner and Bidder A as the reserve development partner residents of Dollis Valley may be further disillusioned and also that the Council will suffer reputational damage.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Barnet is committed to improving the quality of life and wider participation for all the economic, educational, cultural, and social and community life in the Borough. This is achieved by pursuing successful regeneration of the Borough's priority housing estates and where financially necessary to assist this by bringing sites to the market for residential use. This will benefit all sections of society and Barnet's diverse communities who are seeking housing and contribute to addressing the shortage of housing in the Borough across all tenures.

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

Finance

- 6.1.1 Between 2005 and 2008, the Council spent approximately £304,000 on consultancy fees for updating the masterplan. Further work was required to de-risk the scheme and make it more attractive to potential private sector partners.
- 6.1.2 In 2009, the Council appointed external consultants AECOM, and CB Richard Ellis to provide due diligence support and specialist advice during the Competitive Dialogue process. Trowers and Hamblins were later appointed to provide independent legal advice. The Council spent approximately £335,800 on consultant fees on the Competitive Dialogue process from January 2010 to September 2011. Further fees are likely to be incurred for services received between October and November 2011.
- 6.1.3 Where possible the Regeneration Service has used in-house resources to minimise costs and external fees on this process. The Council's planning, highways, finance, and procurement departments have provided key input throughout this process.
- 6.1.4 The costs of procurement and related consultancies have been budgeted through the Housing Revenue Account (HRA) and the recharging of these costs will be included in any Principal Development Agreement. If these costs cannot be recovered, this will be funded from the HRA budget.
- 6.1.5 Bidders were asked to make an allowance within their business models for the recovery of historical costs. Members are referred to the Exempt Report for more details.

The Procurement Process

- 6.2.1 On 18 September 2009, the Council highlighted through release of an OJEU Prior Information Notice (PIN), 2009/S 180-258286, its intention to embark on a procurement process to identify a development partner to develop a viable masterplan for the scheme.
- 6.2.2 Following Cabinet Resource Committee's decision on 9 December 2009 to enter into a Competitive Dialogue procedure a further OJEU notice was released on 19 December 2009, OJEU Competitive Dialogue Service notice, 2009/S 245-351596. The notice identified the procurement process to be undertaken together with specifying the Council's intention to seek a development partner for the scheme. Ninety one Expressions of Interest were received which facilitated the release of Pre-Qualification Questionnaires (PQQ) and a Memorandum of Information (MOI). The MOI provided detailed information on the scheme, and set out the parameters for the Competitive Dialogue in summary.
- 6.2.3 The Council received PQQ submissions from 10 bidders. The PQQs were evaluated in accordance with the evaluation criteria published in the OJEU notice: Company Information 5 %, Technical Resources & References 40 %, Financial Information 30 %, Health & Safety 10 %, Environmental Issues 15 % This criteria was utilised to limit number of candidates to enter the first dialogue stage.
- 6.2.4 Following the evaluation of the PQQ submissions, the Council identified 8 bidders for first dialogue stage (please refer to Exempt Report for bidder detail). All bidders, successful and unsuccessful, were notified of the PQQ evaluation outcome.

6.2.5 The 8 successful bidders identified were invited to participate in invitation to submit outline solutions (ISOS) on 26 May 2010. This second stage of the process allowed the Council to evaluate the potential bidders' ability and commitment to finding an innovated and viable solution to the scheme. Potential bidders were invited to develop mini proposals which covered 3 fundamental areas, (1) urban design issues, (2) commercial approach, and (3) development partnership issues.

6.2.6 The Council also re-emphasised the core principles for the scheme:

- To provide an attractive, well designed safe neighbourhood that promotes community cohesion for the benefit of residents
- To provide a mix of good quality and well designed affordable, private and intermediate housing and community facilities.
- To create a neighbourhood that is friendly and is of a human scale.
- To deliver a neighbourhood which has a focus, and a series of routes, spaces and landmarks that help to make the area easily accessible and understood.
- To maximise the development potential of the site without compromising the character of the area.

6.2.7 The Council assisted the bidders with the preparation of their submission by providing a range of information. This included Transportation and Geo-technical and Geo-environmental issues which had been produced by AECOM, an updated vision statement and topographical surveys

6.2.8 The following evaluation criteria was applied to the ISOS stage to support further limitation to the second stage of dialogue:

Invitation to Summit Outline Solutions (ISOS)	Overall % Weighting
Urban Design Issues	35
Commercial Approach	35
Development Partnership Issues	30
Total	100

6.2.9 Information days were organised for each bidder, these provided the bidder with an opportunity to raise questions, seek clarifications and receive additional information about the scheme. These days were led by the Regeneration Service, to provide transparency to the process. Points of clarification were noted by the Council to facilitate effective release of information with responses released to the bidders.

6.2.10 One bidder withdrew from the ISOS stage. The ISOS stage concluded on 26 May 2010 with bidder submissions. The submissions were evaluated in accordance with the published ISOS criteria which identified the short-listing of 3 successful bidders, (please refer to Exempt Report for ISOS bidder evaluation detail). All bidders, successful and unsuccessful were notified of the outcome with unsuccessful bidders offered a debrief opportunity, one bidder took up the opportunity of a meeting a second bidder received a written debrief.

6.2.11 The 3 successful bidders were invited to participate in the second dialogue stage, within this procurement process, referred to as Invitation To Participate in Dialogue (ITPD). The ITPD stage commenced on 13 October 2010 with the 3 successful bidders, Bidder A, B and C taking part in dialogue meetings which included requirements of the development partner, registered provider and the commercial delivery of project. This stage provided bidders with the opportunity to develop their understanding of the scheme and further develop their ISOS submission proposals. Bidders were provided with the

Council's feedback from the earlier stages to support the refinement of their proposals. The ITPD stage included the requirement to produce financial modelling utilising a set financial model to support evaluation by the Council.

6.2.12 The Council outlined its key priorities for the delivery of the regeneration, and each bidder was required to demonstrate the following points in their submissions:

(1) Deliverability – Commencing the project within reasonable time following the finalisation of the legal agreements.

(2) Barnet Hill Primary School Land Receipt – Exploring the timing for releasing the capital receipt.

(3) Public Realm - That a high quality public realm will be provided which will connect the current estate to its surroundings including the green belt countryside to the south.

(4) Urban Design and Architecture - That a high quality of design and materials can be achieved for the new development which will be appropriate to the site's suburban setting.

6.2.13 The following evaluation criteria was applied to the ITPD and IFT stage:

Invitation to Participate in Dialogue (ITPD)	Overall % Weighting
Quality	40
- Development mix (2.40%)	
- Urban Design (8.00%)	
- Transport (7.20%)	
- Building Design (6.40%)	
- Affordable Housing (2.40%)	
- Community Provision (3.20%)	
- Environment (1.60%)	
- Decanting (6.40%)	
- Estate Management (2.40%)	
Commercial	55
Legal	5
Total	100

6.2.13 During the ITPD stage prior to entering into the commercial dialogue meetings Bidder B formerly withdrew from the process. This left two bidders in the competition, Bidder A and Bidder C, which ensured competition was still present and able to continue as there was sufficient evidence of competition to not invalidate the process.

6.2.14 ITPD submission deadline was 1 April 2011. The submissions were then evaluated which resulted in the Council arranging further clarification dialogue meetings prior to confirmation of close of dialogue. Close of dialogue was confirmed on 13 June 2011.

6.2.15 The close of dialogue was immediately followed by Invitation to Final Tender (IFT) on 13 June 2011. The IFT submission deadline being 12 noon, 24 June 2011. The period between IFT submission and this recommendation report has enabled evaluation of the bid submissions received.

6.2.16 The key terms of the bidders proposals (Bidder A and Bidder C) are outlined in Appendix 3 and their evaluation scores are shown in Appendix 2.

Property

- 6.3 The land required to deliver the regeneration of Dollis Valley and which is within the Council's ownership is to be transferred in accordance with the terms which are set out in the Exempt Report.

7 LEGAL ISSUES

- 7.1 The Council's promotion of the development and regeneration of Dollis Valley includes the promotion and/or improvement of the social and environmental well-being of the Dollis Valley area for the benefit of its residents. The Dollis Valley Vision Statement which was adopted by Cabinet and issued on 21 February 2005 considered that the estate had been in decline for a number of years. It acknowledged consultation with residents and stakeholders which identified that the area was isolated from the surrounding neighbourhood with a poor quality built environment, poor transport links, single vehicle access, low quality built environment, low quality local retail premises, social exclusion, economic deprivation, low educational achievement and attainment and a fear of crime. The proposed arrangements will result in the provision of between 523 and 1000 new homes, a community facility for use by local people and others, the creation of a neighbourhood with a high quality design, public realm and estate management and transport improvements amongst other benefits which will all result in the promotion and/ or of the social and environmental well being of the area.
- 7.2 The Council in determining its decision in this matter has had regard to its sustainable community strategy as required by section 2(3) of the Local Government Act 2000.
- 7.3 The Council accordingly has power to enter into the proposed Agreement for the regeneration of Dollis Valley and any other related agreement by virtue of its 'well-being power' as more particularly set out in Section 2 of the Local Government Act 2000.
- 7.4 The Localism Bill is being considered by parliament and is expected to become law before the end of 2011. The bill will repeal the 'well-being' power in England and provide a power of general competence for local authorities (Chapter 1). The intention is to provide local authorities with a broad power to do anything that individuals may do subject to any specific restrictions on local authorities contained in legislation. Officers will continue to monitor the situation and take legal advice as necessary, in order to ensure that that the Agreement for the Regeneration of Dollis Valley is executed under the appropriate statutory power, at the time of execution..
- 7.5 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. It should be noted that an option to dispose is also a disposal for the purposes of these Acts.
- 7.6 The Secretary of State has set out general disposal consents for both housing and non-housing land. If the terms of the disposal of land at Dollis Valley complies with the relevant general consents there would be no legal reason to seek a specific consent from the Secretary of State. However, there may still be commercial reasons for making a written request for his consent.
- 7.7 Consent E3.1 of the General Housing Consents 2005 permits the Council to dispose of vacant/unoccupied homes and housing land provided that: any existing homes will no longer be used for housing accommodation; that such homes will be demolished and the Council must obtain the best consideration for the land that could reasonably be

obtained. The Agreement for the regeneration of Dollis Valley ensures that only vacant land and buildings are transferred to the development partner and the partner is required to demolish existing homes. These provisions comply with Consent E3 requirements. In order to fully comply and rely on this consent the Council will have to achieve and evidence that it has obtained the best consideration that could reasonably be obtained.

- 7.8 Section 123 of the Local Government Act 1972 permits the Council to dispose of (most types of non-housing) land without the Secretary of State's consent providing that this is done for not less than the best consideration that could reasonably be obtained. If this is to be relied on the Council will have to achieve and evidence this.
- 7.9 The General Consent (Circular 06/03: The Local Government Act 1972 general disposal consent (England) 2003) gives the Secretary of State's consent to the disposal of (most types of non-housing) land where the consideration received is less than the best which could be reasonably obtained providing that the 'undervalue' is £2 million or less and that the disposal is likely to contribute to the social, economic or environmental well-being of residents and/or the local authority's area. The latter condition which is similar to the 'well-being' power in section 2 of the Local Government Act 2000 (as set out above) will be met and therefore to rely on this consent the Council will have to evidence that any undervalue in the disposal is £ 2 million or less.
- 7.10 Notwithstanding the above, many developers request that local authorities make specific applications to the Secretary of State for his consent in order to remove any uncertainty about a local authority's ability to transfer land. In any event, the Council will have to obtain the specific consent of the Secretary of state, where required.
- 7.11 If an application for specific consent to dispose of housing land is made to the Secretary of State then the full Council must authorise such an application under Article 4.02(b) of the Council's constitution and paragraph 4(5) of the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended).
- 7.12 The Council may require consent from the Secretary of State for Communities and Local Government under Section 25 of the Local Government Act 1988. This consent from the Secretary of State is required under Section 24 of that Act where a local authority is providing financial assistance for the purpose of amongst other things the construction of accommodation which is intended to be privately let as housing accommodation. This includes affordable homes let by registered providers.
- 7.13 On 18 July 2007 the Council received confirmation from the Department for Children, Schools and Families that the Council has a general consent under paragraph 8 of the Schedule to the School Playing Fields General Disposal and Change of Use Consent (No. 3) 2004 for the change of use and disposal of the playing fields of the former Barnet Hill Primary School . It should be noted that in the same letter from the Department for Children, Schools and Families the Department instructed the Council to consider and satisfy itself that it has class consent for the disposal under schedule 35A of the Education Act 1996 and to provide details to the Department's academies division. .
- 7.14 The Agreement for the Regeneration of Dollis Valley has been drafted to enable the Council to obtain the Secretaries' of State consent following execution/signature of that agreement as a condition precedent.
- 7.15 Though the Council anticipates the willing co-operation of tenants living in Dollis Valley it may need to rely upon Ground 10A of Schedule 2 of the Housing Act 1985 (Ground 10A) to obtain possession of existing homes in order to enable the regeneration to proceed. Ground 10A permits a local authority to obtain possession orders to enable a

redevelopment to proceed which has been approved by the Secretary of State in accordance with Part V of Schedule 2 (**Part V**) of the Housing Act 1985.

- 7.16 The Secretary of State will only provide his approval under Part V where the local authority serves written notice on the affected secure tenants stating:
- (a) the main features of the scheme;
 - (b) that the local authority intends to apply to the Secretary of State for his approval of the scheme;
 - (c) the legal effect of such approval in particular the ability of the local authority to rely on Ground 10A in possession proceedings.
- 7.17 Part V requires a local authority to allow the secure tenants to make representations to it about the proposal. The period for consultation must be no less than 28 days from the date of the notice provided to tenants.
- 7.18 Prior to making the application to the Secretary of State the local authority must consider the representations made to it by the secure tenants.
- 7.19 It was not possible to commence Part V consultation before the Council had selected a preferred development partner with a preferred scheme. To date it is understood that officers have conducted consultation with the Dollis Valley Regeneration Association and at an open day where residents were able to view the proposals from both of the final two bidders.
- 7.20 The key legal terms of the proposed arrangements with the preferred bidder or the reserve bidder are set out in the accompanying Exempt Report.

8. CONSTITUTIONAL POWERS

- 8.1 Constitution, Part 3, Responsibility for Functions – paragraph 3.6 states the functions delegated to the Cabinet Resources Committee including all matters related to buildings owned, rented or proposed to be acquired or disposed of by the Council.

9. BACKGROUND INFORMATION

Regeneration Progress

- 9.1 The Dollis Valley estate was constructed in the late 1960s and 1970s and is located south of Chipping Barnet in the Underhill ward. The estate has been in decline for many years, and this can be attributed to many factors. These factors include the poor quality design, poor transport links and the isolation of the estate from the surrounding neighbourhood.
- 9.2 The Dollis Valley estate required major improvements and the Council had limited resources to tackle these problems. Regeneration was seen as a solution to address these problems. Through this vehicle, the Council could obtain investments and improvements for the estate and the surrounding areas. The regeneration of the Dollis Valley Estate provides a perfect opportunity to build high quality sustainable homes, and create a vibrant place where residents would want to live.

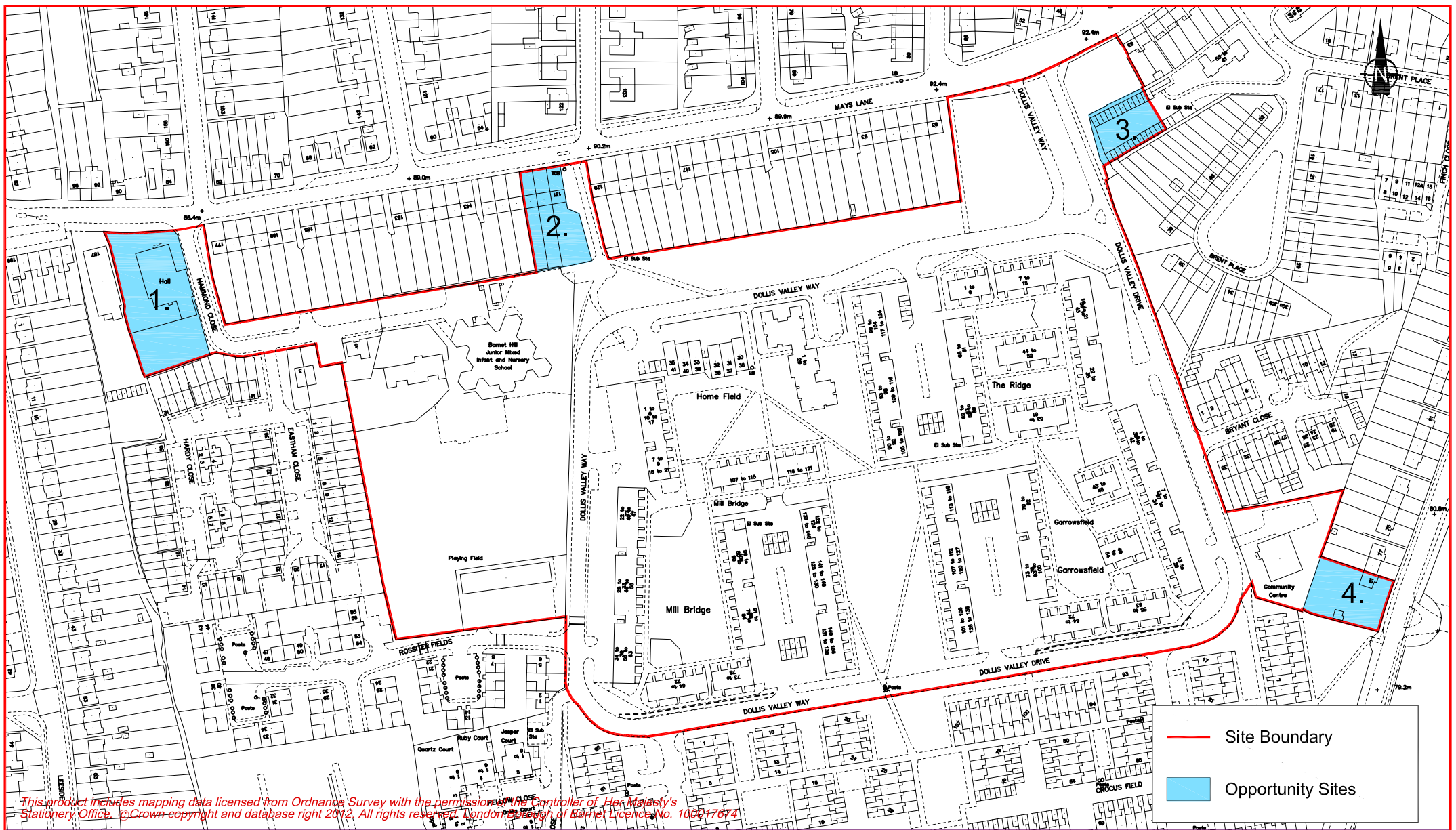
- 9.3 In 2003, the Council undertook a competitive process in consultation with residents to select partners for the scheme. The outcome of this process was that the Council selected Home Group (formerly Warden Housing Association) as preferred partners.
- 9.4 In 2005, Home Group produced a masterplan to regenerate the estate which was subsequently revised.
- 9.5 However, the viability of this plan was an ongoing issue. The masterplan was produced during the onset of recession in 2008, and the financial viability was further exacerbated by the decline in the housing market. Ultimately, these factors have led to major delays in the scheme.
- 9.6 The re-development of Dollis Valley Estate remained as identified in 2003 a high priority, and it was recognised that an innovative approach would need to be sought to deliver this scheme.
- 9.7 This Report has been prepared to update members on the result of the Competitive Dialogue process to procure a Development Partner.
- 9.8 Commercial Services, Corporate Procurement Team, were engaged to provide guidance and support to the Regeneration Team in the delivery of a competitive dialogue procedure which had been identified as appropriate to the delivery of Dollis Valley Regeneration.
- 9.9 The competitive dialogue process imposes confidentiality between bid proposals which has minimised the level of resident involvement during the procurement exercise. However, representatives of residents, members of the Dollis Valley Regeneration Association have been briefed during various stages of the process.
- 9.10 To facilitate moving forward from the procurement exercise through pre-planning to planning process it was identified that there was an opportunity to further raise resident awareness of the scheme at the Valley Centre's 20th anniversary event on 25 June 2011. The IFT submission deadline was set to facilitate bidder blind presentations to be displayed at the event. Bidders had been informed of this anniversary during the ITPD dialogue phase and had welcomed the opportunity for raising resident awareness of the scheme.
- 9.11 Bidders were requested to submit 3 large (non bidder specific) boards incorporating: masterplan; property types; street scene; community facilities; open spaces; housing association offer; summary of properties and a list of 5 questions for secure tenants and leaseholders that bidder clarifications had highlighted.
- 9.12 At the Valley Centre anniversary event residents were provided with the opportunity to view display boards which were non bidder specific. Council officers from the Regeneration Team attended the event and were able to collate resident feedback and identify points for further consultation. This exercise was part of the consultation process with residents and did not form part of the procurement evaluation process.

10. LIST OF BACKGROUND PAPERS

- 10.1 The background papers relevant to this report are as follows;
- The Invitation to Submit Outline Solutions (ISOS)
 - The Invitation to Participate in Dialogue (ITPD)

- The letter from the Department of Children Schools and Families of 18 July 2007

10.2 Any persons wishing to inspect the background papers should contact Angela Latty on 020 8359 7188.



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Initiated by S.R.	SCHEME: DOLLIS VALLEY ESTATE	Craig Cooper, Commercial Director.	
Drawn by K.E.B.			
Checked by S.R.	TITLE: SITE BOUNDARY	London Borough of Barnet, North London Business Park, Oakleigh Road South, New Southgate, London, N11 1NP. Tel. 020 8359 2000	DRAWING No.
Date 12/03/12			Scales 1:2500

AGENDA ITEM: 7

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Meeting	Cabinet Resources Committee
Date	4 April 2012
Subject	Reference from Business Management Overview & Scrutiny Committee: Task and Finish Group Review: <u>Contract Monitoring and Community Benefit</u>
Report of	Scrutiny Office
Summary	This report submits a reference from the Business Management Overview and Scrutiny Committee on the recommendations of the Contract Monitoring and Community Benefit Task and Finish Group

Officer Contributors	Andrew Charlwood, Overview & Scrutiny Manager
Status (public or exempt)	Public
Wards affected	All
Enclosures	Appendix 1 – Report to Business Management Overview & Scrutiny Committee (8 March 2012), including: Annex 1 – Report of the Contract Monitoring and Community Benefit Task and Finish Group
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

Contact for further information: Andrew Charlwood, Overview & Scrutiny Manager, 020 8359 2014 andrew.charlwood@barnet.gov.uk

1. RECOMMENDATIONS

- 1.1 That Cabinet considers and gives its instructions with respect to the recommendations made by the Contract Monitoring and Community Benefit Task and Finish Group, as referred to the Cabinet Resources Committee by the Business Management Overview and Scrutiny Committee.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Business Management Overview and Scrutiny Committee, 8 March 2012, Decision Item 7 – Report of the Contract Monitoring and Community Benefit Task and Finish Group**
- 2.2 As set out in Appendix 1.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 As set out in Appendix 1.

4. RISK MANAGEMENT ISSUES

- 4.1 As set out in Appendix 1.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 As set out in Appendix 1.

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

- 6.1 As set out in Appendix 1

7. LEGAL ISSUES

- 7.1 As set out in Appendix 1.

8. CONSTITUTIONAL POWERS

- 8.1 Constitution Part 3 – Responsibility for Functions, Section 3 – Responsibilities of the Executive.

9 BACKGROUND INFORMATION

- 9.1 The Business Management Overview and Scrutiny Committee considered the final report of the Contract Monitoring and Community Benefit Task and Finish Group at their meeting on 8 March 2012.
- 9.2 Following consideration of the report, the Business Management Overview and Scrutiny Committee agreed that the wording of recommendations 2. and

4. of the Task and Finish Group should be amended. Additionally, the Committee agreed that additional comments made by the Task and Finish Group which should be formalised as recommendations. Amended and additional recommendations are set out in the final report of the Contract Monitoring and Community Benefit Task and Finish Group attached at **Annex 1**.

10. LIST OF BACKGROUND PAPERS

10.1 None.

Finance: MC/JH

Legal: PJ

APPENDIX 1

Meeting	Business Management Overview & Scrutiny Committee
Date	8th March 2012
Subject	Contract Monitoring and Community Benefit Task and Finish Group – Draft Report
Report of	Scrutiny Office
Summary	This report presents the findings and recommendations of the Contract Monitoring and Community Benefit Task and Finish Group

Officer Contributors	Andrew Charlwood, Overview and Scrutiny Manager
Status (public or exempt)	Public
Wards affected	All
Enclosures	Appendix 1 – Contract Monitoring and Community Benefit Task and Finish Group
Reason for urgency / exemption from call-in	Not applicable

Contact for further information: Andrew Charlwood, Overview and Scrutiny Manager, 020 8359 2014, andrew.charlwood@barnet.gov.uk

1. RECOMMENDATION

- 1.1 Members of the Committee consider the findings of the Contract Monitoring and Community Benefit Overview and Scrutiny Task and Finish Group, as set out in the report attached at Appendix 1.**
- 1.2 Members of the Committee discuss and agree the recommendations of the Task and Finish Group.**
- 1.3 The agreed findings and recommendations are forwarded to the Executive for their consideration.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Business Management Overview and Scrutiny Sub-Committee, 16 December 2010, Decision Item 10 (Task and Finish Groups / Scrutiny Panel Update) – the Sub-Committee agreed to establish a task and finish group to consider purchasing and procurement.
- 2.2 Business Management Overview and Scrutiny Sub-Committee, 28 February 2011, Decision Item 10 (Purchasing and Procurement) – the Sub-Committee considered a report on purchasing and procurement and recommend that recently established Purchasing and Procurement Task and Finish Group:
 - (i) be requested to take into consideration the comments made by the Sub-Committee;
 - (ii) consider requesting details of contracts under review (when this work progresses corporately; and
 - (iii) be requested to consider the outcome of the SAP Optimisation Project and the ability of the system to deliver the procurement savings envisaged.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Overview and Scrutiny Committees, Panels and Task and Finish Groups must ensure that the work of Scrutiny is reflective of the council's priorities.
- 3.2 The three priority outcomes set out in the 2010/13 Corporate Plan are: –
 - Better services with less money
 - Sharing opportunities, sharing responsibilities
 - A successful London suburb
- 3.3 Under the Corporate Plan priority of “Better services with less money”, the strategic objective of “Drive efficient and effective procurement processes” relates to the work of the Task and Finish Group. A Procurement Transformation Project is identified as the method for delivering the strategic objective, with the following performance targets:
 - Number of vendors reduced by 40% between November 2010 and end of June 2011 (by 30 June 2011); and
 - Increase percentage of 50 largest vendors under formal contract from 70% to 100%.

- 3.4 Under the Corporate Plan priority of “Better services with less money”, the strategic objective of “Ensure our support services effectively serve the organisation through high quality, high value services” also relates to the work of the Task and Finish Group. The following One Barnet projects have been identified as the method for delivering the strategic objective: internal transformation of Legal, Estates, IS and Procurement.
- 3.5 Under the Corporate Plan priority of “A successful London suburb”, the strategic objective of “Create an environment in which business and enterprise can flourish” relates to the work of the Task and Finish Group, particularly “Engage with local businesses to develop plans to help people into employment”.

4. RISK MANAGEMENT ISSUES

- 4.1 The report of the Task and Finish group does not raise any direct risk issues.
- 4.2 However, the Task and Finish Group has received evidence (detailed within the main report at Appendix A) that IT systems across the council should be set up to support and enable effective, modern procurement practices. The Task and Finish Group have also been informed of the need to make improvements to the council’s internal control environment to provide better controls that will facilitate the delivery of cost reductions and economies of scale.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Under the Equality Act 2010, the council and all other organisations exercising public functions on its behalf must have due regard to the need to: a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; b) advance equality of opportunity between those with a protected characteristic and those without; and c) promote good relations between those with a protected characteristic and those without. The ‘protected characteristics’ referred to are: age; disability; gender reassignment; pregnancy; maternity; race; religion or belief; sex; and sexual orientation. The duty to eliminate discrimination also extends to marriage and civil partnership.
- 5.2 Effective procurement and contract monitoring/management are core elements of the council being able to providing assurance on the effective allocation of resources and quality of service provision for the benefit of all Barnet’s residents.
- 5.3 In addition to the Terms of Reference of the Committee, and in so far as relating to matters within its remit, the role of Business Management Overview and Scrutiny Committee is to perform the Overview and Scrutiny role in relation to:
- The Council’s leadership role in relation to diversity and inclusiveness; and
 - The fulfilment of the Council’s duties as employer including recruitment and retention, personnel, pensions and payroll services, staff development, equalities and health and safety.

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

- 6.1 The Contract Procedure Rules (CPR) provide the schedule within which the council may procure works, supplies and services. The aim of the rules is to:
- 1.3.1 Ensure value for money and propriety in the spending of public money;
 - 1.3.2 To enable services to be delivered effectively and efficiently without compromising the Council's ability to influence strategic decisions; and
 - 1.3.3 To ensure that the Council is not exposed to unnecessary risk and likelihood of challenge arising from non compliant tendering activity.
- 6.2 The recommendations contained within the report of the Task and Finish Group seeks to contribute towards ensuring effective procurement activity across the council.
- 6.3 Recommendation i) of the Task and Finish Group suggests that the council should implement revised arrangements for managing complex procurement and contract monitoring/management activity, including the introduction of Delivery and Performance Officers to manage contractual relationships. During the course of the review, officers identified that restructuring and expanding the procurement function was expected and this on-going cost will be contained within existing budgets. However, there will be transition costs which will need to be considered by the Cabinet Resources Committee in due course.
- 6.4 Recommendation ii) of the Task and Finish Group proposes that all procurement activity within the council be centralised. Implementation of this recommendation is expected to deliver efficiency improvements.
- 6.5 Recommendation iii) of the Task and Finish Group suggests that a Performance Advisory Group should be established to enable residents to provide service user feedback on commissioned services to address issues of underperformance and ensure that best value is achieved. Implementing such an arrangement is expected to have a minimal cost that can be contained within existing budgets.
- 6.6 Recommendation iv) of the Task and Finish Group does not have any specific financial implications for the authority. Improved relationships with local business and increased trade with local companies is expected to have a positive financial benefit for the council by decreasing unemployment levels and increasing the amount collected via Business Rates.

7. LEGAL ISSUES

- 7.1 The public procurement regulations apply whenever a contracting authority whether by itself, or through a third party, seeks offers in relation to a proposed public 'works' 'supply' or 'service' contract, the value of which exceeds certain financial thresholds. The public procurement regulations make a distinction between two categories of services. Schedule 3 to the Public Contract Regulations 2006 contains two lists of categories of services. The first list, which appears in Part A, contains description of services which are subject to the full application of the rules under the public procurement regulations. If a service in Part A exceeds the relevant threshold, it is subject to the full public

procurement regulations, such as the obligation to subject the service to advertisement before an award of contract.

- 7.2 Only limited parts of the Regulations apply in the case of Part B services contracts and do not apply to service concessions or contracts that are below the relevant thresholds. Such contracts are nonetheless caught by general Treaty principles of equal treatment, non-discrimination and transparency.
- 7.3 With respect to contract award, the award decision must comply with procedural rules laid down at the outset and which comply with the general principles of non-discrimination and equal treatment.
- 7.4 Under the Regulations, a contracting authority may reserve the right to participate in a public contract award procedure, to economic operators which operate supported factories, supported businesses or supported employment programmes. "Supported business" means a service where more than 50% of the workers are disabled persons who by reason of the nature or severity of their disability are unable to take up work in the open labour market. "Supported employment programme" means a scheme under which work is provided for disabled persons and where more than 50% of the workers so supported are disabled persons who by reason of the nature or severity of their disability are unable to take up work in the open labour market. "Supported factory" means an establishment where more than 50% of the workers are disabled persons who by reason of the nature or severity of their disability are unable to take up work in the open labour market.
- 7.5 The proposals in the report for including community or social benefits in contracts would be subject to the constraints of the public procurement regulations, and no proposal can disapply the general Treaty principles of equal treatment, non-discrimination and transparency. Each procurement, therefore, needs to be looked at on case by case basis to determine whether it would be at odd with Treaty principles. However, in practice it may be difficult to make such requirements compliant with the Treaty principles.

8. CONSTITUTIONAL POWERS

- 8.1 The scope of the Overview & Scrutiny Committees is contained within Part 2, Article 6 of the Council's Constitution.
- 8.2 The Terms of Reference of the Overview & Scrutiny Committees are set out in the Overview and Scrutiny Procedure Rules (Part 4 of the Constitution).
- 8.3 Item 8 of Business Management Overview & Scrutiny Committee Terms of Reference states that the role of the Committee is:

"To coordinate and monitor the work of scrutiny panels and task and finish groups, including considering reports and recommendations and referring to the relevant decision-making body."

9. BACKGROUND INFORMATION

- 9.1 The membership of the Task and Finish Group was agreed at the 24 January 2011 meeting of the Business Management Overview and Scrutiny Sub-Committee.
- 9.2 Following the 9 March 2011 meeting of the Task and Finish Group, where the Group received a briefing from the Assistant Director for Commercial Assurance and the Head of Procurement, it was agreed that contract monitoring and management, local procurement, democratic accountability in outsourced services and centralised versus devolved procurement activity should be incorporated within the terms of reference of the review.
- 9.3 In light of the submission of reports to the Audit Committee in relation to the Metpro Rapid Response Internal Audit Report and the Internal Audit Annual Opinion the Task and Finish Group agreed to concentrate their review on contract monitoring and management.
- 9.4 In addition, members sought to consider what cost effective steps the council could take to benefit the local economy through local procurement and business support arrangements.
- 9.5 The review process involved taking evidence from key internal stakeholders, external witnesses, a review of best practice guidelines and research publications, in addition to internal council reports. The findings of the Task and Finish Group review are detailed in their final report as attached in **Appendix 1**.

10. LIST OF BACKGROUND PAPERS

- 10.1 As detailed in the draft report of the contract Monitoring and Community Benefit Task and Finish Group attached at Appendix 1.

Legal – PJ

Finance – MC/JH

CONTRACT MONITORING AND COMMUNITY BENEFIT

**OVERVIEW AND SCRUTINY TASK AND FINISH
GROUP**

FINAL REPORT

Recommendations

Following consideration of the evidence received, the Task and Finish Group made the following recommendations:

1. Complex procurement and contract monitoring / management activity should be managed within the council under the following structure:
 - Procurement Officers (with responsibility for specifying and negotiating complex contracts);
 - Delivery & Performance Officers (with responsibility for monitoring / managing specified contracts and developing / maintaining an ongoing contractual relationship with vendors); and
 - Clearly defined linkages should exist between Procurement Officers and nominated Delivery & Performance Officers to ensure a balance between the negotiation of the contract and best practice in contract delivery.

It is recommended that Delivery & Performance Officers are in post in advance of the planned commencement of a contract to ensure smooth phasing out of the current arrangements and the introduction and delivery of a new contractual relationship. Structured succession planning arrangements should be in place to ensure that the essential skills and knowledge required to properly manage contracts for their entire lifecycle are not lost.

Cabinet are requested to outline the budget resource required to enable the council to effectively manage complex procurement and contract monitoring / management activity.

2. Devolved procurement activity currently undertaken within Adult Social Care and Health, Children's Services and Environment, Planning and Regeneration be centralised to: ensure delivery of economies of scale; develop and enhance the internal control framework; and ensure that a central team has officers with the skills required to manage contracts effectively. Contract monitoring / management activity should be retained within directorates, with Chief Officers being accountable for the management of all contracts falling within their remit.
3. Each area of procurement activity is to have a Performance Advisory Group of not more than six Borough residents who meet four times per annum to co-ordinate and articulate feedback from the end user with Procurement Officers.
4. Cabinet be requested to: amend the Corporate Plan to include a corporate priority relating to local businesses; and outline the approach the council will take to encourage local companies to benefit from local business opportunities. Recommended options include:
 - Establishment of a customer facing Business Helpdesk;

- Enhancements to the 'Business' section of the council's web site;
 - Providing briefings to local business forums on business opportunities available, including the Procure4London portal;
 - In relation to new contracts:
 - Vendors to assist the council in creating: local job opportunities to enable Barnet residents to get back into work; and graduate trainee opportunities;
 - Apprenticeship opportunities; and
 - Sub-contracting parts of the supply chain (where possible) to local companies within the borough.
5. Steps should be taken to institute a 'culture of compliance' within the council, including:
- a commitment from Cabinet and Council Directors to take the steps necessary to ensure delivery of best practice procurement and contract monitoring / management throughout the authority, and to outline the steps that will be taken to achieve this;
 - introduce a requirement for Council Directors to provide an annual sign-off of contractual compliance; and
 - all staff involved in procurement and contract monitoring / management being set measurable objectives and performance targets in appraisals regarding this activity.
6. Enhancements should be made to the SAP system to:
- make it the central repository for council contracts; and
 - utilise the system for actual and exception reporting

Section One

1 Introduction and Background Information

1.1 On 1st November 2010, the Business Management Overview and Scrutiny Sub-Committee requested a briefing paper on purchasing and procurement activity in the council. In requesting the report, the sub-committee were seeking to determine whether purchasing and procurement should be included in the work programme for a task and finish group review.

1.2 In the period between the report being requested and presented to the sub-committee, it was agreed in January 2011 that a task and finish group on purchasing and procurement would proceed as soon as resources became available within the Overview and Scrutiny Office. The following members were subsequently appointed to the Task and Finish Group:

Councillor Brian Schama (Chairman)

Councillor Geof Cooke

Councillor Barry Evangeli

Councillor Sury Khatri

Councillor Alan Schneiderman

1.3 The sub-committee received a briefing paper on purchasing and procurement at their meeting on 28th February 2011 which set out:

- the current approach to corporate procurement;
- an estimate of total influenceable revenue spend;
- identifiable resources dedicated to procurement activity;
- performance against Chartered Institute of Public Finance and Accountancy (CIPFA) benchmarking authorities;
- a summary of the findings of an independent review of procurement opportunities undertaken by Tribal Consultancy;
- One Barnet procurement activity;
- the implications of the New Support Organisation One Barnet project for the Procurement Service; and
- the Procurement Service Improvement Plan.

1.4 When receiving the report, the sub-committee articulated concern that IT systems were not set up to support and enable effective, modern procurement practices. At the meeting, the Commercial Director acknowledged that ad hoc procurement arrangements were in place and identified that improved IT systems, tighter rules and better controls were

required to deliver cost reductions and economies of scale. At the conclusion of the item, the sub-committee suggested that the task and finish group should consider:

- requesting details of the contracts under review (in accordance with the 2010/11 Corporate Plan performance target of “review contracts and renegotiate (if necessary) 50 per cent of all vendor activity”); and
- the outcome of the SAP Optimisation project and the ability of the system to deliver the procurement savings envisaged.

2. Terms of Reference

- 2.1 The Task and Finish Group (TFG) initially met on 9 March 2011 to consider outline terms of reference and receive evidence from the Assistant Director Commercial Assurance and Head of Procurement. At the meeting, the TFG received an overview of the procurement activity at the council.
- 2.2 Members were informed that the majority of procurement activity was undertaken by individual service areas, with the Central Procurement Team providing support for major/complex procurement activity to individual directorates.
- 2.3 When questioned what improvement needed to be made in procurement, the TFG were advised by officers that a centralisation of procurement activity would:
 - enable spend to be categorised;
 - aggregate spend/eliminate maverick spend;
 - achieve scale of economy ;
 - institute a more strategic approach; and
 - enable the council to become more commercially minded.
- 2.4 The TFG questioned how officers achieved value for money through procurement and purchasing activity and were informed that the council participated in the London Contract and Suppliers Group, enabling the council to achieve economies of scale for large standardised contracts.
- 2.5 At the meeting, the TFG raised concerns regarding the large, complex and non-standardised contracts that would result from implementation of One Barnet projects. Members emphasised the importance of ensuring that contracts with external service providers were robust (to prevent suppliers from inserting expensive contract variations after contract award) and flexible (to enable the council and suppliers to respond to changing circumstances). In relation to One Barnet Programme

procurement and contract monitoring/management activity, Members sought assurance that the following would be addressed:

- robust cancellation clauses for non-conformance/compliance if the supplier failed to meet contractual obligations;
- flexibility to react and respond to changing circumstances to mitigate against the risk of contractors submitting loss-leader bids, then making significant extra charges during the lifetime of the contract;
- equalities considerations;
- robust exit strategies;
- ensuring that pay and performance conditions are correct (to mitigate against the risk of long-term financial consequences for the authority);
- having expertise within the council to manage complex procurement activity;
- ensuring that there is an appropriate balance of quantitative and qualitative performance measures to ensure an appropriate balance is achieved between cost and quality considerations; and
- incorporation of mystery shoppers¹ into contract specifications.

2.6 In response, the TFG were informed that iMPower, the council's One Barnet Programme implementation partner would validate service specifications prepared by officers. Members noted that where services were outsourced, it was anticipated that approximately 7% of staff would be retained in-house in a contract monitoring and compliance capacity.

2.7 At the conclusion of the meeting, the TFG requested that the outline terms of reference that had been presented to the initial meeting be revised to incorporate contract monitoring and management, local procurement, democratic accountability in outsourced services and centralised versus devolved procurement activity.

2.8 Due to a lack of available support officers, the TFG did not reconvene until 24 May 2011. Revised terms of reference were considered at the meeting, covering the key lines of enquiry as outlined at 2.7 above. At the meeting, Members requested additional information in relation to: contract monitoring; potential economies of scope and scale; settlement terms; steps taken to derive best value throughout the contract lifecycle;

¹ **Mystery shopping** or a **mystery consumer** is a tool used externally by market research companies or watchdog organizations or internally by companies themselves to measure quality of service or compliance to regulation, or to gather specific information about products and services. The mystery consumer's specific identity is generally not known by the establishment being evaluated. Mystery shoppers perform specific tasks such as purchasing a product, asking questions, registering complaints or behaving in a certain way, and then provide detailed reports or feedback about their experiences.

business networks operating in Barnet; and a possible site visit to North London Business Park to be taken through the purchase to pay process.

- 2.9 Following the 24 May 2011 meeting, two reports were presented to the council's Audit Committee (16 June 2011) which highlighted deficiencies with the council's contract monitoring arrangements (MetPro Rapid Response Internal Audit Report² and Internal Audit Annual Opinion³). While the findings of the two Internal Audit reports were of concern to the TFG, it was noted that the council had responded to the issues raised via a Procurement Controls and Monitoring Action Plan⁴. When the TFG reconvened on 14 June 2011 to agree their terms of reference, it was agreed that contract monitoring and management should be given precedent over procurement arrangements due to the significance of the issue locally.
- 2.10 The TFG were mindful that Procurement Controls and Monitoring Action Plan was expected to address the majority of the identified weaknesses in the council's internal control environment and sought to ensure that they did not duplicate the work of the Audit Committee in undertaking their review. To that end, the TFG agreed to focus their work on identifying what steps the council should take in the long-term to institute a robust contract monitoring and management framework to manage current and future activity.
- 2.11 In addition, members sought to consider what cost effective steps the council could take to benefit the local economy through local procurement and business support arrangements.
- 2.11 Accordingly, the TFG agreed to refocus their terms of reference on contract monitoring (70%) and community benefit (30%). Agreed terms of reference are set out at **Appendix A**.

3. Review Format

- 3.1 In accordance with established best practice, the TFG undertook a series of evidence gathering sessions with key stakeholders.
- 3.2 These evidence sessions were supported by:
- A review of current procurement and contract monitoring/ management arrangements and ongoing issues;
 - A review of best practice guidance;
 - Reports and information produced submitted by the Corporate Procurement Team; and

² <http://committeepapers.barnet.gov.uk/democracy/reports/reportdetail.asp?ReportID=10408>

³ <http://committeepapers.barnet.gov.uk/democracy/reports/reportdetail.asp?ReportID=10409>

⁴ <http://committeepapers.barnet.gov.uk/democracy/reports/reportdetail.asp?ReportID=10464>

- Research published by experts on community benefit and sustainability.

3.3 The engaged stakeholders included:

- Cabinet Member for Resources and Performance;
- Deputy Chief Executive;
- Corporate Procurement Team (including Assistant Director, Commercial Assurance and Head of Procurement);
- Procurement service leads (including Assistant Directors and Heads of Service);
- Business Liaison Officers;
- A sustainable procurement expert advisor; and
- Head of Procurement, Hampshire County Council.

3.4 The report of the TFG details the findings of the evidence gathering sessions relating to contract monitoring/management and community benefit which emerged during the course of the review, namely:

1. Current contract monitoring arrangements within corporate and devolved procurement teams.
2. Potential approaches to incorporating community benefit and sustainability into procurement and contracting.
3. Corporate improvements to contract monitoring arrangements and recommended future developments.

3.5 Section two details the findings of the TFG in relation to procurement and contract monitoring arrangements with section three outlining the reviews findings regarding community benefits before summarising the concluding remarks of the TFG.

Section Two

1 Procurement and Contract Monitoring Arrangements

Current structure

- 1.1 Procurement activity within the council operates, to a large extent, on a devolved basis (to service areas). The council has a small Central Procurement Team (CPT) which provides support to complex procurement activity and also manages some corporate contracts.
- 1.2 The CPT comprises an Assistant Director (Commercial Assurance), a Head of Procurement, three Procurement Managers, a Contracts Manager and a Procurement Systems Officer. Procurement Managers provide support to the council's service areas in undertaking procurement activity. Contract monitoring and management is primarily undertaken by service areas.
- 1.3 Some service areas have officers which deal almost exclusively with procurement and contract monitoring/management (e.g. the Supply Management Team in Adult Social Care and Health). However, it is notable that procurement and contract monitoring/management activity is ordinarily undertaken by officers within service areas, with this activity being only a proportion of a broader range of staff duties. Due to the devolved nature of these arrangements, it is currently difficult for the council to undertake an accurate assessment of the total amount of officer resource across the authority dedicated to procurement and contract monitoring/management.

Current Issues and Mitigating Actions

- 1.4 Recent events have given prominence to procurement and contract monitoring issues. Internal Audit reports on MetPro Rapid Response and the Internal Audit Annual Opinion presented to the Audit Committee in June 2011 highlighted the necessity of the council taking steps to strengthen control arrangements across the organisation. A number of measures have been introduced to mitigate the risks associated with existing non-complaint contracts across the council and to improve the internal control environment, including:
 - Creation of corporate contracts register;
 - A review of compliance of current contracts;
 - A forward plan and timeline of procurement activity for the remainder of 2011/12 and for 2012/13;
 - Identifying the number of projects that will and will not require publication on the Official Journal for the European Union (OJEU) and adherence to the EU procurement regime, implemented in the UK by the Public Contracts Regulations 2006;

- Undertaking risk assessments to ensure effective prioritisation and resource planning; and
- Exploring possible frameworks available to limit procurement activity timelines and support successful project delivery.

1.5 While the TFG welcomed the actions that had been taken to date, members sought assurance that the council would have an ongoing appropriate organisational framework and skills base to ensure that effective procurement and contract monitoring arrangements were in place, particularly due to the complex nature of contracts linked to the One Barnet Programme.

Requirement for Change

1.6 The evidence considered by the TFG during the course of the review identified that having a primarily devolved procurement function has resulted in an inconsistent approach to procurement and contract management across the council's directorates. The lack of corporate oversight of procurement and contract monitoring has resulted in an inconsistent approach and a lack of strategic focus. Key findings from internal and external reviews support the need for change:

Internal Audit Review 2011

- Limited audit opinion;
- Weaknesses in control system;
- Levels of non-compliance place the system's objectives at risk; and
- Roles and responsibilities of devolved procurement teams/officers are unclear

Tribal Consultancy Review 2010

- As a result of the devolved structure, staff are unlikely to have the required skills and experience to increase efficiency;
- Lack of control over expenditure and the establishment of new suppliers; and
- Potential to reduce costs by reducing the number of transactions being processed.

Four Year Contract Plan

- Delayed submissions to contracts register highlights data gaps;
- Inadequate focus on medium-term financial planning; and
- Contract extensions are being requested due to a lack of planning in the procurement process.

1.7 In response to the issues highlighted by the Audit Committee and the recommendations of internal and external reviews, service improvements planned and ongoing include:

- Revise and update the council's Procurement Strategy;
- Agree a strategic framework to support the procurement phase on the One Barnet Programme;
- Review and update Contract Procedure Rules and Procurement Code of Practice;
- Review procurement spend across directorates, identify providers and review current contractual arrangements;
- Ensure One Barnet programme has an appropriately resourced procurement team;
- Develop a corporate contract register;
- Enhance internal and external visibility of contract expenditure;
- Undertake a business process review to improve internal control systems;
- Review standard terms and conditions;
- Audit all vendors;
- Develop an e-procurement strategy; and
- Develop an e-procurement / e-tendering area of the council's website.

2 Key Findings

Collaborative Procurement / Purchasing and Economies of Scale

- 2.1 In considering procurement and contract monitoring arrangements, the TFG questioned whether the council were involved in any procurement consortiums or strategic alliances which would deliver economies of scale or efficiencies. Members were informed that the council had recently joined the West London Alliance (WLA), a collaborative body which seeks to deliver efficiency savings and service improvements. It was noted that the One Barnet Passenger Transport project involved collaborative working with other London boroughs in the WLA and the project was expected to deliver significant efficiency savings through a shared service arrangement.
- 2.2 Members were also advised that the council were part of the London Contract and Suppliers Group, a consortium which assisted in obtaining best value for large standardised contracts, such as stationery supplies.
- 2.3 The Central Procurement Team had also been considering utilising the Procure4London portal (a pan-London procurement portal sponsored by

London Councils) to advertise procurement opportunities and encourage local suppliers to bid for council contracts.

Contract Monitoring / Management

- 2.4 In considering evidence, the TFG remained concerned that the current devolved procurement and contract monitoring/management structure would continue to give rise to contract management issues. As part of the review, the TFG requested that the Assistant Director Commercial Assurance outline proposals for the development of a Corporate Contract Monitoring Service.
- 2.5 In July 2011, the TFG considered a paper '*Developing a Strategic Approach to Contract Management*' which covered:
- Benefits of creating a Corporate Contract Monitoring Service including a contract monitoring process overview, contract engagement and ensuring continuity of corporate monitoring;
 - Proposed structure of a Corporate Contract Monitoring Service including the skills and competencies required of contracts officers;
 - Managing contract relationships including service delivery / relationships structure, managing contract performance, improvement management and managing change; and
 - Risks
- 2.6 Members were broadly supportive of the proposal to implement a centralised approach to contract monitoring/management as this would:
- Protect the council's contractual position;
 - Manage risks;
 - Monitor service providers performance against the output specification;
 - Ensure that services were delivered in accordance with the contract;
 - Deliver continuous improvement in contract performance and service delivery; and
 - Derive maximum value for money.
- 2.7 It was noted that the estimated cost of instituting such a service would be in the region of £500,000 per annum.
- 2.8 During July 2011, the TFG discussed the proposal to create a Corporate Contract Monitoring Service with the Cabinet Member for Resources and Performance, Deputy Chief Executive, Commercial Director and other senior officers involved in procurement and contract monitoring/management. In commenting on the proposal, the Cabinet Member for

Resources and Performance advised the TFG that he supported the centralisation of procurement and contract monitoring/management to increase control and professionalism. While supporting the concept, the Deputy Chief Executive raised concerns that the resources required to deliver a Corporate Contract Monitoring Service were currently unbudgeted and sought recommendations from the TFG regarding funding sources.

- 2.9 In noting the cost implications of delivering a Corporate Contracting Monitoring Service, the TFG emphasised the importance of the council having officers in place with the required skills, knowledge and expertise to manage the complex procurement and contract monitoring/management that would result from the implementation of the One Barnet Programme.

3 Procurement and Contract Monitoring Arrangements - Recommendations

- 3.1 Following consideration of the evidence received, the TFG made the following recommendations:
- i) Complex procurement and contract monitoring / management activity should be managed within the council under the following structure:
 - Procurement Officers (with responsibility for specifying and negotiating complex contracts);
 - Delivery & Performance Officers (with responsibility for monitoring / managing specified contracts and developing / maintaining an ongoing contractual relationship with vendors); and
 - Clearly defined linkages should exist between Procurement Officers and nominated Delivery & Performance Officers to ensure a balance between the negotiation of the contract and best practice in contract delivery.

It is recommended that Delivery & Performance Officers are in post in advance of the planned commencement of a contract to ensure smooth phasing out of the current arrangements and the introduction and delivery of a new contractual relationship. Structured succession planning arrangements should be in place to ensure that the essential skills and knowledge required to properly manage contracts for their entire lifecycle are not lost.

Cabinet are requested to outline the budget resource required to enable the council to effectively manage complex procurement and contract monitoring / management activity.

- ii) Devolved procurement and contract monitoring / management activity currently undertaken within Adult Social Care and Health, Children's Services and Environment, Planning and Regeneration be centralised to

ensure delivery of economies of scale, develop and enhance the internal control framework, and ensure that a central team has officers with the skills required to manage contracts effectively.

In addition to the formal recommendations set out above, the Group identified the following points for Cabinet's consideration:

- a) Steps should be taken to institute a 'culture of compliance' within the council, including:
 - a commitment from Cabinet and Council Directors to take the steps necessary to ensure delivery of best practice procurement and contract monitoring / management throughout the authority, and to outline the steps that will be taken to achieve this;
 - introduce a requirement for Council Directors to provide an annual sign-off of contractual compliance; and
 - all staff involved in procurement and contract monitoring / management being set measurable objectives and performance targets in appraisals regarding this activity.

- b) Enhancements should be made to the SAP system to:
 - make it the central repository for council contracts; and
 - utilise the system for actual and exception reporting.

Section Three

1 Community Benefit and Sustainability

Current Arrangements

- 1.1 As part of the review, the TFG agreed that consideration be given to steps that the council might take to deliver local economic benefit. While members were aware that the council needed to balance the achievement of best value when awarding contracts for works, services and supplies, they also considered that relatively low cost steps could be taken to improve relationships and trading links with local businesses to derive benefit for the local economy.

- 1.2 In June 2011, the TFG received information from the Business Liaison Team in the Regeneration Service regarding current business engagement activity. It was noted that in 2008, Cabinet had approved the creation of a Business Links Officer post to strengthen links with the local business community. Responsibilities include:

- understanding more about the impact of current economic circumstances on local businesses;
- establishment town centre Business Forums;
- support local small and medium sized enterprises, enabling them to be more aware of and bid for contracts from local developers;
- provide support and advice;
- encourage links between business and education; and
- business liaison.

1.3 The Group were advised that during 2010 and 2011, surveys of businesses had been undertaken in town centre locations to identify business types, issues, the trading environment and potential environmental improvements. Enthusiasm of local businesses has been used to establish town centre business forums.

Current Initiatives

1.4 Members were informed that town centre business forums had been created in Chipping Barnet and Edgware, and were also in development in Golders Green, Finchley Church End and north Finchley. The forums enabled businesses to take responsibility for marketing and promotion of their town centres, and to inform policy and service provision. Further support is provided to business in the following ways:

- Web-based business information and signposting;
- Exploring and promoting apprenticeships, work experience and job opportunities;
- Linking businesses with schools; and
- Assisting businesses with their aspirations.

1.5 Additionally, the council had been successful in setting local labour targets as part of Section 106 planning agreements (to be replaced by the Community Infrastructure Levy) with developers of major sites and regeneration schemes. Generally, a 20 per cent target had been set for local employment, or through a requirement to use local sub-contractors.

1.6 The TFG noted that Local Enterprise Partnerships (LEP) had been introduced as part of the localism agenda. The Business Liaison team advised the TFG that while a London-wide LEP has been established, the council were intending to establish an LEP in Barnet's key opportunity area of the A5 corridor.

1.7 It was further noted by the TFG that the Government's proposals to localise business rates was expected to have a significant impact on funding arrangements for local authorities, requiring the council to take steps to retain and develop local businesses to deliver economic

prosperity and a reliable source of revenue funding. The TFG noted that the revised funding arrangements would require the council to change their approach to local businesses.

2 Evidence from External witnesses

2.1 In July 2011, the TFG received evidence from:

- the Head of Procurement at Hampshire County Council; and
- an expert on community benefit and sustainability from the New Economics Foundation.

2.2 During the evidence session, the TFG were informed of the following:

- the council are able to engage with local businesses and encourage them to compete for council contracts, providing that an unfair advantage is not provided;
- social and environmental benefits can be built into contracts, such as the requirement for developers or external contractors to provide a specified number of apprenticeships;
- the council could develop a local supply chain and employment opportunities to deliver a better service after awarding a contract;
- local economic benefit can be built into contracts; the public procurement regulations apply whenever a contracting authority, whether by itself, or through a third party, seeks offers in relation to a proposed public works, supply or services contract, the value of which exceeds certain financial thresholds.⁵

2.3 Members were advised that:

- Community Benefits included: training/apprenticeships; community consultation and involvement; education opportunities; 'considerate contractor' scheme; and resources for community initiatives; and
- Social Benefits included: equality and diversity / equal opportunities; disabled access; employment and training; fair trade; and access for SMEs, minority owned organisations and social enterprises.

2.4 Members noted that to include community or social benefits in contracts, a corporate commitment to this approach would be required. This commitment would be written into high level corporate documentation, such as the corporate plan. Adopting such an approach would enable the authority to write these requirements into business cases / options appraisals, the procurement strategy, invitations to tender / contract terms and conditions; evaluation and award criteria, and performance indicators and contract monitoring.

⁵ The Council would need to ensure that it was not perceived to be distorting the market by favouring local suppliers.

3 Community Benefit and Sustainability - Recommendations

- i) Cabinet outline approaches the council will take to encourage local companies to benefit from local business opportunities. Recommended options include:
- Establishment of a customer facing Business Helpdesk;
 - Enhancements to the 'Business' section of the council's web site;
 - Providing briefings to local business forums on business opportunities available, including the Procure4London portal;
 - In relation to new contracts:
 - Vendors to assist the council in creating: local job opportunities to enable Barnet residents to get back into work; graduate trainee opportunities;
 - Apprenticeship opportunities; and
 - Sub-contracting parts of the supply chain (where possible) to local companies within the borough.

Conclusion

- 1.1 Having considered the evidence the review has found that a more robust contract monitoring process is required across the council. Furthermore, the evidence presented to the TFG suggests that devolved procurement and contract monitoring/management activity currently undertaken within Adults Social Care and Health, Children's Services, and Environment, Planning and Regeneration should be centralised.
- 1.2 This centralisation of procurement and contract monitoring/management would enable the delivery of economies of scale, development and enhancement of an internal control framework, and ensure that a central team is equipped with the skills required to manage contracts effectively.
- 1.3 In relation to community benefits the TFG has found that local business could benefit from support and encouragement from the council. Suggested approaches for providing such encouragement are detailed in the recommendations of this report.
- 1.4 Overall, the TFG has found that the council must work towards consolidating a culture of compliance across the organisation to ensure delivery of best practice procurement and contract monitoring/management.

APPENDIX A

PROJECT PLAN

Topic for Review	Contract Monitoring and Community Benefit
Membership	Councillor Brian Schama (Chairman) Councillor Geoff Cooke Councillor Barry Evangeli Councillor Alan Schneiderman Councillor Suri Khatri
Link to Corporate Plan	<p>The Corporate Plan 2011/13 has the following Corporate Priorities:</p> <ul style="list-style-type: none"> • Better services with less money; • Sharing opportunities, sharing responsibilities; and • A successful London suburb. <p>The following are strategic objectives, improvement initiatives, projects and performance targets that relate to the work of this task and finish group:</p> <ul style="list-style-type: none"> • Delivery of a procurement transformation project; • Number of vendors reduced by 40% between November 2010 and end June 2011; • Increase % of 50 largest vendors under formal contract from 70% to 100%; • Create an environment in which business and enterprise can flourish, including engaging with local business; • Establishment of business forums in Edgware, Chipping Barnet and Golders Green by September 2011.
Background	<p>1st November 2010 – the Business Management Overview & Scrutiny Sub-Committee requested a report of purchasing and procurement activity within the council.</p> <p>16th December 2010 – the Sub-Committee established a time limited task and finish group to review procurement activity across the Council as a whole.</p> <p>28th February 2011– the Sub-Committee received a briefing paper on purchasing and procurement at their meeting and submitted comments to the task and finish group for them to consider as part of their review.</p>
Scope and Purpose of Review	<p>Task and Finish Group to review:</p> <p>(i) Contract monitoring and management (70%), particularly aspects such as:</p> <ul style="list-style-type: none"> - Current contract monitoring arrangements within corporate and devolved procurement teams;

	<ul style="list-style-type: none"> - Legal aspects of contracts (especially confirmation conditions and penalty clauses); - Ensuring value for money throughout the life of the contract; <p>(ii) Local Procurement/Community Benefit (30%)</p>
Format of Review	<p>Methodology</p> <ul style="list-style-type: none"> • Scrutiny Office to conduct desk research • Members to meet and receive reports from relevant Cabinet Members and Council officers • Members to meet with relevant external witnesses • Best practice to be identified
<p>Key Evidence (internal & external) (include people, documents, consultations, site visits, etc.)</p>	<p>Witnesses/Stakeholders: Cabinet Member for Resources and Performance, other relevant Cabinet Members, relevant Council Directors, Assistant Director Commercial Assurance, any other relevant Council officers, relevant external witnesses</p> <p>Documents: Business Management Overview & Scrutiny Sub-Committee, 28 February 2011, Agenda Item 10 (Purchasing and Procurement) Contract Procedure Rules. Any other data, information or documents the task and finish group consider are appropriate</p> <p>Site Visits: Best practice authority to be identified and site visit arranged. Guest speakers/witnesses at the request of the group.</p>
Timescales	<p>Overview and Scrutiny arrangements recommend that Task and Finish Group reviews should be completed within a timescale of three months. It is envisaged that this review be completed by the end of September 2011, with updates reported to the Business Management Overview & Scrutiny Sub-Committee in June, July and September 2011.</p>
Expected Outcome	<p>The Task and Finish Group will make up to four clear and concise SMART (Specific, Measurable, Achievable, Realistic and Timely) recommendations to the Council's Cabinet.</p>
Follow up	<p>Implementation of accepted recommendations is to be monitored by the Scrutiny Office.</p>

AGENDA ITEM: 8 Pages 67 – 74

Meeting	Cabinet Resources Committee
Date	4 April 2012
Subject	Award of Housing-related Contracts for Young People
Report of	Cabinet Member for Education Children and Families
Summary	This report seeks approval to award contracts to provider/s for the delivery of housing-related services for young people between the ages of 16 and 21. The contract/s for these services is for a two year period commencing 1 April 2012.

Officer Contributors	Flo Armstrong, Divisional Manager, Youth Support Service Sharon Glover, Operations Manager, Youth Support Service Sue Tomlin, Housing Strategy & Business Improvement Manager Roger Lancaster, Housing Needs Team Leader
Status (public or exempt)	Public, with a separate exempt report
Wards affected	All
Enclosures	None
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in	Not applicable

Contact for further information: Flo Armstrong, 020 8359 7846, flo.armstrong@barnet.gov.uk

1. RECOMMENDATION

1.1 That the Committee authorise the award of contracts to:

Lot 1 Safestart Foundation for the provision of the Foyer service (final award £315,600 pa or £631,200 over two years);

Lot 2 Safestart Foundation for the provision of the Crashpad service (final award £77,420pa or £154,840 over two years); and

Lot 3 Metropolitan Housing for the provision of the High Needs service (final award £139,960pa or £279,920 over two years)

The contracts are to start on 1 April 2012 for a two year period with options to extend for a further year, subject to funding availability and performance.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet Resources Committee, 13 January 2011 (Decision item 11) – Prevention Services for Vulnerable Adults – Extension of Contracts for 12 months until 31March 2012.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 This service supports corporate priorities of the Council's Corporate Plan 2011-2013:

- Better services with less money, through the early identification of young people with particular needs which, if left unaddressed, are likely to require more intensive and expensive statutory intervention at a later stage;
- Sharing opportunities, sharing responsibilities, by working as part of a multi-agency response to youth homelessness, and similar issues adversely affecting young people, in the borough;
- A successful London suburb, by providing a service which enhances the Council's reputation with local families and the community.

- 3.2 These housing-related services will contribute to the priorities outlined in the Children and Young People's Plan 2010/11 – 2012/13:

- Embed a safeguarding culture across the partnership to improve the safety of all young people in the community
- Invest in early intervention to reduce the number of young people experiencing complex problems
- Assist young people, including care-leavers and the homeless, achieve a successful transition into adulthood

4. RISK MANAGEMENT ISSUES

- 4.1 The procurement process involved evaluations of the applicant organisations' experience, capacity and resources, capability, quality and financial viability. To mitigate any risk to the Council and in accordance with the Council's Contract Procedure Rules, organisations that were invited to tender verified that they would be able to provide a Parent Company Guarantee or a Performance Bond. In the event that the provider fails to deliver the required service, the bond will be called upon and used to provide a replacement contractor at no additional expense to the Council.
- 4.2 Service continuity will need to be maintained for the transition process. Current providers have been told there is no absolute certainty that decisions will be made in time to permit handovers on 1 April 2012 and are willing to continue to provide existing services for a short period beyond 1 April 2012 if necessary.
- 4.3 To ensure monies are being spent effectively all new contracts will be performance managed throughout the term of the contract using a robust monitoring system. This system is currently in place for contracts in the Children's Service

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Pursuant to the Equality Act 2010, public sector organisations have a responsibility to consider equality as part of every procurement. The council is also under an obligation to have due regard to eliminating unlawful discrimination, advancing equality and fostering good relations in the contexts of age, disability, gender reassignment, pregnancy, and maternity, race, religion or belief and sexual orientation. Civil partnership and marriage are, also relevant within the context of the duty to eliminate unlawful discrimination.
- 5.2 This duty also, applies to a person, who is not a public authority but who exercises public functions and therefore must, in the exercise of those functions, have due regard to the public sector equality duty. This includes any organisation contracted by a local authority to provide services on its behalf.
- 5.3 The role for this duty in this procurement, is to make sure that those who might bid for the contract are not discriminated against, which is largely consistent with the requirements of the European procurement rules (enshrined into domestic legislation by The Public Contracts Regulations 2006 (as amended) and the EC Treaty referred to at paragraph 7 below. In addition, all bidders were asked to complete and submit a Diversity Monitoring Form.
- 5.4 Service users will be able to access services, irrespective of age, gender reassignment, pregnancy, maternity, ethnicity, religion or religious belief, sexual orientation, disability; and with respect to elimination of lawful discrimination, civil partnership and marriage. This will be checked during the regular performance monitoring of the contract. An Equalities Impact Assessment was completed as part of the re-commissioning process. It concluded that the recommendations herein would have a positive equalities impact.

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

Finance

- 6.1 The budget for housing-related services transferred from Planning Housing and Regeneration in April 2011, to the Children's Service were £291,032 (Foyer), £95,000 (Crashpad) and £210,390 (High Needs Service). The total budget transfer to the Children's Service was £596,422 per annum.
- 6.2 The contract value for the life of all three services over two years is £1,192,844, with a breakdown as;
- Foyer is £582,064
 - Crashpad is £190,000
 - High Needs Service is £420,780

Please note that there will be an additional value for the 2 months extension period for the existing contractors

- 6.3 The commissioning process has been conducted in accordance with Corporate Contract Procedure Rules.
- 6.4 The tender process is detailed in section 9.
- 6.5 The list of contracts to be approved is detailed in section 9.

Staffing

- 6.6 TUPE may apply but the staff affected have never been Barnet Council employees and this would be a secondary workforce transfer from one provider to another. Some 20 members of staff working for two organisations (plus agency staff falling out with the scope of TUPE) are associated with the delivery of these provisions

7. LEGAL ISSUES

- 7.1 The Procurement Rules as apply to services differentiate between Part A services and Part B services. Part A services are subject to the full tendering regime. Part B services require that specifications for services are not discriminatory and that reporting and notifying obligations are met, this includes advertising the opportunity at onset of process.
- 7.2 The proposed housing-related contracts fall within Part B services. However, contracting authorities are still required to comply with the Treaty on the Functioning of the European Union (formerly the EC Treaty principles) in the way they carry out procurements and also to obtain value for money. These principles apply to all procurements with a "cross-border interest", whether or not the full procurement regime applies.
- 7.3 A written contract, which complies with the provisions specified by the Council's Contract Procedure Rules, will need to be drawn up and executed on behalf of the parties. The Provider will be required to provide a Parent Company

Guarantee or Performance Bond which will mitigate poor performance of the services.

8. CONSTITUTIONAL POWERS

- 8.1 The Council's constitution in Part 3, Responsibility for Functions, states in paragraph 3.6 the functions of the Cabinet Resources Committee.
- 8.2 Section 5 of the Contract Procedure Rule designates Cabinet Resources Committee as the appropriate body to authorise contracts in excess of £500,000.

9. BACKGROUND INFORMATION

- 9.1 The Children's Service has commissioned housing-related services through contracts for £596,422 per annum (maximum) for 1 April 2012 – 31 March 2014. The commissioning process was a competitive process for the award of £1,192,844 (maximum) over a 2 year period.

The tender was divided into three lots;

- Lot 1 – Foyer. This service is for 23 young people, with medium to high support needs, at any one time. It is expected that young people will remain in the accommodation for up to 12 months with a maximum stay of two years. The service will focus on achieving a range of positive outcomes during their stay in the accommodation, in particular supporting young people's engagement in education, employment and training, with the overall aim of enabling them to make a positive transition to adulthood.
- Lot 2 – Crashpad. This service will provide short-stay accommodation (maximum duration 28 days other than in exceptional circumstances) for up to three young people at any one time. It is designed to deal specifically with cases of unplanned homelessness (as distinct, for example, from young people leaving care where arrangements can be pre-planned) and works closely with the Council's housing mediation officer to see whether reconciliation can be effected with the young person's family or other close support network. Where this is not possible, it prepares the young person for an onward move, for example into the Foyer which is located in the same building.
- Lot 3 – High Needs Service. The service is for 10 young people, with high support needs, at any one time. It is expected that young people will remain in the accommodation for up to 12 months with a maximum stay of two years. The service focus is similar to that of the Foyer but will recognise the fact that residents will tend to have higher support needs than Foyer residents.

- 9.2 Bidders were permitted to tender for all lots but, as the Foyer and Crashpad are co-located, it was indicated that the Council proposed to achieve economies of scale by awarding Lots 1 and 2 to a single bidder.

- 9.3 The tender notice was advertised nationally in In-House magazine and on the Barnet Council website as well as in the Official Journal of the European Union to ensure transparency of opportunity. The tender closed on Friday 13 January 2012.

9.4 **Evaluation process**

A fair and transparent due process was followed. The tender process was as follows.

- 9.5 Bidders were required to complete a qualification questionnaire, a pricing schedule and a methodology statement. Bidders were advised that these three documents would contribute towards the overall evaluation respectively in a 40:30:30 ratio. They were also advised that the respective evaluations for the Foyer/Crashpad would be combined after being weighted on a 2:1 basis, reflecting the fact that the Foyer was the larger contract.
- 9.6 The qualification questionnaire included a credit check and financial viability checks on the bidding organisation. It included certain tests which, irrespective of other results, resulted in automatic or discretionary disqualification from the process – no such disqualifications resulted. The completed questionnaires were then assessed by suitably qualified officers on the basis of experience of providing similar work, capacity and resource to support the contract, technical expertise and quality aspects.
- 9.7 The pricing schedule was evaluated with an equitable approach based on tendered figures received.
- 9.8 The component parts of the pricing schedule (one-off start-up costs; general running costs; daytime staffing costs; night staffing costs; off-site management costs) and the total quoted cost were each assessed by suitably qualified officers on a weighted basis.
- 9.9 In the methodology statement, bidders were invited to submit a maximum of six A4 sheets setting out their proposals for running each project. Bidders were advised to use this statement particularly to include ideas and other information which they might feel they had been unable adequately to convey elsewhere, for example, due to the pro forma style of the other two documents. These were assessed by suitably qualified officers looking, in particular, for new ideas and originality of thought.
- 9.10 The Council received 7 bids for Lot 1, 8 bids for Lot 2 and 8 bids for Lot 3. Seven organisations bid for all three contracts. Only one bid (for Lot 2 alone) failed, on the grounds of incompleteness, to progress to the evaluation stage.

9.11 The results of the evaluation process were as follows:

Foyer	Questionnaire – weighted score	Pricing – weighted score	Methodology – weighted score	Overall score
Organisation A	32.6	14.5	25.3	72.4
Organisation B	27.1	18.5	17.6	63.2
Organisation C	29.1	21.5	22.5	73.1
Organisation D	32.3	11.5	17.8	61.6
Organisation E	28.5	15	20.3	63.8
Organisation F	31.9	21	21.8	74.7
Organisation G	35.0	8	22.5	65.5

Crashpad	Questionnaire – weighted score	Pricing – weighted score	Methodology – weighted score	Overall score
Organisation A	32.6	14.5	21.9	69.0
Organisation B	27.1	16	14.3	57.4
Organisation C	29.1	16.5	22.2	67.8
Organisation D	32.3	17.5	17.3	67.1
Organisation E	28.5	13.5	16.1	58.1
Organisation F	31.9	18	20.8	70.7
Organisation G	35.0	21	24.1	80.1

Foyer/Crashpad weighted scores	Foyer (2 x)	Crashpad (1 x)	Overall score	Final award
Organisation A	144.8	69.0	213.8	0
Organisation B	126.4	57.4	183.8	0
Organisation C	146.2	67.8	214.0	0
Organisation D	123.2	67.1	190.3	0
Organisation E	127.6	58.1	185.7	0
Safestart Foundation	149.4	70.7	220.1	£393,020
Organisation G	131.0	80.1	211.1	0

High Needs	Questionnaire – weighted score	Pricing – weighted score	Methodology – weighted score	Overall score	Final award
Organisation A	32.6	11	25.3	68.9	0
Organisation B	27.1	18	16.3	61.3	0
Metropolitan Housing	29.1	19	25.8	73.9	£139,960
Organisation D	32.3	20	19.5	71.8	0
Organisation E	28.5	13.5	16.9	59.0	0
Organisation F	31.9	16.5	20.5	68.9	0
Organisation G	35.0	11	23.4	69.4	0
Organisation H	30.9	14.5	16.3	61.7	0

9.12 These outcomes produce a result within the Council's budget of £596,422.

As a result of this process the following organisations have been successful:

Lot 1 – Foyer

Name: Safestart Foundation Value: £315,600 (£631,200 over two years)

Lot 2 - Crashpad

Name: Safestart Foundation Value: £77,420 (£154,840 over two years)

Lot 3 – High Needs

Name: Metropolitan Housing Value: £139,960 (£279,920 over two years)

9.13 If the contract is awarded on 4 April 2012 the current contractors will continue to hold this contract until the end of May 2012

10. LIST OF BACKGROUND PAPERS

10.1 The Equalities Impact Assessment on commissioning of domestic violence provision can be provided on request by contacting Flo Armstrong, Divisional Manager, Youth Support Service, Children's Service, on 0208 359 7846.

Legal: SS

CFO: JH

AGENDA ITEM: 9

Page nos. 75 - 80

Meeting	Cabinet Resources Committee
Date	4 April 2012
Subject	Local Involvement Network hosting services- extension and waiver of Contract Procedure Rules
Report of	Cabinet Member for Public Health Cabinet Member for Adults
Summary	The current contract for the Local Involvement Network host has had to be extended by a further year to 31 March 2013 following the announcement by the Government of a further delay in the creation of its successor body, Health Watch. Cabinet Resources Committee are requested to note the action taken by the Assistant Chief Executive to waive Contract Procedure rules to allow this contract to be extended prior to its expiry.

Officer Contributors	Assistant Chief Executive Strategic Policy Adviser
Status (public or exempt)	Public
Wards Affected	None
Key Decision	No
Reason for urgency / exemption from call-in	N/A
Function of	Executive
Enclosures	None
Contact for Further Information:	Andrew Nathan, Strategic Policy Adviser andrew.nathan@barnet.gov.uk

1. RECOMMENDATIONS

- 1.1 That the Committee note the action of the Assistant Chief Executive under Delegated Powers to extend the Local Involvement Network hosting services contract for a period of one year to 31 March 2013, in accordance with Contract Procedure Rules 5.6 and 5.7.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet Resources Committee, 22 July 2008 (decision item 14 award of contract for Local Involvement Network host)
- 2.2 Delegated Powers report No 1168, LINK hosting services- acceptance of tender, 1 Oct 2010
- 2.3 Delegated Powers report No 1292, Local Involvement Network hosting services- extension of contract, 4 April 2011
- 2.4 Delegated Powers report No 1564, Local Involvement Network hosting services- extension of contract, 7 March 2012

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The statutory basis for LINKS is contained in the Local Government and Involvement in Health Act 2007, which includes a requirement for a local authority to procure a host organisation to support the LINK.
- 3.2 The work of the LINK in assessing services from a user perspective and making recommendations for better practice should assist in providing better services with less money. It is an example of a new relationship with citizens, involving them in service design and delivery.
- 3.3 Under the Health and Social Care Bill currently going through parliament, LINKS will evolve into a new organisation, local HealthWatch, which will continue to involve local people in having their say on local services, but take on broader duties in terms of patient liaison, information and signposting and potentially NHS complaints advocacy.
- 3.4 The LINK is represented on Barnet's shadow Health and Well Being Board and plays a key role in ensuring that the Joint Strategic Needs Assessment, the Health and Well Being Strategy and consequent commissioning plans are informed by the needs of patients and users. Local HealthWatch will be statutory partners on Health and Well Being Boards from 2013.

4. RISK MANAGEMENT ISSUES

- 4.1 There is a risk that, in the transfer to a new organisation, the existing expertise and commitment of volunteers will be lost without an organised transition from a fully functioning LINK. This will be mitigated through using the regular performance monitoring meetings with the host to review how they are supporting this transition, and through writing into the new specification a

requirement for tenderers to demonstrate how they will make best use of existing expertise and commitment.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The requirement for the LINK host to recruit and involve the full range of Barnet's diverse communities was written into the specification, and therefore forms a part of contract monitoring.
- 5.2 10% of the marks in the first stage evaluation of companies that expressed an interest in the original contract were allocated according to equalities considerations

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

- 6.1 Between 2008 and 2011, funding for the contract costs (including contract monitoring) came through a formula based grant from the Department of Health that was incorporated within the Area Based Grant.
- 6.2 Following the Spending Review, allocations to Local Authorities from 11/12 onwards were set out in a letter from the Secretary of State for Communities and Local Government on 20 October 2010. Various Department of Health grants, including that relating to LINK were rolled into formula grant.
- 6.3 For 2011/12, £100,000 was held in contingency to cover the responsibility to continue this service through to 31 March 2012 as future requirements were uncertain at that time. It is now clear that these responsibilities will continue and a figure of £100,000 is being held in the base budget from 2012/13 onwards to support this.
- 6.4 Both the original procurement of a host, and the reprocurement that led to the appointment of the current host, were undertaken in accordance with European Union tendering procedures for a Part B service. The current contract provides for up to two extensions for a period of up to 24 months. This report relates to a second extension.
- 6.5 A series of performance targets are agreed between the local authority and the host, to ensure that the contract is providing value for money and helping to deliver the health and social care objectives of the Council and its partners. These are reviewed together with the host's work plan at regular monitoring meetings.
- 6.6 As the Local authority is not a provider of the service, there are no direct staffing, ICT or property implications.

7. LEGAL ISSUES

- 7.1 Section 221 of the Local Government and Public Health Act 2007 imposes a duty upon each local authority to make contractual arrangements for the purpose of ensuring that there are means by which the activities specified for the council's area can be carried on within its area. The specified activities are: (a) promoting, and supporting, the involvement of people in the commissioning, provision and scrutiny of local care services; (b) enabling

people to monitor for the purposes of their consideration of matters mentioned in subsection (3), and to review for those purposes, the commissioning and provision of local care services; (c) obtaining the views of people about their needs for, and their experiences of, local care services; and (d) making— (i) views such as are mentioned in paragraph (c) known, and (ii) reports and recommendations, about how local care services could or ought to be improved, to persons responsible for commissioning, providing, managing or scrutinising local care services.

- 7.2 The Health and Social Care Bill extends the role of local authorities in the health system by creating health and wellbeing boards and giving them responsibility for public health. The aim is to strengthen democratic legitimacy and ensure that commissioning is joined up across the NHS, social care and public health. The interface between clinical commissioning consortia and local authorities will be critical in ensuring that services meet the full range of local population health needs.
- 7.3 The contract was procured in accordance with European Union tendering procedures for a Part B service.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Constitution, Part 3 - Responsibility for Functions - section 6, Powers delegated to officers provides that Chief Officers can take decisions without consultation with the Cabinet Member concerned where it is in respect of operational matters within the Chief Officer's sphere of managerial or professional responsibility and is not significant in terms of budget or policy.
- 8.2 Contract Procedure Rules, sections 5.5 and 5.6 sets out authorisation and acceptance thresholds for contracts and contracts extensions.
- 8.3 Directors/Heads of Service may take decisions on urgent or emergency matters as set out in the Leader's Scheme of Delegation providing they report afterwards to the relevant decision making body setting out the reasons for the urgency. Such decisions include waiver of the Contract Procedure Rules where this is justified on the basis of urgency, as set out in Contract Procedure Rules 5.7 and 5.8 together.
- 8.4 As it does not affect more than one ward, nor exceed £500,000, this matter does not fall within the definition of a 'key decision'.

9. BACKGROUND INFORMATION

- 9.1 Local Involvement Networks (LINKs) for Health and Social Care are a statutory requirement under the Local Government and Public Health Act 2007. They are networks of local people who are able to influence local health and care services, including having limited powers of inspection.
- 9.2 The legislation sets out a tripartite relationship between local authorities, who received a notional sum from the Department of Health through Area Based Grant to tender for a host organisation. The host recruits to and establishes a local LINK, and administers and supports their work. The Area Based Grant

allocations covered the three year period through to 31 March 2011. They were not ring fenced for this purpose.

- 9.3 The contract to host the Barnet LINK was awarded to Community Investors Development Agency Ltd (CIDA) by Cabinet Resources Committee on 22 July 2008. This contract was terminated on 28 July 2010 and, after a competitive procurement in accordance with European Union procedures, the contract was awarded to Community Barnet for the remainder of the contract (1 October 2010- 31 March 2011).
- 9.4 In August 2010 the Government's Health White Paper proposed the creation of a new organisation, Health Watch, which would succeed LINKs, and continue their responsibilities as well as take on new ones such as complaints advocacy. This was subsequently enshrined in the Health and Social Care Bill.
- 9.5 The original intention was that HealthWatch would succeed LINKs from April 2012, and in October 2010, the Department of Health issued guidance that local authorities should consider extending existing LINKs host contracts through to that date to minimise disruption and maintain continuity; allow the development of local HealthWatch organisations if applicable; and reduce costs incurred in tendering.
- 9.6 In view of this, and to allow them to continue their work in building the membership and capacity of the LINK to function effectively, Community Barnet's contract was extended to run through to 31 March 2012, at the sum of £95,000.
- 9.7 Subsequently the Health and Social Care Bill has been considerably delayed in its passage through Parliament. The provision for HealthWatch to supersede LINKs was first delayed until October 2012, then in January 2012 the Department of Health announced that the transfer was to be further delayed to April 2013. This is to allow for HealthWatch England to be established in October 2012, and to place Healthwatch in step with other relevant provisions in the Bill such as those relating to Health and Well-Being Boards.
- 9.8 As a result it was necessary to award a further one year contract extension to Community Barnet in the sum of £95,000 to 31 March 2013.
- 9.9 This is within the terms of the contract which provide for up to two extensions for a period not exceeding 24 months. It does however fall outside the scope of Contract Procedure rules 5.6.1.2 and 5.6.1.3 as the original contract has already been extended once, and the value of the extension is worth more than half of the cost of the existing contract without the extension. A waiver of Contract Procedure rules was therefore required.
- 9.10 In view of the exceptional circumstances of the late notice of the delay as outlined in 8.7 above, and to ensure continuity of service after 31 March 2012, the Assistant Chief Executive invoked, through Delegated Powers Report No. 1564, a waiver of the above Contract Procedure rules. Under Contract Procedure Rule 5.7 any such waiver must be reported to Cabinet Resources Committee, and CRC are therefore requested to note the action taken.

10. LIST OF BACKGROUND PAPERS

- 10.1 Contracting for support to Local Involvement Networks in 2011-2012: supporting the possible transition to Local HealthWatch- Department of Health circular Gateway ref: 1445, 27 October 2010
- 10.2 Local Healthwatch, letter from Director General for Social Care, Local Government and Care Partnerships, Department of Health, 3 January 2012

Cleared by Finance (Officer's initials)	JH
Cleared by Legal (Officer's initials)	SCS

AGENDA ITEM: 10 Pages 81 – 86

Meeting	Cabinet Resources Committee
Date	4 th April 2012
Subject	CCTV Camera Transmission
Report of	Cabinet Member for Safety and Resident Engagement
Summary	This report seeks approval to continue renting BT Redcare circuits for camera transmission to LB Barnet's CCTV control room, until 31 st March 2013, pending a review of future CCTV provision within the Borough

Officer Contributors	Paul Lamb, Community Protection Group Manager
Status (public or exempt)	Public
Wards affected	All
Enclosures	None
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in	Not applicable

Contact for further information: Paul Lamb, Community Protection Group Manager, 020 8359 ext. 7491

1. RECOMMENDATION

- 1.1 That the rental of circuits from BT Redcare for the transmission of camera images to the CCTV control room be extended until 31st March 2013, up to a maximum of £140,000, to allow adequate time for a review of CCTV to be completed including appraisal of options for a future transmission strategy.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet, 17 March 2003, agreement of the priority areas for CCTV over a three year period up to and including 2006/07.
- 2.2 Cabinet Resources Committee, 28 July 2004, CCTV Tenders Acceptance, approval of the use of BT Redcare for the installation of fibre optic cabling to link cameras to the control room.
- 2.3 Cabinet Resources Committee, 26 September 2005, amendments to the CCTV installation programme.
- 2.4 Cabinet Resources Committee, 27 July 2006, approval of a revised CCTV installation programme.
- 2.5 Cabinet Resources Committee, 21 March 2007, approval of CCTV installation programme 2007/08.
- 2.6 Cabinet Resources Committee, 8 August 2008, approval of CCTV installation programme 2008 – 2012.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 CCTV contributes to making Barnet 'A successful London suburb' in particular by working with the Police to keep Barnet a safe place.
- 3.2 The provision of CCTV represents a significant investment of resources. To ensure 'Better services with less money' it is vital that best value is obtained from that resource.
- 3.3 The 'Sustainable Community Strategy for Barnet 2010 – 2020' has a priority of creating 'Strong, Safe Communities for everyone' which means reducing crime and anti social behaviour and ensuring residents feel safe.

4. RISK MANAGEMENT ISSUES

- 4.1 Although the implementation of each CCTV scheme, including the use of BT Redcare circuits as the transmission media of data, was approved by Cabinet Resources Committee, there is a risk that the on going revenue costs of line rental are not compliant with the Council's procurement rules that require regular tendering above certain financial thresholds. Approval is therefore sought to continue with the rental arrangement in 2012/13 whilst a review of CCTV is completed, including agreement of a future transmission strategy.
- 4.2 If the rental of circuits from BT Redcare is not continued it will not be possible to transmit images to the control room and hence there would not be a CCTV service. This would represent a reputational risk to the Council and its partners and adversely impact upon perceptions and actual levels of safety and crime across the borough. Alternative

transmission strategies are now available but without proper consideration of these options, including the costs involved and ensuring the best fit with the overall CCTV system development, best value will not be assured.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 It is recognised that the operation of CCTV may be considered to infringe upon the privacy of individuals. The operation of the CCTV service is therefore governed by its own code of practice, notified to the Office of the Information Commissioner, and its own operational procedures, to ensure compliance with legislative requirements including Human Rights and Data Protection. The scheme is employed as a proportional response to identified problems and is used in so far as it is necessary in a democratic society, in the interests of national security, public safety, the economic well being of the area, for the prevention and detection of crime and disorder and for the protection of rights and freedoms of the community.

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

- 6.1 Previous reports related to CCTV, which have been approved by Cabinet Resources Committee, have stated that 'BT Redcare is the only company who have a suitable network of ducts to provide cost effective links to the control room'.
- 6.2 BT Redcare has informed the Council that the annual charge for the line rental of BT Redcare circuits in 2012/13 will be £138,232, representing a 5% increase from 2011/12. There is sufficient budget within the CCTV cost centre to meet this increased charge.
- 6.3 Technological developments over recent years mean that there are now a variety of transmission methods available which can be provided at reduced cost. The review of Community Safety incorporates a review of CCTV which will include evaluation of the most effective and efficient transmission option as part of the overall technical system solution. It is anticipated the CCTV element of this review will be completed during 2012/13.

7. LEGAL ISSUES

- 7.1 Public space CCTV systems must be operated in accordance with the Data Protection Act 1998 and the principles as set out in the Human Rights Act 1998. London Borough of Barnet's CCTV Code of Practice sets out how the authority will comply with these requirements and principles. The Council is required to notify the Office of the Information Commissioner of the operation of the CCTV system.
- 7.2 Covert 'Directed' surveillance will only be conducted if formal authorisation is provided in accordance with the Regulation of Investigatory Powers Act 2000.
- 7.3 Section 163 of the Criminal Justice and Public Order Act 1994 creates the power for local authorities to provide CCTV coverage of any land in their area for the purposes of crime prevention or victim welfare.
- 7.4 As the rental value for BT Redcare Circuits falls below the relevant financial threshold set under Regulations 8 of the Public Contracts Regulations 2006, for EU procurement rules, the rental is not subject to the Public Contracts Regulations 2006. However, the Council should have due regard to Regulation 8(19) of the Public Contracts Regulations 2006

which provides that a contracting authority should not enter into separate contracts nor exercise a choice under a valuation method with the intention of avoiding the application of the Regulations to those contracts.

- 7.5 The parties will be required to sign a formal agreement which will document the terms and conditions for the continuing rental service.

8. CONSTITUTIONAL POWERS

- 8.1 Council Constitution, Part 4, Contract Procedure Rules, section 5 Authorisation and Acceptance Procedures. Contract Procedure Rule 5.8 – Contract Procedure Rules may only be waived on the decision of a Cabinet Committee and only where that Committee is satisfied, after considering a written report by the appropriate officer, that the waiver is justified because:

5.8.1 the nature of the market for the works to be carried out or the supplies or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of Contract Procedure Rules is justifiable; or

5.8.2 the contract is for works, supplies or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or

5.8.3 the circumstances of the proposed contract are covered by legislative exemptions (whether under EU or English Law); or

5.8.4 there are other circumstances which are genuinely exceptional

- 8.2 BT Redcare currently have the only fibre network that can economically transmit images back to the control room and pending a review of the CCTV service that includes review of alternative transmission strategies, a waiver from Contract Procedure Rules is requested as set out in Contract Procedure Rule 5.8.1.

- 8.3 This is a key decision as CCTV has a positive impact upon perceptions of safety across the borough. If there was not a CCTV service it would be detrimental to community confidence as well as representing a reputational risk to the Council.

9. BACKGROUND INFORMATION

- 9.1 CCTV has developed in Barnet incrementally since 2001, supported initially by Home Office funding and later from local capital allocations, grant funding and contributions from partners. Cabinet approved the installation of each scheme as part of an overall programme formulated by conducting an analysis of crime and disorder to identify priority areas.

- 9.2 Prior to 2003, twenty cameras were monitored from a control room in Elstree, operated by private contractors on behalf of Hertsmeire Borough Council. Since 2003, the system has operated from our own purpose built control room, which now monitors 131 fixed cameras. The control room has capacity for 105 monitors, 3 full operator positions and 2 traffic enforcement positions. The table below details the camera locations:

Location	Number of cameras	Public Space type
Tally Ho Nth Finchley	12	Town Centre
Finchley Central	7	Town Centre
Mill Hill B/Way	5	Town Centre
New Barnet,	5	Town Centre
Apex Corner	4	
East Finchley	8	Town Centre
Whetstone	4	Town Centre
Edgware	8	Town Centre
Colindale, The Hyde	2	Town Centre
Golders Green	5	Town Centre
Grahame Park Estate	3	Housing
A5	9	TFL / Traffic / Town Centre
Hendon	8	Town Centre
East Barnet	7	Town Centre
Hampden Square	2	Local Shops
High Barnet	12	Town Centre
Burnt Oak	13	Town Centre
Cricklewood	4	Town Centre
Friary Park	2	Park
Claremont Way	1	Industrial estate
Temple Fortune	6	Town Centre
Mutton Brook	4	Traffic / Walkway
TOTAL	131	

- 9.3 The control room is now at capacity and no new schemes can be added unless other schemes are ceased. In addition the system is approaching end of life. Therefore, CCTV is included in the review of Community Safety. The aim is to identify and agree an efficient and effective technical solution going forward including appraisal of various future business models.
- 9.4 Images are transmitted to the control room via rented circuits from BT Redcare. When schemes were approved, approval was also obtained to use BT Redcare as they were the only supplier with a fibre network extensive enough to economically and reliably provide transmission back to the control room. This situation remains the same, although Virgin Telewest have developed their network across Barnet incrementally subject to commercial requests. Connecting to this network would require substantial capital investment in the short term to provide the additional cabling in the street and works within the control room itself. The option to rent circuits from an alternative provider is therefore uneconomic in the short term. However, it should be considered as part of the review of CCTV services and evaluation of future transmission strategies that could realise efficiency savings dependent upon cost benefit analysis. Other alternatives, such as wireless transmission, will also be considered as part of the review but this again would be subject to substantial capital investment in the short term, hence the need to consider as part of a full evaluation of the CCTV service.
- 9.5 The operation of Barnet CCTV has been notified to the Office of the Information Commissioner in accordance with legislation.

10. LIST OF BACKGROUND PAPERS

- 10.1 None

Legal – PD
CFO – MC/JH

AGENDA ITEM: 11

Page nos. 87 - 96

Meeting	Cabinet Resources Committee
Date	4 th April 2012
Subject	Landmark Library lease arrangements
Report of	Cabinet Member for Customer Access and Partnerships
Summary	Following Cabinet's agreement to the Strategic Library Review, planning is underway to develop a new Landmark Library at the Arts Centre known as artsdepot. To facilitate this, Cabinet Resources Committee is asked to agree the extension of the lease of the premises to The Arts Depot Trust Limited.

Officer Contributors	Bill Murphy, Assistant Director, Customer Services
Status (public or exempt)	Public
Wards Affected	Coppetts, West Finchley, Woodhouse
Key Decision	Yes
Reason for urgency / exemption from call-in	N/A
Function of	Executive
Enclosures	None
Contact for Further Information:	Bill Murphy, Assistant Director, Customer Services, bill.murphy@barnet.gov.uk

1. RECOMMENDATIONS

That the Committee

- 1.1 Note progress in the development of plans for a Landmark Library with arts, cultural and children's specialism within the artsdepot site**
- 1.2 Endorse negotiation of an extended lease of the Arts Centre (known as artsdepot) with The Arts Depot Trust Limited on the terms as set out in section 9.13 of this report, subject to agreement in due course of an appropriate mechanism for the calculation of service charge**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet Resources Committee 20 May 2004 – item 7 - approved the granting of an under lease of the Arts Depot to The Arts Depot Trust Ltd on the terms outlined in the report and
 - (i) The relevant Chief Officer was given authority to make application to the Office of the Deputy Prime Minister for The Arts Depot to be under let to Arts Depot Trust Ltd on the terms outlined and
 - (ii) Subject to (i) being obtained, the Borough Solicitor was instructed to grant an under lease in a form to his approval.
- 2.2 Cabinet 26 July 2011 – item 6 – approved implementation of the Strategic Library Review, including the merger of Friern Barnet and North Finchley libraries into a Landmark Library, and continued negotiations with The Arts Depot Trust Limited ('the Trust') regarding the co-location and development of a new Landmark Library with arts, cultural and children's specialism within the artsdepot site.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Council's Corporate Plan 2012 – 13 sets out how the authority will respond to the challenges facing Barnet over coming years. The report to Cabinet on 26 July 2011 which sought approval for the Strategic Library Review, set out the significant contributions which the library strategy will make to the corporate priorities and strategic objectives. These are summarised below.
- 3.2 *Better Services with Less Money*: the library strategy aims to provide better services with less money and is aligned with the strategic objectives to:
 - Create a more customer centric council that enables customers to efficiently achieve the desired outcomes
 - Manage resources and assets effectively and sustainably across the public sector in BarnetIn particular, the Council will seek opportunities to co-locate with other public services where appropriate, and make wider changes to the property network to provide good access.

3.3 *Sharing opportunities and sharing responsibilities:* the library strategy aims to develop a new relationship with citizens by promoting and providing opportunities for people to read, learn, find information and use library space for a range of activities and events. In particular, the merger of library services into a high-profile, high quality cultural facility will enable the service to reach new customers, with particular emphasis on targeting children and those with lower levels of literacy.

3.4 *A successful London suburb:* the library strategy aims to provide a high quality and engaging service, which supports a prosperous and thriving borough. In particular, the enhancement and increased sustainability of artsdepot will make a positive contribution to the local shopping area, and to making North Finchley a destination in its own right.

3.5 In July 2011 Cabinet agreed the Strategic Library Review, which set a clear direction for Barnet's library service. This included agreement of a recommendation to

Endorse continued negotiations with the Arts Depot Trust regarding the co-location and development of a new Landmark Library with arts, cultural and children's specialism within the Arts Depot site.

3.6 The Strategic Library Review includes the following assumptions:

- Achievement of £100,000 revenue saving in 2012/13 and £100,000 in 2013/14 arising from the merger of Friern Barnet and North Finchley libraries in artsdepot.
- Capital funding availability of £3million to deliver the strategy, derived from the disposal of library buildings declared surplus to requirements. In addition to the works at artsdepot, it is assumed that this funding would also enable the implementation of improved ICT infrastructure, and new models of library services elsewhere in the borough.

4. RISK MANAGEMENT ISSUES

4.1 There are a number of potential risks associated with the strategic library review. Those which are particularly relevant to the artsdepot/ Landmark Library are set out below, with mitigating measures.

4.2 The library strategy has been designed to deliver required efficiency savings which were not possible within the existing service model. The merger of Friern Barnet and North Finchley libraries into a new Landmark Library at artsdepot is designed to deliver £100,000 revenue savings in 2012/13 and a further £100,000 in 2013/14. Without such a clear medium-term strategy, reduction in spending would lead to an impoverished service which would not meet the diverse needs of Barnet's communities. Reactive service cuts each

year – for example reducing stock, staffing or hours – without a clear strategic foundation could lead to longer-term decline of the service, reducing access to services.

4.3 The report to Cabinet on 26 July 2011 identified that:

There are risks associated with the creation of a new Landmark Library within the Arts Depot: development of a new partnership, use of space and financial and property implications. A partnership with the Arts Depot to develop a Landmark Library within the Arts Depot site would offer a range of benefits to Barnet residents, library users and users of arts and cultural services. This is a preferred option for service delivery, given the additional benefits this could offer to the public and its positive impact on the effective use of resources.

Any partnership agreement to develop this shared facility within the Arts Depot would require support from both the Council and the Arts Depot Trust. This agreement would need to: consider how the space can be best utilised to maintain the existing programmes at the Arts Depot and develop additional spaces and capacity; ensure that quality controls are in place to accommodate a successful library service within the centre; evaluate the capital implications of developing the new Landmark Library and ensure the developments can take place within budget; reach agreement on how the partnership would work to the benefit of all; offer options for how the arrangement can be formally agreed, including property-related negotiations, financial and legal implications; and establish a viable schedule to establish the new services. The Council will work with the Arts Depot to create effective ways to consult with Arts Depot customers and library user as plans for the new service develop.

4.4 The Council will seek to enter into a partnership agreement with the Trust to address all of the above before it enters into any contractual commitment(s) for the redevelopment of the site.

4.5 A capital scheme of this scale carries its own risks in terms of budget, quality and timescales. The council is commissioning a feasibility study to identify outline designs for the scheme: these will be independently costed, including the allocation of appropriate contingency funding, to generate a robust programme budget. This will be used as the basis for bidding to Arts Council England, and for onward decision-making by the Council, as described in section 9.9 below.

4.6 Entering into a new partnership arrangement with any external body poses a degree of potential risk to the Council. This risk will be mitigated by:

- A Partnership Agreement to address all matters relating to space utilisation, quality controls, redevelopment programme plan, measures for joint agreement of specifications of requirements and signoff of contractual documents
- The establishment of an operational committee comprising members of libraries and artsdepot staff to oversee the delivery of services in shared areas of the building
- Regular progress reporting to the Portfolio Holder and artsdepot Board

- 4.7 Any risks associated with the re-negotiation of the lease will be mitigated by the close involvement of Property and Legal Services throughout the process.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Under the Equality Act 2010, the council and all other organisations exercising public functions on its behalf must have due regard to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - advance equality of opportunity between those with a protected characteristic and those without; and
 - promote good relations between those with a protected characteristic and those without.

The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy; maternity; race; religion or belief; sex; and sexual orientation. The duty to eliminate discrimination also extends to marriage and civil partnership.

- 5.2 A comprehensive assessment of equalities impacts and risks of the Library Strategic Review was completed and considered with the report to Cabinet on 26 July 2011. Consultation and engagement took place with different groups representing all sections of Barnet's diverse communities, with particular focus on engaging with groups who have more complex service requirements.
- 5.3 The proposals in this report represent plans for implementation of policy already agreed by Cabinet in July 2011: as such no additional equalities impact assessment has been completed.

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

- 6.1 **Finance:** The Strategic Library Review has been designed to deliver £1.41m savings from the libraries revenue budget. Significant capital investment is required to deliver the strategy, including the establishment of a Landmark Library at artsdepot. A capital fund of £3m has been established to invest in the library network. This £3m investment programme is wholly dependent on generating £3m from library asset disposal.
- 6.2 The Medium Term Financial Strategy identifies the following savings arising from the merger of Friern Barnet and North Finchley libraries into the artsdepot Landmark Library:
- 2012/13: Saving of £100,000
 - 2013/14: Saving of £100,000
- 6.3 Funding from the Mayor's Outer London Fund will be invested in the public realm around artsdepot during 2012/13-2013/14. A successful bid for funding will bring around £1.45m to the town centre to be invested in a number of improvements with a specific focus on the quality of the external environment and perception and visibility of artsdepot and proposed Landmark Library.

- 6.4 **Procurement:** There are no specific procurement implications arising from these proposals. If the Council were to proceed to implement the redevelopment at artsdepot, officers would seek support and advice from the procurement team to ensure full compliance with policies and procedures, and effective management of contracts.
- 6.5 **Performance and value for money:** The Landmark Library at artsdepot is designed to increase the number of library visits and decrease library revenue costs, thus reducing the cost per library visit and costs overall. The service will be designed to increase the use of libraries by key groups (ie children and those with low literacy levels).
- 6.6 **Staffing:** There are no specific staffing issues arising from the proposals within this report. Staffing issues arising from the implementation of the libraries strategy were addressed in the report to Cabinet of 26 July 2011.
- 6.7 **IT:** The library strategy includes a number of plans for the enhancement of library ICT infrastructure. The development of a Landmark Library at artsdepot will enable 21st-century standards of ICT to be planned from the design stage.
- 6.8 **Property and sustainability:** Following agreement to the detailed terms of the proposed lease, Property Services will seek any necessary consents from the superior landlord, or, if required, consent under section 123 of the Local Government Act 1972.
- 6.9 The merger of Friern Barnet and North Finchley libraries into a new Landmark Library at artsdepot is an important part of the library strategy's plans for increased sustainability of the library network. The co-location of facilities allows for the sharing of costs: provision will be made within the service charge arrangements for ongoing repairs and maintenance.

7. LEGAL ISSUES

- 7.1 As stated at paragraph 9 below, the lease of the Arts Centre building (known as artsdepot) was granted to the Council in November 2004. The permitted use of the premises is set out in the lease, and library services are not explicitly amongst the permitted uses. Therefore, consent of the Head Landlord would be required for the proposal.
- 7.2 In addition, any assignment and underletting of the Arts Centre, whether by the Council or the Trust, will be subject to the consent of the Head Landlord as required by the terms of the lease to the Council.
- 7.3 The majority of business tenants will enjoy security of tenure under Part II of the Landlord and Tenant Act 1954 (the Act). The protection given to tenants covered by the Act is twofold. First, a business tenancy will not come to an end at the expiration of a fixed term, nor can a periodic tenancy be terminated by the landlord serving an ordinary notice to quit. Instead, notwithstanding the ending of the contractual term, the tenancy will be automatically continued under s 24 of the Act until such time as it is terminated in one of the ways specified in the Act. Secondly, upon the expiration of a business tenancy in accordance with the Act, business tenants normally have a statutory right to apply to court for a new tenancy and the landlord may only oppose that application on certain statutory grounds (some of which involve the payment of

compensation by the landlord if the tenant has to leave). It is possible, in certain circumstances, for the landlord and tenant to contract out of the Act, but certain formalities must be observed.

- 7.4 As the Trust's occupation of the premises is a business tenancy under the Act, the Trust has a right to serve a notice on the Council before the expiry date of their underlease, requesting that the Council renew the underlease. The Council is required when the notice is served to serve a counter-notice on the Trust, either agreeing or refusing to extend the underlease. If the Council refuses to extend the underlease on the grounds that the Council requires possession of the premises in order to let/dispose of it as a whole; or that the Council intends to demolish/reconstruct the premises, or intends to occupy the premises, the Trust will be entitled to compensation from the Council for disturbance, once the Trust vacates the premises. The compensation is payable whether or not a court application is issued.
- 7.5 Local authorities are given powers under Section 123 of the Local Government Act 1972 (as amended) to dispose of land held by them in any manner they wish, including the grant of leases. The only constraint is that, except with the consent of the Secretary of State, a disposal must be for the best consideration reasonably obtainable.
- 7.6 Pursuant to a general consent, (the Local Government Act 1972: General Disposal Consent (England) 2003), the Secretary of State gave consent to a disposal of land otherwise than by way of a short tenancy by a local authority in England in the circumstances specified below:

"The specified circumstances are:

- a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
- i) the promotion or improvement of economic well-being;
 - ii) the promotion or improvement of social well-being;
 - iii) the promotion or improvement of environmental well-being; and
- b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds)".

8. CONSTITUTIONAL POWERS

- 8.1 Constitution Part 3, Responsibility for Functions – Section 3, Responsibility for Executive Functions – All matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.
- 8.2 Constitution, Part 4, Council Procedure Rules, Management of Real Estate, Property and Land, paragraph 19 - All recommendations for approval of the sale price and other terms of disposal must contain a statement from the Chief Valuer or, if appointed, from suitably qualified external agents that the Council will obtain the best price which can reasonably be obtained or that there is

approval through the General Consent or that the consent of Central Government has been obtained or will be sought to enable the disposal of the property to proceed as recommended.

9. BACKGROUND INFORMATION

9.1 In July 2011 Cabinet agreed the Strategic Library Review, which set a clear direction for Barnet's library service. This included agreement of a recommendation to

Endorse continued negotiations with the Arts Depot Trust regarding the co-location and development of a new Landmark Library with arts, cultural and children's specialism within the Arts Depot site.

9.2 The Strategic Library Review includes the following assumptions:

- Achievement of £100,000 revenue saving in 2012/13 and £100,000 in 2013/14 arising from the merger of Friern Barnet and North Finchley libraries in artsdepot.
- Capital funding availability of £3million to deliver the strategy, derived from the disposal of library buildings declared surplus to requirements. In addition to the works at artsdepot, it is assumed that this funding would also enable the implementation of improved ICT infrastructure, and new models of library services elsewhere in the borough.

9.3 Officers have proceeded to enter negotiations with the Trust which have been very constructive, and are in the process of commissioning a feasibility study for a redevelopment of the building to accommodate Landmark Library provision. It is anticipated that the feasibility study will be completed, and costed, by the end of June 2012.

Lease agreement

9.4 The Council owns the Site known as Tally Ho Corner, North Finchley. The Council entered into a Development Agreement with Wilcon Homes Ltd in December 2001 for the development of the Site. Some of the obligations of the parties under the Development Agreement were as follows:-

- 1) Obligation on the Council to grant a Lease of the Site for a term of 999 years to Wilcon Homes Ltd/ or its successor/nominee. The Lease was granted in April 2002.
- 2) Obligation on Wilcon Homes or its successor to grant a lease of the Arts Centre (part of the Site) for a term of 125 years to the Council. The draft of the lease was agreed as part of the Development Agreement. The lease was granted to the Council in November 2004, with a commencement date of September 2004, at a peppercorn rent; the Council only being liable for service charges and business rates.

9.5 When the development of the Arts Centre was approved it was on the understanding that the Trust would have a 21 year under lease of the Arts Centre which, except for the lease length, would be on the same terms as those of the Council's superior lease.

- 9.6 Cabinet Resources Committee on 20 May 2004 authorised the grant of an underlease of the Arts Centre for 21 years, at a peppercorn rent to the Trust on the terms as outlined in the report. It was understood that, as the Trust would be entirely responsible for running the Arts Centre, that it could if required, grant sub-underleases to other organisations whose use would complement the operation of the Arts Centre.
- 9.7 The terms of the Underlease as authorised by Cabinet Resources Committee in 2004 has been agreed with the Trust, but the lease has not been completed. The length of the lease is 21 years from September 2004. Although the Trust has signed the lease, this has not been signed by the Council. The 2004 Cabinet Resources Committee authority was given subject to obtaining Secretary of State Consent to dispose of a property at less than the best consideration. From a recent valuation report provided by the District Valuer, the value of the lease to the Trust is below £2 million, so will fall within the General Consent.
- 9.8 The current proposal is for the Council to extend the length of the underlease to the Trust, subject to rights reserved to the Council, to provide library services within the building, the details of such provision to be set out in a schedule to the lease. The Trust has indicated their willingness to enter into a partnership agreement to establish a Landmark Library in the premises, subject to an extended underlease without a break clause.
- 9.9 The opportunity has arisen for the Trust to bid to Arts Council England for capital funding to enable the redevelopment of its facility. Arts Council England has informally indicated that such a bid would have a good chance of success if it were to be matched by
- Funding to achieve improvements to the public realm outside the building (already agreed through the Outer London Fund, see para 6.3 above)
 - Match funding from the Council related to costs arising from the incorporation of a Landmark Library in the building
- 9.10 The Trust has become increasingly successful in attracting local and regional audiences to its wide range of activities. As a result, space within its building is used increasingly intensively. In order to accommodate the quality and scale of Landmark Library described in the Library Strategic Review, it will be necessary to fundamentally review the layout of the building, and to create as many flexible spaces as possible. It is also proposed to seek to incorporate the building's corner retail unit, providing a cafe as part of a redesigned ground floor, to increase the attractiveness of the facility.
- 9.11 Officers believe that a redesign of this scale will make a significant contribution to the sustainability of both the Landmark Library and artsdepot, as well as delivering the objectives of the library strategy in the area. It is anticipated that a scheme of this scale will require investment beyond the level which could be afforded within the library strategy alone, and therefore the Arts Council England funding would be an important enabler for the scheme.
- 9.12 The application process for Arts Council England capital funding is understood to commence in June/ July 2012. Information relating to its capital funding programme on the Arts Council's website makes clear that funding of £1m - £5m is contingent upon

'freehold (registered or unregistered) or a registered and assignable lease of at least 20 years without a break clause'.

- 9.13 It is therefore proposed to agree with The Arts Depot Trust Limited:
- i) An underlease of the Arts Centre (known as artsdepot) to cover the period from September 2004 until a date 25 years after the completion of the works
 - ii) No break clause
 - iii) Peppercorn rent
 - iv) Assignable lease, subject to the formal consent of the Council and the head landlord
- 9.14 It is proposed that the Council will pay a proportionate service charge to the Trust in relation to its occupation of space in the building. This service charge will reflect the true costs of provision of services related to that occupation. It will not be possible to confirm the basis for calculation of that service charge until the design of the building has been agreed.
- 9.15 If the recommendation set out in section 1.2 of this report were to be approved, it is proposed to bring back a report to Committee in July outlining the proposals and associated costings arising from the feasibility study. That report will seek delegated authority to negotiate a partnership agreement with the Arts Depot, in consultation with the Portfolio Holder.
- 9.16 As the Strategic Library Review identified that a Landmark Library at artsdepot:

...is a preferred option for service delivery, given the additional benefits this could offer to the public and its positive impact on the effective use of resources.

no further options have been explored in the preparation of this report.

10. LIST OF BACKGROUND PAPERS

- 10.1 Strategic Library review
- 10.2 Arts Council capital investment programme

Cleared by Finance (Officer's initials)	JH/MC
Cleared by Legal (Officer's initials)	POJ & SWS

AGENDA ITEM: 12 Pages 97 - 101

Meeting	Cabinet Resources Committee
Date	4 April 2012
Subject	Variation and Extension of Contract with JADU Ltd
Report of	Cabinet Member for Customer Access and Partnerships
Summary	The report seeks: (i) authority to waive contract procedure rules to vary the contract with JADU Ltd by £20,000; and (ii) authority to extend the contract with JADU Ltd by £47,490.

Officer Contributors	Andrew Cox, Project Manager, One Barnet
Status (public or exempt)	Public
Wards affected	ALL
Enclosures	None
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in	Not applicable

Contact for further information: Andrew Cox, Project Manager ext. 4889

1. RECOMMENDATION

- 1.1 That Committee authorise a waiver of Contract Procedure Rule 5.6 to vary the contract with JADU Ltd by £20,000. This increase of 19% is greater than that allowed by the Contract Procedure Rule of a 10% variation.**
- 1.2 That Committee authorise the extension of the contract with JADU Ltd to July 2013 with an additional cost of £47,490 to give a total contract value of £171,629.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Delegated Powers Report 1235, 21 January 2011 – approved the appointment of JADU Ltd as a partner to the council and that the council enter into a contract with JADU Ltd.
- 2.2 Audit Committee at its meetings on 16th June 2011 and 6th September 2011 reviewed and agreed the Procurement Controls and Monitoring Action Plan produced following the comprehensive review of the Council's contract monitoring arrangements.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Corporate Plan 2011-13 states that “we will continue to drive costs out of the Council through transforming our internal organisation” and that we will focus on “...making sure we get the best value from resources across the public sector, including our people and our assets”. To meet the Council's corporate priority of “Better services with less money” there is a strategic goal to maximise improvements and savings in back office functions.
- 3.2 The aim of the proposed extension and variation to the JADU Ltd contract is to ensure that the Council's ‘One Barnet’ objectives are not hindered and that the council website can continue to be rolled out and supported. Therefore, this contract needs to be extended to cover the period between now and until any new service provider agreement under the NSCSO procurement is fully executed.

4. RISK MANAGEMENT ISSUES

- 4.1 There is a risk caused by a change in scope to the hosting element of the contract with JADU Ltd as this element, although mentioned within the specification, was not comprehensively evaluated. The risk was assessed as low to medium due to the hosting element of the contract being the minor element compared to the provision of the software, which the evaluation had focussed on.
- 4.2 Without the extension of this contract it will not be possible to maintain support for the council website past the end of July 2012.
- 4.2 Some of the savings identified in 2012-13 budgets are reliant on the new council website. If the waivers are not granted then there is a risk that the predicted savings may not be achieved.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Under the Equality Act 2010, the council and all other organisations exercising public functions on its behalf must have due regard to the need to: a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; b) advance equality of opportunity between those with a protected characteristic and those without; c) promote good relations between those with a protected characteristic and those without. The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation. It also covers marriage and civil partnership with regard to eliminating discrimination.
- 5.2 With respect to this decision the original procurement process asked questions of the bidders about their equalities policies and through the evaluation the evaluators were satisfied that these policies met the council's expectations.
- 5.3 The council's website, which this contract supports is open to all regardless of any protected characteristics.

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

- 6.1 The anticipated 2012 / 2013 spend relating to this contract is tabulated below. Any RPI/CPI increases will be in line with nationally published rates and will be subject to negotiation under the terms of the contract. The costs below (and variation with any RPI uplift) are funded within the existing IS budget provision.

Contract	Anticipated 2012 / 2013 spend	Comment
JADU Ltd	£47,490	Includes one year extension through to end July 2013 for support and maintenance of the website including additional modules to be purchased via the variation to the contract outlined in this report. Includes an 8 month extension through to end April 2013 for the hosting of the website (extension will allow time for NSCSO contract to go live and changes to be planned and implemented)

- 6.2 The contract variation of £20,000 is to enable the purchase of the ePay module and a pack of service days. These will be funded from the One Barnet budget allocated to Website Transformation within which there is sufficient budget to cover this spend. This is a variation of 19% of the original contract value.
- 6.3 There are no issues related to Staffing and Property
- 6.4 There is less than 10 months remaining before outsourcing of the service under NSCSO, leaving a short period of time to address and implement major procurement projects.

7. LEGAL ISSUES

- 7.1 The contract between the council and JADU Ltd was entered into in July 2011 for a period of one year, until July 2012 at a value of £104,139.

- 7.2 The contract with JADU Ltd includes a specific clause to allow the extension of the contract.
- 7.3 The contract value, including the value of the variation and extension is below the new European threshold of £173,934, which came into effect in January 2012. Consequently, the obligations imposed by the Public Contracts Regulations 2006 (as amended) are not triggered.
- 7.4 The Treaty provisions of equal treatment, fairness and non-discrimination must be complied with, by the council, in carrying out its functions and in exercising its powers.
- 7.5 With respect to the council's own Contract Procedure Rules, the Cabinet Committee has power to waive any one or more of those Rules if satisfied that waiver is justified on any one or more of the grounds set out in Section 8, below.
- 7.6 The extension and variation of the contract will be included in a supplementary document executed by the council and JADU Ltd.

8. CONSTITUTIONAL POWERS

- 8.1 The Constitution, Part 3, Section 3.6 sets out the functions of the Committee
- 8.2 Rule 5.8 of the Contract Procedure Rules enables a Cabinet Committee to waive the requirements of the Contract Procedure Rules if satisfied, after considering a written report by the appropriate officer, that the waiver is justified because:
 - 8.2.1 the nature of the market for the works to be carried out or the supplies or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of Contract Procedure Rules is justifiable; or
 - 8.2.2 the contract is for works, supplies or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
 - 8.2.3 the circumstances of the proposed contract are covered by legislative exemptions (whether under EU or English Law); or
 - 8.2.4 there are other circumstances which are genuinely exceptional.
- 8.3 Contract Procedure Rule 5.6 enables variation and extension to a contract provided that:
 - 8.3.1 in the case of a contract variation and in accordance with the terms and conditions of that contract:
 - 8.3.1.1 the variation is notified to and agreed in writing with the contractor;
 - 8.3.1.2 any additional expenditure necessarily incurred does not exceed 10% of the initial contract;
 - 8.3.2 in the case of an extension to a contract:
 - 8.3.2.1 the initial contract was based on a competitive tender or quotations;
 - 8.3.2.2 the initial contract has not been extended before; and

- 8.3.2.3 the value of the extension is less than half the cost of the existing contract without the extension and has a budget allocation.

Waiver of the Contract Procedure Rules is being sought, herein, on the basis of exceptional circumstances, in view of the complex nature of the contract which require variation; the time which it would take to carry out a full procurement process; and the impending externalisation of NSCSO to an external partner.

9. BACKGROUND INFORMATION

- 9.1 The procurement of JADU Ltd was approved in January 2011 by Delegated Powers Report 1235 following the conclusion of a competitive quotes exercise.
- 9.2 The contract when signed with JADU Ltd in July 2011 was for a value of £104,139, which although within the limit of the total contract value agreed by DPR 1235 varied significantly from the value used as part of the tender evaluation of £67,899. The difference between the contract value and the tender value is due to the inclusion of hosting for the website within the first year of the contract with JADU Ltd.
- 9.3 The contract variation, a total of £20,000 and 19% of the original contract value, is required to purchase:
- 9.3.1 The JADU ePay module which is a component of the software, not originally specified which enables the council to embed the receipt of payments within the structure of web forms to provide a better and more seamless customer experience and will provide considerable extra functionality to the website.
- 9.3.2 Service days which will be required for items such as the creation and installation of a development environment and other small tasks that will be required to maintain the website over the contract term.
- 9.4 The contract extension, for a total of £47,490 (46% of the original contract value), is required to extend the hosting from the current end date of July 2012 to April 2013 and support and licensing of the website from the current end date of July 2012 to July 2013..

10 LIST OF BACKGROUND PAPERS

None

Legal – SS
CFO – JH/MC

AGENDA ITEM: 13 Pages 102 – 117

Meeting	Cabinet Resources Committee
Date	04 April 2012
Subject	Provisional Outturn 2011/12
Report of	Cabinet Member for Resources and Performance
Summary	To consider the Provisional Outturn 2011/12 report and instruct officers to take appropriate action.
Officer Contributors	Maria G. Christofi – Assistant Director, Financial Services Catherine Peters – Head of Finance, Closing & Monitoring Antony Russell – Finance Manager, Closing & Monitoring
Status (public or exempt)	Public
Wards affected	Not applicable
Enclosures	Appendix A – Revenue Monitoring Directorate Appendix B – Capital Programme Adjustments Appendix C – Capital Monitoring Analysis
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in	Not applicable
Contact for further information:	Catherine Peters, Head of Finance, Closing & Monitoring, 020 8359 7142

1. RECOMMENDATIONS

- 1.1 That Directors take appropriate action to ensure costs are kept within budget and income targets are met. (Paragraph 9.1.2)**
- 1.2 That the following one off transfer from contingency for this financial year only be approved:**
 - One-off transfer for 2011/12 of £0.750m is requested from Contingency to Environment, Planning and Regeneration to fund historic budget pressures across the directorate. (Paragraph 9.3.2)**
- 1.3 That the Agency Costs be noted. (Paragraph 9.4.1)**
- 1.4 That Directors ensure that those capital projects in their services are managed closely to ensure they are delivered within budget and in accordance with the agreed timeframe. (Paragraph 9.5.1)**
- 1.5 That the proposed Capital additions/deletions totalling £0.505m and slippage of £9.445m as set out in Table 5 and Appendix C and the related funding implications summarised in table 3 be approved.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Council, 1 March 2011 (Decision item 8) – approved item 5.1.2 of the report of Cabinet 14 February 2011 - Council Budget and Council Tax 2011/12.
- 2.2 Cabinet Resources Committee, 29 June 2011 (Decision item 5) – approved the Outturn 2010/11.
- 2.3 Cabinet Resources Committee, 28 July 2011 (Decision item 5) – approved Month 2 Monitoring 2011/12.
- 2.4 Cabinet Resources Committee, 27 September 2011 (Decision item 9) – approved Quarter 1 Monitoring 2011/12.
- 2.5 Cabinet Resources Committee, 14 December 2011 (Decision item 9) – approved Quarter 2 Monitoring 2011/12.
- 2.6 Cabinet Resources Committee, 28 February 2012 (Decision item 6) – approved Quarter 3 Monitoring 2011/12.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 Robust budget and performance monitoring are essential to ensuring that there are adequate and appropriately directed resources to support delivery and achievement of Council priorities and targets as set out in the Corporate Plan. In addition, adherence to the Prudential Framework ensures capital expenditure plans remain affordable in the longer term and that capital resources are maximised.
- 3.2 'Ensure our support services effectively serve the organisation through high quality, high value services' and 'Manage resources and assets effectively and sustainably' represent two of the seven key objectives underlying the corporate priority 'Better services with less money' and the strategic objectives.
- 3.3 Relevant Council strategies and policies include the following:
 - Corporate Plan 2011-13;

- Medium Term Financial Strategy;
- Treasury Management Strategy;
- Debt Management Strategy;
- Insurance Strategy;
- Risk Management Strategy; and
- Capital, Assets and Property Strategy.

4. RISK MANAGEMENT ISSUES

- 4.1 The revised forecast level of balances needs to be considered in light of the risks identified in 4.2 below.
- 4.2 Various projects within the Council's revenue budget and capital programme are supported by time-limited grants. Where there are delays to the implementation of these projects, there is the risk the associated grants will be lost. If this occurs either the projects will be aborted or a decision to divert resources from other Council priorities will be required.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Financial monitoring is important in ensuring resources are used to deliver equitable services to all members of the community.

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

- 6.1 Robust budget and performance monitoring plays an essential part in enabling an organisation to deliver its objectives efficiently and effectively.
- 6.2 Use of Resources implications are covered within Section 9 of the body of the report and in the attached appendices.
- 6.3 The projected overspend of £0.351m is forecast to reduce General Fund balances from £15.780m to £15.429m. The General Fund balances are forecast to be above the recommended target level of £15m.

7. LEGAL ISSUES

- 7.1 Section 151 of the Local Government Act 1972 states that "every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs".
- 7.2 Section 28 of the Local Government Act 2003 imposes a statutory duty on the Council to monitor during the financial year its income and expenditure against the budget calculations. If the monitoring establishes that the budgetary situation has deteriorated, the Council must take such action as it considers necessary to deal with the situation.
- 7.3 Under the Equality Act 2010, the council and all other organisations exercising public functions on its behalf must have due regard to the need to: a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; b) advance equality of opportunity between those with a protected characteristic and those without; c) promote good relations between those with a protected characteristic and those without. The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation. With respect to a) the 'protected characteristics' also include marriage and civil partnership.

8. CONSTITUTIONAL POWERS

- 8.1 The Council's Constitution, in Part 3, Responsibility for Functions, sets out in paragraph 3.6 the functions of the Cabinet Resources Committee including:
- Monitor the trading position of appropriate Council services, carry out debt analysis and look at income sources and charging policies;
 - To write off debt;
 - To determine external or cross-boundary trading limit; and
 - Approval of schemes not in performance management plans but not outside the Council's budget or policy framework.
- 8.2 The Council's Constitution, Part 4, Financial Regulations Part 1 section 4.17 states the Chief Finance Officer will report in detail to Cabinet Resources Committee at least four times a year on the revenue and capital budgets and wider financial standing in addition to two summary reports at the beginning and end of the financial year.

9. BACKGROUND INFORMATION

9.1 2011/12 Revenue Monitoring

- 9.1.1 Table 1 gives a summary of the 2011/12 outturn analysis compared to the revised budget position. At the end of February the forecast outturn position was a net overspend of £0.351m. A breakdown of revenue monitoring by each service directorate is set out in Appendix A.

Table 1: 2011/12 Revenue Outturn Analysis – Summary

Description	Original Budget £'000	Revised Budget as at 29/02/12 £'000	Forecast Outturn as at 29/02/12 £'000	Forecast Outturn Variation as at 29/02/12 £'000	2010/11 Outturn £'000
Adults	98,867	99,566	99,566	-	108,065
Central Expenses	62,912	54,447	54,447	-	51,081
Chief Executive	10,558	11,345	11,050	(295)	11,620
Childrens Services	57,577	57,539	57,539	-	59,818
Commercial Services	14,633	16,191	16,429	238	15,786
Corporate Governance	5,939	6,052	5,923	(129)	5,706
Deputy Chief Executive	13,295	13,605	13,574	(31)	15,658
Environment, Planning & Regeneration	20,715	25,682	26,250	568	31,393
Total 2011/12 General Fund Forecast	284,496	284,427	284,778	351	299,127
Allocations agreed from GF Balances	-	-	-	-	-
General Fund Balances as at 01/04/11	-	-	-	(15,780)	-
Projected General Fund Balances (excluding schools balances) at 31/03/12	-	-	-	(15,429)	-

Description	Original Budget £'000	Revised Budget as at 29/02/12 £'000	Forecast Outturn as at 29/02/12 £'000	Forecast Outturn Variation as at 29/02/12 £'000
Housing Revenue Account	-	4	-	(4)

Description	Original Budget £'000	Revised Budget as at 29/02/12 £'000	Forecast Outturn as at 29/02/12 £'000	Forecast Outturn Variation as at 29/02/12 £'000
DSG	(167)	(103)	(652)	(549)

9.1.2 Directors are reminded that they are accountable for any budget variations within their services and the associated responsibility to ensure costs and income are managed within agreed budgets. To ensure this is successfully achieved, it is essential that Directors develop action plans for all significant emerging variances, with the aim of ensuring that overall expenditure is kept within the total budget available.

9.2 Revenue Outturn Commentary

9.2.1 The Council's overall revenue position has changed from the projected underspend of £0.269m at the end of quarter 3 to a projected overspend of £0.351m at the end of month 11. The Council's target level of balances is £15m, and is currently projected to remain above that level at £15.429m.

9.2.2 Specific areas for concern are Commercial Services and Environment, Planning & Regeneration. The overspend in Commercial Services is due to the additional cost of providing agency cover for key posts. The overspend in Environment, Planning & Regeneration is due to reduced professional fee income from capital schemes. This has been reduced as a result of further Local Implementation Plan (LIP) and Outer London Fund capital works, but remains overspent. Pressures within Environment, Planning & Regeneration also remain as a result of the requirement to meet contractual obligations on planned maintenance, additional responsive works and lower crossover fees resulting from fewer footway schemes and additional costs arising from the February snowfalls.

9.2.3 These are high risk areas and it is important to ensure the budget and performance of the service is managed to prevent this having an impact on the following year's budget 2012/13.

9.2.4 Children's Service identified and reported non-recurrent underspends in quarter 3. Monies are being invested in line with Children's Service priorities to support the achievement of next year's savings.

9.2.5 There have been the following improvements in the forecast outturn position in both the Chief Executive and Corporate Governance Directorates compared to quarter 3. The improvement is mainly attributed by an underspend resulting from staff vacancies and a reduction in Library Service costs in the Chief Executive Directorate, and unexpected legal recoveries in Corporate Governance.

9.2.6 As part of the 2011/12 budget setting process the council was required to deliver total savings of £29.1m. The savings in respect of the leisure contract and the waste contract (£500k and £171k respectively) were not achievable, funding was allocated from contingency to cover these items. All other 2011/12 savings have been implemented.

9.3 Movements to and from Contingency

9.3.1 The movement from Contingency requested below has been assumed in the Revenue Monitoring in Table 1 and Appendix A.

9.3.2 The Environment, Planning and Regeneration directorate are requesting a one-off transfer for 2011/12 of £0.750m from contingency to fund historic budget pressures across the directorate.

9.4 Agency Costs

9.4.1 The table below details all agency staff costs incurred for months 10 and 11 of 2011/12.

Table 2: Agency Costs to 29 February 2012

	2010/11	Quarter 1 2011/12	Quarter 2 2011/12	Quarter 3 2011/12	Months 10 and 11 2011/12		
Directorate	Total Agency & Consultants expenditure £'000	Total Agency & Consultants expenditure £'000	Total Agency & Consultants expenditure £'000	Total Agency & Consultants expenditure £'000	Agency Spend £'000	Consultants Spend £'000	Total Agency and Consultants Expenditure* £'000
Adult Social services	2,218	269	469	396	297	85	382
Chief Executive' Service	1,025	183	208	179	345	198	543
Childrens' Services	8,241	2,258	1,683	3,228	625	1,370	1,995
Commercial **	3,273	401	872	989	349	491	840
Corporate Governance	234	83	53	71	110	-	110
Deputy Chief Executive	2,867	804	877	633	310	17	327
Environment, Planning & Regeneration	5,244	2,361	1,051	666	403	336	739
Totals	23,102	6,359	5,213	6,162	2,439	2,497	4,936

* Data as at 29 February 2012 includes revenue (£2.808m) and capital spend (£2.128m).

** Commercial includes "One Barnet" project expenditure £0.062m (Agency) and £0.454m (Consultants).

9.5 **2011/12 Capital Programme Monitoring**

9.5.1 Directors are reminded that they need to continue to ensure that capital projects are closely managed during 2011/12 to ensure that they are delivered within budget and in accordance with the agreed timeframe.

9.6 Capital Monitoring Analysis

9.6.1 Table 3 gives a summary of the 2011/12 capital programme. The capital monitoring summary and scheme details by service directorate is set out in Appendix B

Table 3: 2011/12 Provisional Capital Outturn – Summary

	2011/12 Latest Approved Budget	Additions/ Deletions recommended to April CRC	Slippage / Accelerated Spend recommended to April CRC	2011/12 Budget (including April CRC)	Forecast to year-end	Variance from Revised Budget
	£'000	£'000	£'000	£'000	£'000	£'000
Adult Social Services	1,198	-	(352)	846	846	(352)
Central Expenses	5,088	-	(4,088)	1,000	1,000	(4,088)
Chief Executive Services	1,330	-	(10)	1,320	1,320	(10)
Children's Service	22,312	-	(695)	21,617	21,617	(695)
Commercial Services	3,008	-	(1,231)	1,777	1,777	(1,231)
Corporate Governance	2	-	-	2	2	-
Deputy Chief Executive Services	547	-	-	547	547	-
Environment, Planning & Regeneration	18,369	505	(3,068)	15,806	15,806	(2,563)
General Fund Programme	51,854	505	(9,444)	42,915	42,915	(8,939)
HRA Capital	21,581	-	(1)	21,580	21,580	(1)
Total Capital Programme	73,435	505	(9,445)	64,495	64,495	(8,940)

9.7 Proposed changes to the Capital Programme

9.7.1 Appendix C gives details of and seeks approval for the proposed changes to the Capital Programme. These include proposed additions and deletions as well as budget movements.

Table 4: Capital Funding Changes

	Grants	S106 / Other	Capital Receipts	Revenue	Borrowing	Total
	£'000	£'000	£'000	£'000	£'000	£'000
Adult Social Services	(352)	-	-	-	-	(352)
Central Expenses	-	-	(4,088)	-	-	(4,088)
Chief Executive Services	-	-	(10)	-	-	(10)
Children's Service	(792)	-	-	-	97	(695)
Commercial Services	-	-	(965)	-	(266)	(1,231)
Corporate Governance	-	-	-	-	-	-
Deputy Chief Executive Services	-	-	-	-	-	-
Environment, Planning & Regeneration	(33)	(158)	(401)	311	(2,282)	(2,563)
General Fund Programme	(1,177)	(158)	(5,464)	311	(2,451)	(8,939)
HRA Capital	-	-	(1)	-	-	(1)
Total Capital Programme	(1,177)	(158)	(5,465)	311	(2,451)	(8,940)

9.7.2 The movement relates to the addition to the Disabled Facilities Mandatory project in Environment, Planning & Regeneration and accelerated spend on the Primary School Capital Investment programme Whitings Hill (£0.207m) and the Green Bin programme (£0.057m).

- 9.7.3 Table 5 details the main programmes with slippage. There is slippage for capitalised redundancies (£4.088m) as redundancies have been minimised through the savings process and have been re-profiled over four years.
- 9.7.4 There is slippage in Highways (£2.189m) which relates to the Colindale Development Area for which final payments for utilities and contractors is expected to roll over to 2012/13, and to the re-profiling of spend on the capitalisation of planned maintenance of carriageways and footways.
- 9.7.5 The slippage in School Modernisation & Improvement (£0.665m) mostly represents re-profiling of money to accurately reflect when retention payments will be paid. The Barnet House Response Unit programme has slippage (£0.369m) as the work to deliver this has been put on hold pending the outcome of a review of the council's accommodation strategy.
- 9.7.6 The Corporate IM platform has slippage of £0.283m as the programme was held while the corporate Information Strategy was commissioned and delivered in the second half of 2011/12.
- 9.7.7 Where there is capital slippage, the spend is planned to be incurred in future years and has been re-profiled appropriately.

Table 5: Capital Slippage / Accelerated Spend recommended to April CRC

Capital Programme	Slippage / Accelerated Spend recommended to April CRC £'000
Broadfields Supported Living developments	(0.280)
Capitalised Redundancies	(4.088)
Urgent Primary places	(0.237)
School Modernisation & Access Improvement	(0.665)
IS Refresh	(0.268)
Depot Relocation	(0.158)
Barnet House Response Unit	(0.369)
Corporate IM Platform	(0.283)
Finchley Lido roof repair	(0.180)
Hendon Cemetery and Crematorium enhancement	(0.120)
Highways – non TFL	(2.189)
Mill Hill East Regeneration	(0.250)
Hostel refurbishment	(0.149)
Other programmes with individual slippage under £0.100m	(0.473)
Primary School Capital Investment programme Whittings Hill	0.207
Green Bin programme	0.057
Total	(9.445)

10. LIST OF BACKGROUND PAPERS

10.1 None.

Legal – SS

CFO – MC/JH

Revenue Monitoring Directorate
Appendix A
Adults

Description	Variations					Comments
	Original Budget	Budget V1	Actuals to period 11 2011/12	Forecast Outturn 2011/12	Variation	
	£000	£000	£000	£000	£000	
Care Services - Learning Disabilities	34,596	34,933	29,292	35,509	576	Work is ongoing with providers to reduce costs while managing rising demand. Increased overspend is the part year effect of new clients. Work is ongoing to move clients on from Residential Care to Supported Living and other Community support. Risks in this area include increase in Autism diagnosis and continuing health care placements. Work is ongoing to continue to manage demand pressure on purchasing budgets for adults with a physical disability whilst work in ongoing to reshape services. In year this pressure has been managed through the deployment of non recurrent funding for social care through the NHS to address winter pressures. Savings from holding vacant posts to offset overspend in Care Services Delays in filling staff vacancies
Care Services - Mental Health	6,766	6,805	5,372	6,711	(94)	
Care Services - Older Adults - Physical Disabilities	43,513	44,475	35,805	44,258	(217)	
Transformation & Resources	2,984	3,589	3,226	3,354	(235)	
Strategic Commissioning & Supply Management	11,069	9,825	4,342	9,795	(30)	
Government Grant Income	(61)	(61)	-	(61)	-	
Total	98,867	99,566	78,037	99,566	-	

Central Expenses

Description	Variations					Comments
	Original Budget	Budget V1	Actuals to period 11 2011/12	Forecast Outturn 2011/12	Variation	
	£000	£000	£000	£000	£000	
Corporate Subscriptions	314	314	275	314	-	
Levies	27,926	27,926	26,601	27,926	-	
Central Contingency	9,199	1,045	-	1,045	-	
Rate Relief	433	433	-	433	-	
Capital Financing	17,219	17,219	199	17,219	-	
Early Retirement costs	7,004	7,004	2,750	7,004	-	
FRS17 Adjustment	-	-	-	-	-	
Car Leasing	2	2	-	2	-	
Corporate Fees & Charges	799	799	438	799	-	
Miscellaneous Finance	16	(295)	(40)	(295)	-	
CDC DRM	-	-	-	-	-	
Total	62,912	54,447	30,223	54,447	-	

Chief Executive

Description	Variations					Comments
	Original Budget	Budget V1	Actuals to period 11 2011/12	Forecast Outturn 2011/12	Variation	
	£000	£000	£000	£000	£000	
Strategic Directors	652	601	411	566	(35)	The ACE budget is currently predicting an under spend of £128,000 due mainly to staff vacancies'.
Assistant Chief Executive Service	2,015	2,296	2,171	2,168	(128)	
Grants	840	826	849	828	2	Customer services & Libraries have large savings to make in 2012/13 and therefore we have been very prudent in seeking to enter the new financial year with a level of expenditure that is on a downward trend.
Library Services	5,738	5,749	5,160	5,681	(68)	
Customer Services & Registration	1,314	1,873	1,574	1,807	(66)	
Total	10,559	11,345	10,165	11,050	(295)	

Childrens' Services						
Description	Variations					Comments
	Original Budget	Budget V1	Actuals to period 11 2011/12	Forecast Outturn 2011/12	Variation	
	£000	£000	£000	£000	£000	
CHILDREN'S SERVICE - GENERAL FUND						
Management Team	793	1,045	1,017	1,188	143	One off costs incurred this year. This figure includes an additional £178k of legal costs for social care.
Social Care Division						
Social Care Management	2,784	2,398	1,888	2,156	(242)	Savings on staff costs held to offset overspend in children in care.
Children In Care	19,880	20,211	18,769	20,651	440	Overspend on aborted assessments, payments to clients and legal costs. An additional £80k of legal costs incurred in this financial period.
Children In Need	4,189	4,232	3,973	4,291	59	Overspend on salary due to agency staff
Schools & Learning	2,423	2,073	1,522	1,959	(114)	Vacant post held to offset overspends in other areas.
Safeguarding, Partnerships & Prevention						
Safeguarding	1,086	1,122	1,122	1,224	102	Increase in case load for year.
Early Intervention & Prevention (BRSI)	10,453	8,982	5,644	8,743	(239)	Non-recurrent savings of staff costs as recruitment for Family Focus service took longer than projected.
Integrated Youth & Play Services	3,887	5,083	3,687	4,840	(243)	Savings on staff and planned savings for next year achieved early.
Access to Learning & Complex Needs	10,107	10,432	8,236	10,468	36	
Other Children's Service Budgets (including PPP & Schools Funding)	1,975	1,961	1,703	2,019	58	One off costs relating to contracting and procurement
Schools Direct Management	-	-	(14,483)	-	-	
Total	57,577	57,539	33,078	57,539	-	
Commercial Services						
Description	Variations					Comments
	Original Budget	Budget V1	Actuals to period 11 2011/12	Forecast Outturn 2011/12	Variation	
	£000	£000	£000	£000	£000	
Corporate Programmes & Consultancy	86	753	3,392	876	123	Additional cost of providing agency cover for key posts
Property Services & Asset Management	7,075	8,049	7,988	8,006	(43)	Underspend due to backdated income received.
Corporate Procurement	413	264	542	455	191	Overspend due to agency staff.
Information Systems	7,059	7,125	6,440	7,092	(33)	Underspend due to decrease in IT software costs.
One Barnet Programme	-	-	-	-	-	
Total	14,633	16,191	18,362	16,429	238	

Corporate Governance						
Description	Variations					Comments
	Original Budget	Budget V1	Actuals to period 11 2011/12	Forecast Outturn 2011/12	Variation	
	£000	£000	£000	£000	£000	
Legal Services	1,850	1,920	1,734	1,891	(29)	Due to large unexpected recoveries which offsets part of the overspend on legal costs & counsel fees
Democratic Services	884	971	851	1,002	31	Overspend due to agency costs and the Committee replacement system
Members	1,591	1,591	1,337	1,463	(128)	Underspend from vacant post
Corporate Anti Fraud Team	733	719	621	677	(42)	Mainly due to income from HRA recharges part offsetting Avalanche costs
Elections	423	407	1,293	477	70	Pressure on budget due to a need to achieve Corporate Plan target for Electoral Registration
Civil Protection	177	177	106	155	(22)	Underspend on part year vacancy
Corporate Governance Directors	279	266	196	270	4	Overspend due to supplies and services
Leaders Office	10	10	3	3	(7)	Underspend on supplies and services
Insurance	(8)	(9)	(32)	(15)	(6)	Insurance recharged to services
Total	5,939	6,052	6,109	5,923	(129)	
Deputy Chief Executive						
Description	Variations					Comments
	Original Budget	Budget V1	Actuals to period 11 2011/12	Forecast Outturn 2011/12	Variation	
	£000	£000	£000	£000	£000	
Finance	3,917	4,059	4,205	4,059	-	
Human Resources	2,091	2,240	2,190	2,215	(25)	Additional income from schools traded services (e-recruitment) and a reduced agency spend forecast
Revenues and Benefits	7,287	7,306	207,792	7,300	(6)	
Total	13,295	13,605	214,187	13,574	(31)	

Environment, Planning & Regeneration						
Description	Variations				Variation	Comments
	Original Budget	Budget V1	Actuals to period 11 2011/12	Forecast Outturn 2011/12		
	£000	£000	£000	£000	£000	
Land Charges	(960)	(904)	(733)	(876)	28	Adverse variance due to higher than expected slow down in income during December and January
Environmental Health/ Cem & Crem	1,199	1,200	1,503	1,413	213	Lower than expected Cem & Crem income partly due to mild winter
Planning	471	620	988	790	170	Overspend due to establishment pressures and higher than budgeted running costs including legal expenditure for anticipated planning appeal cases.
Strategy (Planning & Housing)	580	730	897	730	-	
Building Control	(320)	(76)	(136)	(173)	(97)	Favourable variance due to staff savings off setting income pressures
Housing	1,613	4,186	2,607	3,930	(256)	TA running cost savings & reduction in void penalties
Regeneration Service	16	41	(29)	(156)	(197)	Underspent represents an increase in income from Regeneration buybacks
Management and performance	73	639	1,201	516	(123)	Savings on directorate-wide running costs
Highways Inspection/Maintenance	2,155	1,372	2,632	2,801	1,429	There is a continued overspend relating to reduced professional fee income from capital schemes however this projected overspend has been reduced as a result of further LiP & Outer London Fund capital works. Pressures remain as a result of the requirement to meet contractual obligations on planned maintenance, additional responsive works, and lower crossover fees resulting from fewer footway schemes and additional costs arising from the February snowfalls.
Highways income budgets incl. NRSWA	(589)	(899)	(1,247)	(968)	(69)	Staff savings in NRSWA activity has offset the income pressure from crossover rechargeable works.
Greenspaces	4,229	5,151	3,831	5,224	73	Overspend relates repairs and grounds maintenance costs for King George Playing Fields, urgent works carried out at Childs Hill and also high agency costs.
Cleansing	4,486	4,591	4,156	4,543	(48)	Underspend relates to a hold on the purchasing of new equipment.
Refuse (domestic and trade waste)	3,558	3,646	2,957	3,541	(105)	Underspend in Trade Waste due to higher sales income arising from fees and new business and additional income from skip collections.
Parking	(1,164)	(1,312)	(1,095)	(1,244)	68	Overspend relates to the shortfall in Off Street parking income, due to adverse economic conditions. The underspend in Parking Design is due to more rechargeable activity than initially anticipated.
Transport	(66)	11	759	(350)	(361)	Surplus is due to the transport savings from Street Cleansing and Refuse fleet retained within Transport and also the reduction of Spot Hire charges, recharged to users at cost.
Recycling	3,373	3,510	3,025	3,231	(279)	Extra income being generated from recycled materials and the Biodegradable Incentive Payment from the NWLA.
Street Lighting	5,320	6,021	2,786	6,043	22	Pressure from legal fees.
Community Safety	388	368	135	233	(135)	Underspend includes savings from project work and staff savings
Community Protection	1,223	1,253	978	1,109	(144)	Underspend relates to staff savings from vacant posts.
Leisure	1,053	1,568	1,430	1,552	(16)	Budget saving on running costs, pending outcome of leisure review.
WOM	-	-	1	-	-	
Environment, Planning & Regeneration	26,638	31,716	26,646	31,889	173	
Special Parking Account	(5,923)	(6,034)	(4,188)	(5,639)	395	The income target for permits continues to be a pressure within the SPA, also additional agency staff have been employed to deal with the backlog within Parking Processing. Additional costs have also been incurred for server moves.
Environment, Planning & Regeneration Total (inc SPA)	20,715	25,682	22,458	26,250	568	

Dedicated Schools' Grant						Comments
Description	Variations					
	Original Budget	Budget V1	Actuals to period 11 2011/12	Forecast Outturn 2011/12	Variation	
CHILDREN'S SERVICE - DSG	£000	£000	£000	£000	£000	
SEN Placements, Recoupment & Therapies	9,176	11,589	5,067	11,081	(508)	Reduction in out of borough placements, reducing costs in year and saving on procurement of therapies.
Pupil Referral Unit	1,514	1,681	1,514	1,678	(3)	
Other Centrally Retained Schools Budgets	12,859	12,805	8,683	12,767	(38)	
ISB	248,278	210,455	196,401	210,455	-	
DSG & LSC Grant	(271,994)	(236,633)	(209,172)	(236,633)	-	
Total	(167)	(103)	2,493	(652)	(549)	
Housing Revenue Account						
Description	Variations					Comments
	Original Budget	Budget V1	Actuals to period 11 2011/12	Forecast Outturn 2011/12	Variation	
Housing Revenue Account	£000	£000	£000	£000	£000	
LBB Retained	1,632	1,635	1,485	1,604	(31)	Realignment of establishment between GF and HRA
HRA Regeneration	1,091	1,093	3,197	885	(208)	Anticipated recovery of consultants costs from developers
HRA Other Income and Expenditure (net)	(5,118)	(5,118)	(1,891)	(4,942)	176	Additional rent for Mosaic properties
Support Service recharges	576	576	-	731	155	Based on 2 months actuals & thus projected using figures from the recharge team
Interest on Balances	(40)	(40)	-	(80)	(40)	Based on 10/11 actuals and the forecasted HRA financial performance.
HRA Surplus/Deficit for the year	1,859	1,858	-	1,802	(56)	Total HRA surplus to be transferred to balance sheet
Total	-	4	2,791	-	(4)	

	2011/12 Latest Approved Budget	Additions/ (Deletions) recommended to April CRC	(Slippage) / Accelerated Spend recommended to April CRC	2011/12 Budget (including April CRC)	Forecast to year- end	Variance from Approved Budget	% slippage of 2011/12 Approved Budget
	£000	£000	£000	£000	£000	£000	%
Mental Health and Adults Personal Social Services Allocations	1,198	-	(352)	846	846	(352)	(29%)
Adult Social Care & Health	1,198	-	(352)	846	846	(352)	(29%)
Capitalised Redundancies	5,088	-	(4,088)	1,000	1,000	(4,088)	(80%)
Central Expenses	5,088	-	(4,088)	1,000	1,000	(4,088)	(80%)
Schools Access Initiatives	41	-	-	41	41	-	-
Schools Modernisation & Access Improvement Programmes	5,140	(115)	(665)	4,360	4,360	(780)	(13%)
Urgent Primary Places							
Temporary Expansions - Allocated	1,976	115	(188)	1,903	1,903	(73)	(10%)
Other Temporary Expansions	1,359	-	-	1,359	1,359	-	-
Broadfields	1,755	-	-	1,755	1,755	-	-
Other Permanent Expansions - Allocated	1,285	-	(49)	1,236	1,236	(49)	(4%)
Surestart Programme	194	-	-	194	194	-	-
Major School Rebuild Total	294	-	-	294	294	-	-
Primary Schools Capital Investment Programme	766	-	207	973	973	207	27%
East Barnet Schools Rebuild	1,033	-	-	1,033	1,033	-	-
Other Schemes	8,469	-	-	8,469	8,469	-	-
Children's Service	22,312	-	(695)	21,617	21,617	(695)	(3%)
Capital Schemes Managed by Schools	2,568	-	-	2,568	2,568	-	-
Capital Schemes Managed by Schools	2,568	-	-	2,568	2,568	-	-
Corporate Governance Projects	2	-	-	2	2	-	-
Corporate Governance	2	-	-	2	2	-	-
Chief Executive Services	1,330	-	(10)	1,320	1,320	(10)	(1%)
Chief Executive Services	1,330	-	(10)	1,320	1,320	(10)	(1%)
Deputy Chief Executive Services	547	-	-	547	547	-	-
Deputy Chief Executive Services	547	-	-	547	547	-	-
Commercial Services	3,008	-	(1,231)	1,777	1,777	(1,231)	(41%)
Commercial Services	3,008	-	(1,231)	1,777	1,777	(1,231)	(41%)
CCTV	84	-	(84)	-	-	(84)	(100%)
Greenspaces & Leisure	670	-	(282)	388	389	(282)	(42%)
Highways - non-TfL	6,334	212	(2,189)	4,357	4,357	(1,977)	(35%)
Highways - TfL	6,327	(129)	-	6,198	6,198	(129)	-
Parking	1,078	15	(51)	1,042	1,041	(36)	(5%)
Waste	94	-	57	151	151	57	61%
Housing Association Programme	-	-	-	-	-	-	-
General Fund Regeneration	1,364	-	(250)	1,114	1,114	(250)	(18%)
Disabled Facilities Projects	2,043	407	-	2,450	2,450	407	-
Housing Management System	-	-	-	-	-	-	-
Other Projects	375	-	(269)	106	106	(269)	(72%)
Environment, Planning and Regeneration	18,369	505	(3,068)	15,806	15,806	(2,563)	(17%)
General Fund Programme	51,854	505	(9,444)	42,915	42,915	(8,939)	(18%)
HRA Capital	21,581	-	(1)	21,580	21,580	(1)	-
Total Capital Programme*	73,435	505	(9,445)	64,495	64,495	(8,940)	(13%)

*Excludes Capital Schemes Managed by Schools

Directorate	Year	Capital Programme	Funding Type	if Additions/Deletions Amount (£'000)	if Slippage/Accelerated Amount (£'000)	Explanation for request
Children's Service	2011/12	Modernisation 2008/09	Borrowing	(38)		Re-profiling money to contingency 2011/12
Children's Service	2011/12	Modernisation 2011/12	Borrowing	38		Re-profiling money from Modernisation 2008/09
Children's Service	2011/12	Modernisation 2010/11	Borrowing	(35)		Re-profiling money to Unallocated
Children's Service	2011/12	Modernisation 2011/12	Borrowing	35		Re-profiling money to Unallocated
Children's Service	2011/12	Modernisation 2011/12	Grant	72		Re-profiling money to Danegrove Winsor Drive Windows and Guttering
Children's Service	2011/12	Modernisation 2011/12	Grant	(72)		Re-profiling money from Unallocated
Children's Service	2011/12	Modernisation 2011/12	Grant	(21)		Re-profiling money within projects
Children's Service	2011/12	Modernisation 2011/12	Grant	21		Re-profiling money within projects
Children's Service	2011/12	Modernisation 2011/12	Grant	(97)		Re-profiling money within projects
Children's Service	2011/12	Modernisation 2011/12	Grant	97		Re-profiling money within projects
Children's Service	2011/12	Modernisation 2011/12	Borrowing	54		Re-profiling money from Unallocated to Tudor Roof
Children's Service	2011/12	Modernisation 2011/12	Borrowing	(54)		Re-profiling money from Unallocated to Tudor Roof
Children's Service	2011/12	Modernisation 2011/12	Grant	20		Re-profiling money from Unallocated to Underhill infants & juniors heating to dining hall
Children's Service	2011/12	Modernisation 2011/12	Grant	(20)		Re-profiling money from Unallocated to Underhill infants & juniors heating to dining hall
Children's Service	2011/12	Modernisation 2011/12	Grant	5		Re-profiling money from Unallocated to Woodridge Dining hall floor replacement
Children's Service	2011/12	Modernisation 2011/12	Grant	(5)		Re-profiling money from Unallocated to Woodridge Dining hall floor replacement
Children's Service	2011/12	Modernisation 2011/12	Grant	12		Re-profiling money from Unallocated to Mapledown
Children's Service	2011/12	Modernisation 2011/12	Grant	(12)		Re-profiling money from Unallocated to Mapledown
Children's Service	2011/12	Modernisation 2011/12	Grant	5		Re-profiling money from Unallocated to Coppetts wood access control
Children's Service	2011/12	Modernisation 2011/12	Grant	(5)		Re-profiling money from Unallocated to Coppetts wood access control
Children's Service	2011/12	Modernisation 2011/12	Grant	25		Re-profiling money from Unallocated to pupil referral unit fire escape
Children's Service	2011/12	Modernisation 2011/12	Grant	(25)		Re-profiling money from Unallocated to pupil referral unit fire escape
Children's Service	2011/12	Urgent Primary Places (Permanent)-Orion Rebuild	Grant		(49)	Re-profiling of money from 2011/12 to 2012/2013 based on project milestones
Children's Service	2011/12	Modernisation 2008/09	Borrowing	3		Re-profiling money from Unallocated to Hendon re-wire
Children's Service	2011/12	Modernisation 2008/09	Borrowing	(3)		Re-profiling money from Unallocated to Hendon re-wire
Children's Service	2011/12	Modernisation 2008/09	Borrowing	3		Re-profiling money from Unallocated to QE Girls - Rewire
Children's Service	2011/12	Modernisation 2008/09	Borrowing	(3)		Re-profiling money from Unallocated to QE Girls - Rewire
Children's Service	2011/12	Modernisation 2008/09	Borrowing	3		Re-profiling money from Unallocated to Summerside
Children's Service	2011/12	Modernisation 2008/09	Borrowing	(3)		Re-profiling money from Unallocated to Summerside
Children's Service	2011/12	Modernisation 2008/09	Borrowing		(80)	Re-profiling of money from 2011/12 into 2012/13
Children's Service	2011/12	Modernisation 2009/10	Borrowing	4		Re-profiling money from Unallocated to Hollickwood
Children's Service	2011/12	Modernisation 2009/10	Borrowing	(4)		Re-profiling money from Unallocated to Hollickwood
Children's Service	2011/12	Modernisation 2010/11	Grant	1		Re-profiling money from Unallocated to Underhill Dining Hall Roof
Children's Service	2011/12	Modernisation 2010/11	Grant	(1)		Re-profiling money from Unallocated to Underhill Dining Hall Roof
Children's Service	2011/12	Modernisation 2010/11	Grant	1		Re-profiling money from Unallocated to Northway Special School - Gas Main repair
Children's Service	2011/12	Modernisation 2010/11	Grant	(1)		Re-profiling money from Unallocated to Northway Special School - Gas Main repair
Children's Service	2011/12	Modernisation 2010/11	Borrowing	(115)		Collating Dollis Hill project costs under one programme
Children's Service	2011/12	Urgent Primary Places (Temporary)	Borrowing	115		Collating Dollis Hill project costs under one programme
Children's Service	2011/12	Modernisation 2010/11	Borrowing		(30)	Re-profiling of money from 2011/12 into 2012/13 based on Holly Park project milestones
Children's Service	2011/12	Modernisation 2010/11	Grant	13		Re-profiling money from Unallocated to Brunswick Park Early Years Building replacement
Children's Service	2011/12	Modernisation 2010/11	Grant	(13)		Re-profiling money from Unallocated to Brunswick Park Early Years Building replacement
Children's Service	2011/12	Modernisation 2011/12	Grant		(5)	Re-profiling of money from 2011/12 into 2012/13 based on St Margaret's roof project milestones
Children's Service	2011/12	Modernisation 2011/12	Grant		(72)	Re-profiling of money from 2011/12 into 2012/13 based on Moss Hall infant & junior roof project milestones
Children's Service	2011/12	Modernisation 2011/12	Grant		(45)	Re-profiling of money from 2011/12 into 2012/13 based on Bell Lane roof project milestones
Children's Service	2011/12	Modernisation 2011/12	Grant		(69)	Re-profiling of money from 2011/12 into 2012/13 for Tudor roof based on project milestones
Children's Service	2011/12	Modernisation 2011/12	Grant		(5)	Re-profiling of money from 2011/12 into 2012/13 for Hampden way roof based on project milestones
Children's Service	2011/12	Modernisation 2011/12	Grant		(40)	Re-profiling of money from 2011/12 into 2012/13 for Dollis Infant Windows based on project milestones
Children's Service	2011/12	Modernisation 2011/12	Grant		(11)	Re-profiling of money from 2011/12 into 2012/13 for Northside school roof based on project milestones
Children's Service	2011/12	Modernisation 2011/12	Grant		(4)	Re-profiling of money from 2011/12 into 2012/13 for Foulds structural floor based on project milestones
Children's Service	2011/12	Modernisation 2011/12	Grant		(45)	Re-profiling of money from 2011/12 into 2012/13 for Bell lane boiler room based on project milestones

Children's Service	2011/12	Modernisation 2011/12	Grant		(15)	Re-profiling of money from 2011/12 into 2012/13 for Summerside infants boiler room based on project milestones
Children's Service	2011/12	Modernisation 2011/12	Grant		(35)	Re-profiling of money from 2011/12 into 2012/13 for Grasvenor boiler room based on project milestones
Children's Service	2011/12	Modernisation 2011/12	Grant		(6)	Re-profiling of money from 2011/12 into 2012/13 for Summerside Junior improvements based on project milestones
Children's Service	2011/12	Modernisation 2011/12	Grant		(53)	Re-profiling of money from 2011/12 into 2012/13 for Cromer Road based on project milestones
Children's Service	2011/12	Modernisation 2011/12	Grant		(150)	Re-profiling of money from 2011/12 into 2012/13 for Summerside mobile based on project milestones
Children's Service	2011/12	Urgent Primary Places (Temporary)	Grant		(184)	Re-profiling of money from 2011/12 into 2012/13 for Moss Hall Juniors based on project milestones
Children's Service	2011/12	Urgent Primary Places (Temporary)	Grant		(4)	Re-profiling of money from 2011/12 into 2012/13 for Manorside based on project milestones
Children's Service	2011/12	PSCIP- Wave 1 - Whitings Hill	Borrowing		200	Accelerated spend from 2012/13 into 2011/12 based on programme milestones
Children's Service	2011/12	PSCIP- Wave 1 - Broadfields	Borrowing		7	Accelerated spend from 2012/13 into 2011/12 based on programme milestones

AGENDA ITEM: 14

Page nos. 118 - 125

Meeting	Cabinet Resources Committee
Date	4 April 2012
Subject	Freehold Disposal of Surplus Lands adjacent to Broadfields School and Northway Fairway School
Report of	Cabinet Member for Resources and Performance
Summary	To report the offers received for the Council's freehold interest in the surplus land adjacent to both Broadfields School and Northway Fairway School, and to seek approval to revise the terms of sale so as to offer the areas of land separately on an informal tender basis. Subject to the prior consent of the Secretary of State to the disposal of the sites, the results of the informal tender process to be reported to Cabinet Resources Committee for consideration prior to any tender being accepted.

Officer Contributors	Siobhan Reade, Principal Valuer
Status (public or exempt)	Public (with separate exempt report)
Wards Affected	Edgware & Hale
Key Decision	No
Reason for urgency / exemption from call-in	N/A
Function of	Executive
Enclosures	Drawing no:24196/2- Land adjacent to Broadfields School Drawing no:24197/3- Land adjacent to Northway Fairway School
Contact for Further Information:	Siobhan Reade, Principal Valuer, Tel: 020 8359 7360 siobhan.reamde@barnet.gov.uk

1. RECOMMENDATIONS

- 1.1 That the Council's freehold interest in the surplus lands adjacent to Broadfields School, Edgware and Northway Fairway School, Mill Hill, as shown outlined in red on the attached drawings numbered 24196/2 and 24197/3, be offered for sale on an informal tender basis.**
- 1.2 Subject to the prior consent of the Secretary of State to the disposal of the sites, to report the results of the tendering process to Cabinet Resources Committee for consideration prior to any offer being accepted.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet 4 September 2006 (Decision item 9) approved the part financing of the Primary School Capital Investment Programme (PSCIP) by the sale of surplus land separately or through the Strategic Partnership, as determined during the procurement process.
- 2.2 Leaders Delegated Powers Report (No.1435) dated 29 September 2011 approved the marketing of the Council's freehold interest in the surplus lands adjacent to both Broadfields School and Northway Fairway School on a binding tender basis and, subject to the prior consent of the Secretary of State to the disposal of the sites, to report the offers received to a future meeting of Cabinet Resources Committee for consideration prior to acceptance.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Corporate Plan 2011-2013 commits the Council to delivering 'Better services with less money'. A key principle of the medium term financial strategy is to continually review the use of Council assets so as to reduce the cost of accommodation year on year and to obtain best consideration for any surplus assets to maximise funds for capital investment and/or the repayment of capital debt. The sale of the surplus lands identified adjacent to both Northway Fairway School and Broadfields School will provide a capital receipt which will assist in offsetting any prudential borrowing which was made for the delivery of the PSCIP programme.

4. RISK MANAGEMENT ISSUES

- 4.1 It is proposed that the sites identified be offered for sale by way of informal tender. It is likely that the highest offers for both sites will be achieved through proposals for residential development. Although Officers are providing planning guidance for both sites, higher density levels may be achieved in the future by subsequent planning applications. In such event and in order to mitigate this risk so that the Council will receive additional consideration, an overage provision will be included within any sale transfer. This will support the Council's obligations under S.123 of the Local Government Act 1972 which requires local authorities to dispose of land for the best consideration reasonably obtainable.

- 4.2 Schedule 35A to the Education Act 1996 applies to the disposal or appropriation of any land at a community school, including buildings and playing fields, by a local authority where that land has been used wholly or mainly for such a school in the last 8 years. Both Northway Fairway and Broadfields School fall within this category so it is necessary for the Council to make applications to the Secretary of State to dispose of both sites. As part of the application process it is necessary for the Secretary of State to consult with the relevant governmental departments to satisfy themselves that the sites are not suitable for use by an Academy Trust or Free School. If following the outcome of that consultation those government department considers either site to be suitable for continued educational use then the Council will be unable to proceed with the proposed sale of that site.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Pursuant to the Equality Act 2010, the Council and all other organisations exercising public functions on its behalf must have due regard to the need to: eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; advance equality of opportunity between those with a protected characteristic and those without; promote good relations between those with a protected characteristic and those without. The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; Sexual orientation. It also covers marriage and civil partnership with regard to eliminating discrimination.
- 5.2 The Council is committed to improving the quality of life and wider participation for all in the economic, educational, cultural, social and community life of the Borough.
- 5.3 It is not considered that the proposals will give rise to any issues under the Council's Equalities policies and that they do not compromise the Council in meeting its statutory equalities duties.

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

- 6.1 There are no procurement, performance and value for money, staffing, IT or sustainability implications. The property implications are set out in paragraph 8 below. Offers following the binding tender process are set out in the exempt report.
- 6.2 The financial implications are set out in the exempt report. All costs associated with this disposal will be met from existing commercial budgets.

7. LEGAL ISSUES

- 7.1 The areas of land included in these proposals are owned by the London Borough of Barnet. Section 123 of the Local Government Act 1972 allows the

council to dispose of land in any manner it wishes. However, the ability to dispose of land is not unfettered. Section 123 of the 1972 Act requires the council to dispose of land at the best price reasonably obtainable.

7.2 Playing Fields

7.2.1 In accordance with Section 77 of the School Standards and Framework Act 1998 a local authority must obtain the Secretary of State's consent to dispose of school land where the land is being used, or has within the last 10 years been used by the school as a playing field. However, this consent is not required where the land in question is land in respect of which the Secretary of State has given a general consent. The Department for Children, Schools and Families has confirmed that the proposed disposals fall within the terms of the general consent under Section 77 of the 1998 Act.

7.2.2 Even though a general consent applies to the proposed disposals under Section 77 of the 1998 Act, it does not obviate the need to also obtain the Secretary of State's consent under Schedule 35A to the Education Act 1996. Local authorities must obtain such consent where the playing fields in question have been used wholly or mainly for the purposes of a community school in the last 8 years. Accordingly applications have been made for the Secretary of State's consent under Schedule 35A to the 1996 Act.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Constitution Part 3, Responsibility for Functions – Section 3.6 - Functions delegated to the Cabinet Resources Committee – All matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.
- 8.2 Constitution, Part 4, 'Management of Real Estate, Property and Land' - Rule 1 - The 'Property Review Process' requires properties to be considered in the context of the Corporate Plan and Service Key Priorities and their ability to deliver continuing value for money for the council.
- 8.3 Constitution, Part 4, 'Management of Real Estate, Property and Land' - Rule 2 - Provides that where property is no longer required by the Council then the procedures set out in the remainder of the Rules will be followed for the disposal of the property.
- 8.4 Constitution, Part 4, 'Management of Real Estate, Property and Land' - Rule 10 – Provides that where disposal is to be by open tender, the designated officer will advertise the property and seek competitive tenders reserving the right not to accept the highest or any bid. Advertisements are to be placed in two newspapers circulating in the borough and in such other publication as the designated officer considers necessary. The closing date for bids must be not less than two weeks after the latest publication date.

9. BACKGROUND INFORMATION

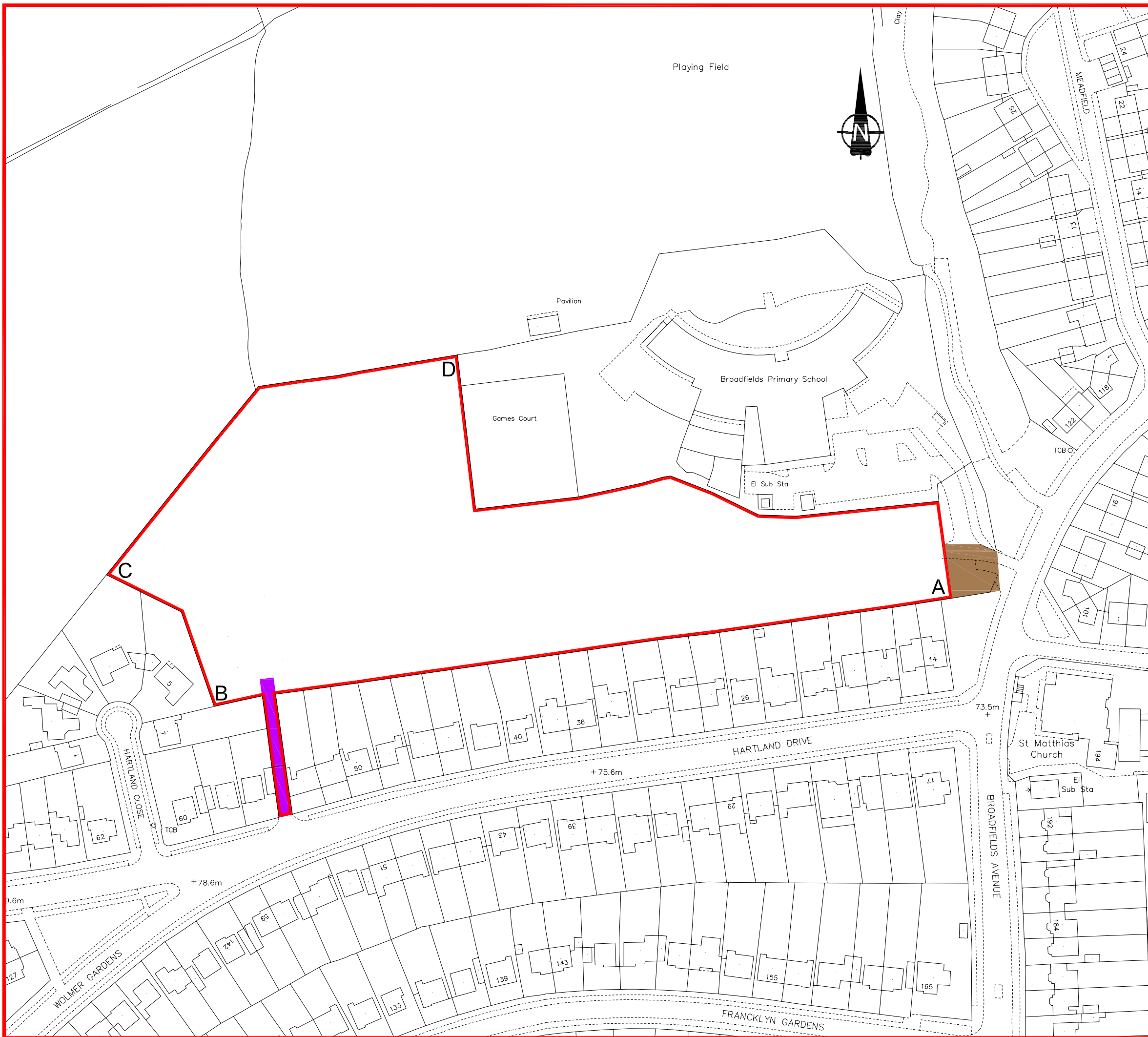
- 9.1 At its meeting on 4 September 2006, the Cabinet resolved to proceed with Wave 1 of the Primary Schools Capital Investment Programme (PSCIP). The first wave included the re-building of both Broadfield School and Northway Fairway School and the construction of both has now been completed. The re-build programme included reviewing the use of land and buildings, and due to the new configuration of both schools, surplus land has been identified. These areas of land are shown edged red on the attached drawings numbered 24196/2 and 24197/3.
- 9.2 It was anticipated that a significant proportion of the funding for PSCIP would come from capital receipts achieved from the disposal of surplus school land. The potential receipts were assessed at the beginning of the programme and values were reported to Cabinet. However, due to the economic crisis the original values have now decreased.
- 9.3 Section 123 of the Local Government Act 1972 allows local authorities to dispose of land in any manner they wish. However, the ability to dispose of land is not unfettered. Local authorities are required to dispose of land for the best consideration reasonably obtainable.
- 9.4 In accordance with a decision taken by the Leader of the Council in September 2011, the Council's freehold interest in the surplus lands adjacent to Broadfields School and Northway Fairway School were offered to the market on a binding tender basis. Throughout the process officers received a number of enquiries from interested parties for both sites and whilst there was significant appeal, concerns were raised with regards to the terms of sale.
- 9.4 Although a binding tender creates a degree of certainty in terms of timescale and a 'level playing field', it also requires all prospective purchasers to carry out detailed investigations of the properties at their own expense. Therefore, unless the market is strong for the property on offer, the number of bids likely to be received will be less than if a property was offered by way of informal tender or private treaty. This is now the confirmed position following the tender closing date of 16 January 2012.
- 9.5 With the uncertainties in the current financial market, and forecasters still predicting a possible double-dip recession, developers are finding it more difficult to secure funding for any acquisition and particularly those which carry any element of risk. Without planning permission being secured on the sites, developers are more likely to seek to acquire sites on a non-binding basis in order to de-risk the transaction.
- 9.6 Offers received following the tender process are set out in the exempt report. Although the terms of sale required offers to be made on a binding basis, following the tender closing date of 16 January 2012 the Council received three unsolicited non-binding offers which were higher. This confirmed that the Council would not be complying with their statutory obligations under s.123 Local Government Act 1972 to obtain best consideration for their assets, if one of the binding offers were accepted

- 9.7 Following completion of the binding tender exercise, it is clear that the Council will not realise the full potential of both sites through this tender process. Developers are reluctant to offer on a binding tender basis due to the potential risk associated with failing to secure a planning consent. Therefore, it would be more prudent for the sites to be re-advertised on a two stage tender process. This process would be non-binding and subject to planning.
- 9.8 Following completion of the first stage, selected bidders would be invited to work up their planning proposals within a specific period of time followed by a submission of their best and final offers once the planning position had been satisfied. This would ensure the Council achieved the maximum potential for the sites and a commitment from the prospective purchaser to complete the purchase.
- 9.9 The sites will be tendered separately and, as both are currently held for educational purposes, it is necessary for the Council to seek consent from the Secretary of State for their disposal. The Department for Children, Schools and Families has confirmed that the proposed disposals fall within the terms of the general consent under Section 77 of the School Standards and Framework Act 1998. However, as both sites have been wholly or mainly used for the purposes of a community school within the last 8 years, Schedule 35A to the Education Act 1996 will apply and the Secretary of State's consent must be sought. An application for consent has been submitted and officers are currently awaiting a decision. Part of the consultation following the Council's application requires the Secretary of State to consider the government's new policies in connection with Free Schools and Academies. This is to ensure that the sites are surplus and cannot be used for another school. The disposal of these sites is, therefore, conditional on the Council receiving the above consent to dispose.

10. LIST OF BACKGROUND PAPERS

10.1 None

Cleared by Finance (Officer's initials)	JH
Cleared by Legal (Officer's initials)	SWS



NOTES:

- Disposal Site
- Land to be Transferred subject to any access rights
- Access Land

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Revision and Date	Description	Initial
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Craig Cooper,
Commercial Director.

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Tel. 020 8359 2000

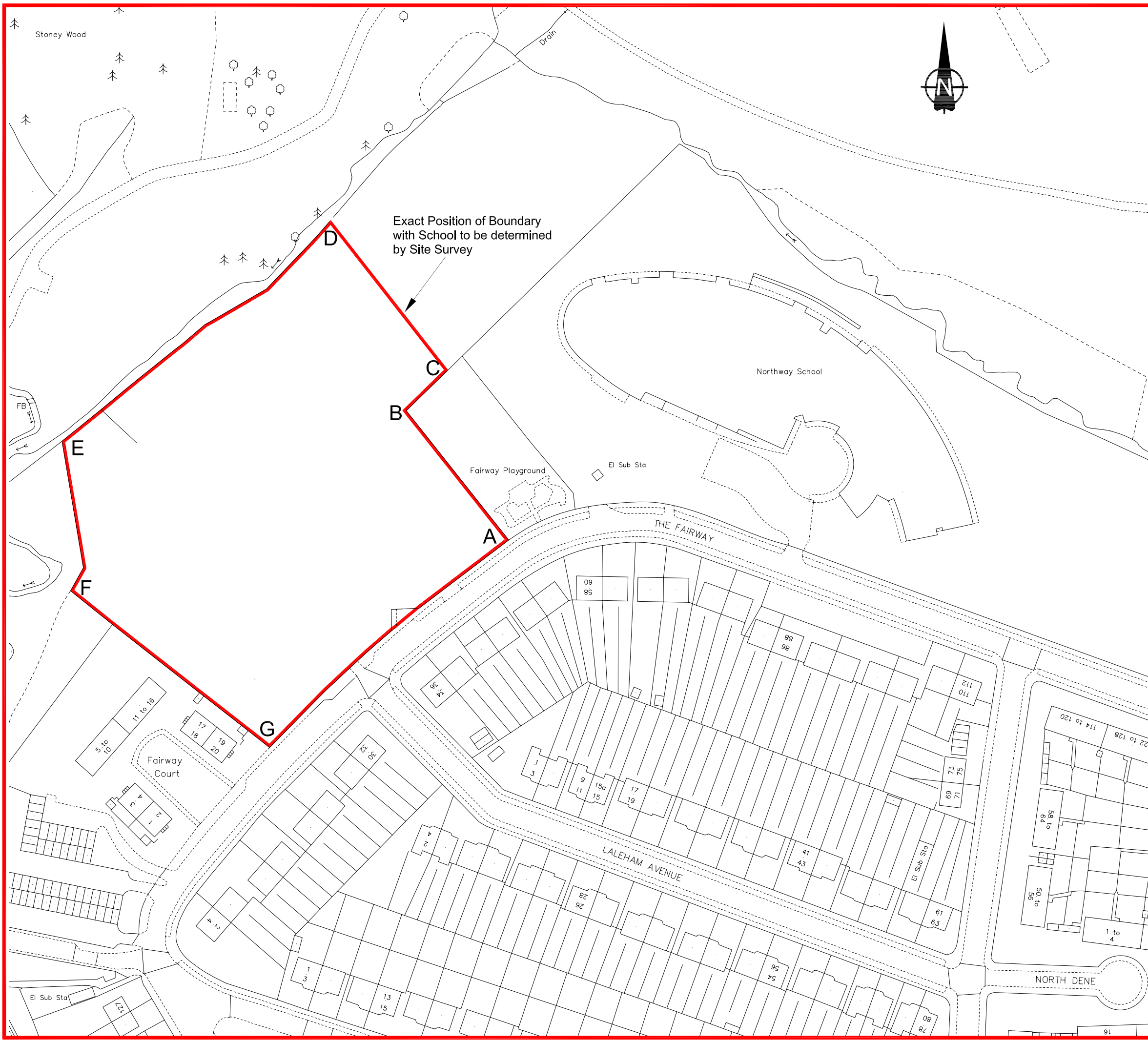


SCHEME:
**SURPLUS LAND ADJACENT TO
BROADFIELDS SCHOOL
ROSEBERRY DRIVE, EDGWARE**

TITLE:
DISPOSAL PLAN

Scales:	1:1250	Date:	02/11/11
Initiated:	S.O'D	Drawn:	K.E.B.
		Checked:	S.O'D.

DRAWING NO:
24196/2



NOTES:

Disposal Site

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Revision and Date	Description	Initial
A 10/01/12	Amended Boundary with School	

Craig Cooper,
Commercial Director.

London Borough of Barnet,
North London Business Park,
Oakleigh Road South,
New Southgate,
London, N11 1NP
Tel. 020 8359 2000



SCHEME:
**SURPLUS LAND ADJACENT TO
NORTHWAY FAIRWAY SCHOOL,
THE FAIRWAY, MILL HILL, NW7**

TITLE:
DISPOSAL PLAN

Scales: 1:1250	Date: 10/01/12
Initiated: S.O'D	Drawn: K.E.B.
	Checked: S.O'D.

DRAWING NO:
24197/3

AGENDA ITEM: 15

Pages 126 – 130

Meeting	Cabinet Resources Committee
Date	4th April 2012
Subject	2 Salisbury Road, High Barnet, EN5
Report of	Cabinet Member for Resources and Performance
Summary	To report the proposed disposal of the council's freehold interest in 2 Salisbury Road, Barnet, to UBS, the freehold owners of the Spires Shopping Centre.

Officer Contributors	Judith Ellis – Valuation Manager Lucy Shomali – Assistant Director – Strategic Planning and Regeneration
Status (public or exempt)	Public, with separate exempt report
Wards affected	High Barnet Ward
Enclosures	None
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

Contact for further information: Judith Ellis, Valuation Manager, 020 8359 7364, Judith.ellis@barnet.gov.uk.

1. RECOMMENDATIONS

- 1.1 That the property is declared surplus to the council's requirements.**
- 1.2 That the disposal of the council's freehold interest in 2 Salisbury Road to UBS, is approved on the terms detailed in this report.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 None.**

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Corporate Plan commits the Council to delivering better services with less money. A key principle of the medium term financial strategy is to continually review the use of council assets so as to reduce the cost of accommodation year on year and to obtain best consideration for any surplus assets to maximise funds for capital investment and/or the repayment of capital debt. This proposal does this by producing a capital receipt for the Council.
- 3.2 The Corporate Plan also commits the Council to delivering a successful London suburb with a key strategic objective being the creation of an environment within which business and enterprise can flourish through the development of Planning Frameworks to promote improvement and manage new development in key town centres including Chipping Barnet.

4. RISK MANAGEMENT ISSUES

- 4.1 There is a potential risk in disposing of an asset without marketing of a challenge that a less than best transaction has been agreed should an offer be submitted without marketing that exceeds the independent valuation, the inability of a purchaser to deliver the strategic objectives of the council in terms of the improvements required under the proposed framework agreement, would result in the bid being rejected. The transaction may then be considered a less than best transaction. However if the difference between the restricted and unrestricted value is less than £2 million, this would fall within the general consent.
- 4.2 It is considered that the financial offer submitted by UBS does represent best value in financial terms, and an independent report from the VOA will be commissioned to support this.
- 4.2 The tenants of the building are holding over under leases that have expired. The proposed disposal would be subject to suitable alternative accommodation being offered by UBS to enable vacant possession and for UBS to implement their development proposals.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The proposals have been considered and will not give rise to any issues under the Council's Equalities Policy and do not compromise the Council in meeting its statutory equalities duties.

5.2 The loss of a community facility, will be addressed by UBS in providing an alternative location for the lessees within the Spires Development, together with arrangements for temporary relocation during any construction period.

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

6.1 There are no procurement, performance and value for money, staffing, IT or sustainability implications. The financial and property implications are set out below.

6.2 UBS will bear the councils reasonable legal costs in this matter.

7. LEGAL ISSUES

7.1 Any disposal of land must comply with the provisions of Section 123 of the Local Government Act 1972 in that except with the consent of the Secretary of State, a council shall not dispose of land under this section otherwise than for the a consideration less than the best that reasonably be obtained.

7.2 The freehold will be sold subject to the occupation by the BOPW and IPOP.

8. CONSTITUTIONAL POWERS

8.1 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 and buildings owned, rented or proposed to be acquired or disposed of by the Council.

9. BACKGROUND INFORMATION

9.1 The council own the freehold interest in 2 Salisbury Road, Barnet, a single storey detached building on a site with a total area of approximately 550 square metres, shown outlined on the attached plan

9.2 The property is occupied by the BOPW who are holding over under a lease which expired on 2nd April 2009, at a rent of £3000 pa, and IPOP who's lease expired on 4th July 2010 at a rent of £4950 pa.

9.3 The premises are located on a parcel of land adjoining the Spires Shopping Centre and provides a key site for the expansion of the Spires.

9.4 The council are currently developing a Planning Framework for the northern end of Chipping Barnet Town centre to include The Spires Shopping Centre, Barnet Market Site and Territorial Army (TA) centre. The Framework sets out the key policy and development issues affecting this area and identifies that through new development there is an opportunity, if managed pro-actively, to support the rejuvenation of the wider town centre. The Framework is being consulted on during March/April with a view to formal adoption by the council in summer 2012

- 9.5 The Framework sets out a number of development objectives for this part of the town centre which include enlargement of the retail offer to help achieve a “critical mass” of development to enhance the vitality and viability of the town centre. Specifically in relation to The Spires the Framework considers that this can be achieved through:
- enhancing and expanding the offer provided by the Spires through opening up its current frontage and improving pedestrian linkages through the centre;
 - exploring opportunities to incorporate Barnet Market into the Spires thereby creating a retail triangle between the High Street/the Spires and Barnet Market and enhancing access and visibility of all three retail offers;
 - improving the layout of units to encourage take up by established retailers thereby providing further anchor attractions to encourage footfall to this part of the centre;
- 9.6 The framework area includes the site of 2, Salisbury Road as it is considered that this site could provide an opportunity (subject to planning) to facilitate internal reconfiguration/limited extension to The Spires to create larger units to attract a wider range of High Street stores.
- 9.7 UBS are proposing to acquire the council's interest in the building in order to deliver a first phase of their proposals for enhancement of the shopping centre through creation of a number of larger units which will attract a wider range of high street retailers and improve the quality of the retail offer provided. UBS have submitted a bid for the site as detailed in the exempt report, which is considered to represent best value. An independent valuation has been requested from the Valuation Office, to confirm that this has been achieved.
- 9.9 The tenants have been consulted and provisional agreement has been reached with BOPW for relocation subject to planning. In addition the disposal will not be marketed as the delivery of this strategic requirement is only available to the freehold owner of the shopping centre.
- 9.10 However an expression of interest has been received from a private developer for the site, with a proposal for an infill development. An initial bid as detailed in the exempt report has been submitted, with confirmation that the freehold interest will be accepted subject to the occupation by the BOPW and IPOP.
- 9.11 In view of the council's strategic requirement to enhance and rejuvenate this location by expanding the Spires shopping centre, it is proposed that the offer is rejected.
- 9.13 In order to achieve a capital receipt from the site, secure the relocation of the lessees, and provide the opportunity for the rejuvenation of the spires shopping centre, it is recommended that approval is given to the disposal as detailed in this report.

LIST OF BACKGROUND PAPERS

- 10.1 None.

AGENDA ITEM: 16 Pages 131 – 137

Meeting	Cabinet Resources Committee
Date	4 April 2012
Subject	Extension of Heating / Fuel Oil Contract
Report of	Cabinet Member for Resources and Performance
Summary	To extend the existing Contract with Pace Fuelcare for the supply of heating / fuel oil at Corporate Buildings and Schools for a period of 18 months from 1st December 2011.

Officer Contributors	Praful Ladwa Procurement Manager (Commercial Services) Nigel Bell Energy Resource Manager (Commercial Services)
Status (public or exempt)	Public
Wards affected	All
Enclosures	Annex A – List of Establishments
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable
Contact for further information:	Praful Ladwa, Procurement Manager, 020 8359 7057. Nigel Bell Energy Resource Manager 020 8359 4571

1. RECOMMENDATIONS

- 1.1 That, as the value of the proposed contract extension is more than half the cost of the existing contract without the extension, the Council's Contract Procedure Rule 5.6.1.3 be waived.**
- 1.2 That, subject to 1.1 above being agreed, the Director of Commercial Services be authorised to extend the existing Contract with Pace Fuelcare for the supply of heating fuels at Corporate Buildings and Schools for a period of 18 (eighteen) months from the 1st December 2011 to 31st May 2013.**
- 1.3 The estimated value of the contract based on existing usage is approximately £182,798 per annum with an estimated overall contract value of £274,197 over the 18 month contract duration.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Acting Director of Corporate Services approved the award of Contract to Pace Fuelcare following a competitive tendering process DPR 969 16th December 2009

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Corporate Plan 2011- 2013 commits the Council to delivering 'Better services with less money'. To protect participating authorities such as the Council and to limit their exposure to significant price increases the Government Procurement Service (GPS, formerly OGC BuyingSolutions) renegotiated the existing framework agreement in order to secure greater price certainty. Reviewing and negotiating contractual arrangements supports the delivery of better services with less money.
- 3.2 The Council seeks to obtain value for money in the negotiation of contract extensions. However, the controlling of cost of fuel is not a simple matter as many global socio-economic factors that are beyond the control of the Council will influence the cost of fuel. The current cost of fuel is significantly more than the cost of fuel at the commencement of the current contract. Other contractual arrangements were explored in order to support the Corporate Plan objectives but none had been identified that would deliver an overall cost reduction and the recommendation to extend the current contract limits the cost impact to the Council.

4. RISK MANAGEMENT ISSUES

- 4.1 The contract with Pace Fuelcare expired on 30 November 2011. Unless the contract is extended the Council's corporate buildings and schools would not have a contracted oil supply and alternative arrangements would have to be sought.
- 4.2 The GPS has mitigated any risk to supply through renegotiating and extending the current call off arrangement and migrating participating authorities into the new arrangement, thus allowing the Council's corporate buildings and schools to continue ordering supplies as normal.

4.3 Officers will continue to ensure that Pace Fuelcare are compliant with all the service requirements detailed within the contract.

5. EQUALITIES AND DIVERSITY ISSUES

5.1 Pursuant to the Equality Act 2010, the Council and all other organisations exercising public functions on its behalf must have due regard to the need to: eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; advance equality of opportunity between those with a protected characteristic and those without; promote good relations between those with a protected characteristic and those without. The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; Sexual orientation. It also covers marriage and civil partnership with regard to eliminating discrimination.

5.2 Pace Fuelcare demonstrated that they can support the Council's equalities obligations when they submitted their tender. There have not been any negative equalities issues arising during the course of the current contract.

5.2 There is ongoing contract monitoring carried out by the GPS, to ensure that there is evidence of the contractor undertaking training.

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

6.1 GPS continually monitor the energy markets and track the price and level of margins that suppliers apply. The continued volatility in the commodity markets in particular for oil and oil based products has led to sharp increases in both the weekly price and supplier margins.

6.2 GPS had two options which they could take prior to the end of the framework agreement:

- a. Undertake a Mini Competition. This was carried out, but it was found that margins had significantly increased from 2009.
- b. Negotiate a variation to the existing framework agreement.

6.2 In order to protect participating authorities such as the Council and to limit their exposure to significant price increases the GPS renegotiated the existing framework agreement in order to secure greater price certainty. GPS has managed to secure supplier margins at the levels agreed in 2009. It is noted that Eastern Shires Purchasing Organisation (ESPO), which has a similar framework agreement is achieving supplier margins which are typically greater than this.

6.3 The GPS's Legal Department has confirmed that the approach taken to vary the term of the original two year framework agreement is lawful.

6.4 The term of any call off contract has also been extended until 31 May 2013, which is the termination date of the main framework agreement.

- 6.5 The estimated value of the contract based on existing usage is approximately £182,798 per annum with an estimated overall contract value of £274,197 over the 18 month contract duration.
- 6.6 Corporate sites account for approximately 19% of the annual oil usage equating to a contract value of £53k, (£47k Commercial Services and £6k Environment Planning and Regeneration) while education sites account for the remaining 81% and a contract value of £221k. The contract costs will be managed within the budgets identified.

7. LEGAL ISSUES

- 7.1 Contract Procedure Rule 5.6 sets out the Acceptance Parameters for Contract Additions, Extensions and Variations and Authorisation Parameters for Contract Novations and Assignments. These provisions include the following:

“5.6.1 In the case of an extension to a contract:

5.6.1.1 The initial contract was based on a competitive tender or quotations;

5.6.1.2 the initial contract has not been extended before; and

5.6.1.3 the value of the extension is less than half the cost of the existing contract without the extension and has a budget allocation”.

- 7.2 Procurement processes must comply with the European procurement rules and the Treaty obligations of transparency, equality of treatment and non discrimination as well as the Contract Procedure Rules (CPR's).
- 7.3 A framework is an agreement between a client and a contractor or contractors or consultant or consultants (depending upon the nature of the framework), the purpose of which is to establish the terms governing particular call-off contracts that may be awarded during the term of the framework, in particular with regard to price and quantity. The advantage of establishing framework agreements is that as long as the original framework agreement has been advertised and let in accordance with the EU procurement rules, there is no requirement to advertise any subsequent call-off contracts let under the framework agreement even where those call-off contracts exceed the stipulated financial threshold for works and services.
- 7.4 Appropriate legal documentation will need to be drawn up and executed to extend the existing contract.

8. CONSTITUTIONAL POWERS

- 8.1 Constitution, Part 3 – Responsibility for functions, section 3 – Responsibility of the Executive, paragraph 3.6 – terms of reference of the Cabinet Resources Committee
- 8.2 Constitution, Part 4 – Contract Procedure Rules - The Acceptance thresholds for contract additions, extensions and variations are as set out in Table 5-2. Where the contract value is greater than £156,422, authority of the Cabinet Committee must be sought.

8.3 Constitution, Part 4 – Contract Procedure Rules, section 5.8 - provides that a Cabinet Committee may waive the requirements of the Contract Procedure Rules if satisfied that the waiver is justified because:

“5.8.1 the nature of the market for the works to be carried out or the supplies or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of Contract Procedure Rules is justifiable; or

5.8.2 the contract is for works, supplies or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or

5.8.3 the circumstances of the proposed contract are covered by legislative exemptions (whether under EU or English Law); or

5.8.4 there are other circumstances which are genuinely exceptional”

8.4 This report seeks a waiver of the Contract Procedure Rules for the extension of the Contract with Pace Fuelcare for the supply of heating fuels at Corporate Buildings and Schools for a period of 18 (eighteen) months from the 1st December 2011 to 31st May 2013 on the basis of Contract Procedure Rule 5.8.1.

9. BACKGROUND INFORMATION

9.1 The previous contract for the supply of heating fuels at Corporate Buildings and Schools was awarded following a mini tender that was managed by OGC BuyingSolutions (now GPS) and tendered during late 2009 for a fixed period of two years.

9.2 The initial contract period secured the level of supplier's margin that would be applied to the base cost of heating fuel for which the contract price is agreed on a weekly basis. In 2009 the level of supplier margin was fixed at 2.17 pence per litre and an average weekly price of 38 pence per litre.

9.2 Heating fuel is traded on commodity markets and the price fluctuates depending upon the current political and environmental factors that can affect the certainty of supply. The estimated value of the contract based on existing usage is approximately £182,798 per annum.

9.3 The average weekly price for heating fuel for October 2011 was 53 pence per litre. The price of heating fuel increased dramatically in the winter of 2010 due to adverse weather reaching a high of 70 pence per litre and currently averages 56 pence per litre.

9.4 Budget responsibility is held by each of the service areas responsible for the establishments listed in Annex A of this report with over 80% of the usage assigned to schools. It should be noted that the number of Council establishments requiring deliveries of heating fuel has dropped as more and more convert to gas fired boilers.

9.5 Fuel oil consumption has dropped to 328,228 litres per annum for 2011 in comparison to 374,000 litres in 2009.

10. LIST OF BACKGROUND PAPERS

10.1 None.

Legal – SWS
CFO – JH

Annex A- List of Establishments

Site Name	Address 1	Address 2	Usage (litres)
Non Education Sites			
Colinhurst House	168 Station Road	Hendon	0
Edgwarebury Park Pavilion	Edgwarebury Lane	Edgware	1,200
Grahame Park Boiler House	Long Mead	Colindale	0
Mill Hill Depot	Bittacy Hill	Mill Hill	55,548
North London Business Park	Oakleigh Road South	Barnet	0
Oakhill Park Pavilion	Parkside Gardens	East Barnet	6,500
Education Sites			
All Saints CE School	Oakleigh Road North	Whetstone	17,579
Brookland Junior School	Hill Top	Hampstead Garden Suburb	6,846
Claremont Primary School	Claremont Road	Cricklewood	29,005
Danegrove Junior School	Ridgeway Ave	East Barnet	18,300
Deansbrook Junior School	Hale Drive	Mill Hill	10,000
Goldbeaters Primary School	Thirleby Road	Edgware	39,008
Sacred Heart RC Primary School	2 Oakleigh Park South	Whetstone	20,166
St Johns CE Primary School	Crescent Road	Friern Barnet	60,502
St Josephs RC Infants School	Watford Way	Hendon	14,771
St Josephs RC Junior School	Watford Way	Hendon	25,500
Summerside Primary School	Crossway	Finchley	21,503

AGENDA ITEM: 17

Pages 138 - 146

Meeting	Cabinet Resources Committee
Date	4 th April 2012
Subject	Information Systems Contracts
Report of	Deputy Leader and Cabinet Member for Resources and Performance
Summary	The report seeks: (i) waiver of, relevant, rules within the Council's Contract Procedure Rules to enable regularisation of contractual arrangements within Information Systems; (ii) authority to regularise contracts; and (iii) authority to extend a number of Information System Contracts.

Officer Contributors	Andrew Gee, Acting Head of Information Systems Service Delivery
Status (public or exempt)	Public
Wards affected	ALL
Enclosures	None
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in	Not applicable
Contact for further information:	Andrew Gee, Head of IS Service Delivery ext. 3362

1. RECOMMENDATION

That the committee waives relevant Contract Procedure Rules and:

- 1.1 Authorise the variation of the, existing, contract between the council and 2e2 who currently provide the council with a managed service for infrastructure. , authorise additional spend associated with the Telephone technology refresh project, and Infrastructure refresh activity, cost £350,000. Authorisation required to spend £18,000 to provide a contract management e-learning module for staff.**
- 1.2 Authorise spend with Hewlett Packard (HP) for the current financial year until March 2012 cost £295,000.**
- 1.3 Authorise spend with Insight for the current financial year until March 2013, to include purchase of HP products. Spend for 2011-12 £328,000, forecast spend for 2012-13 £450,000.**
- 1.4 Authorise regularisation of the contract with Caretower. Authorisation is required to spend £15,930 this financial year to pay outstanding maintenance and to spend a further £15,930 in the forthcoming financial year till 31st March 2013;**
- 1.5 Authorise continued interim Software Maintenance payments to cognite for the Committee Papers System of £19,200 per annum,**
- 1.6 Authorise continued Software Licensing and support on the LANDesk System currently supported by Sparxent Europe Ltd. Authorisation to spend this financial year 2011-2012 covering licensing and support and the financial year 2012-2013. Authorisation is required for additional spend of £48,000, total contract spend of £96,000;**
- 1.7 Authorise the variation of the existing contract with Logica the current SAP managed service provider to replace the current obsolescent hardware provision Total cost of the one off Hardware refresh is £200,000. Annual estimated cost for 2012-13 £1.2 million, which has been allocated through the Council's Forward Plan.**
- 1.8 Authorise the continuation of the Software Maintenance on the Quest Spotlight and Message Stats software for 2011 -12 and 2012-13. Authorisation required for £13,000, annual cost £6,500.**
- 1.9 Authorise continued payment to Civica for the current financial year and to maintain the licensing and support for 2012-13. Authorisation is requested for £16,000;**
- 1.10 Authorise payments for 2011-12 and to continue payments through to March 2013 to Hornbill for the Support Works software used in both IS and HR areas. The annual cost is £20,000;**
- 1.11 Authorise payments to Scansafe for 2011-12 and continue payment for 2012-13. The annual cost is £40,000, total authorisation is required for £80,000;**
- 1.12 Authorise continued maintenance payments for 2011-12 of £36,000 and to continue payments for 2012-13 for existing library RFID systems. Authorisation**

required for £72,000;

- 1.13 Authorise spend with the Federation against Software theft, (FAST) the software compliance organisation for continuing membership in financial year 2011-12 and financial year 2012-13 of £14,000 per annum, total authorisation requested £28,000.;
- 1.14 Authorise variation of the contract with MessageLabs, which provides the secure e-mail service Additional authorisation is required for £18,000 in addition to existing authorised spend.
- 1.15 Authorise payments to Vodafone for a period of two months whilst the competitive tender exercise is completed. The annual value is £286,000, however authorisation requested for two months at a cost of £47,700; after this period a compliant contract will be in place.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Audit Committee at its meetings on 16th June 2011 and 6th September 2011 reviewed and agreed the Procurement Controls and Monitoring Plan produced following the comprehensive review of the Council's contract monitoring arrangements.
- 2.2 Decision made by CRC in 2/12 to authorise a contract with Message labs to provide secure e-mail at a cost of £104,000

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The authorisations, set out in the Recommendations in Section 1, are sought in order to ensure that Information Services (IS) does not hinder or impede the Council's 'One Barnet' Programme objectives. Therefore, IS needs to secure that there are compliant and appropriate contracts in place to cover the period between now and the 'Go Live' date(s) for the, relevant, One Barnet Programme project(s)
- 3.2 Going forward the, relevant, contracts, varied, extended and made compliant, will progress the Council's Corporate Plan: Better services with less money – through efficient procurement and contract management, including reduction of administration costs associated with placements.

4. RISK MANAGEMENT ISSUES

- 4.1 If the contracts, identified in this report, are not regularised and extended, the Council will lose the opportunity to bring together corporate support services from across the Council to create a better, more efficient service and looking over the long term, the potential to use this partnership to deliver services to others. The remaining estimated time for the New Services, Customer Services Organisation (NSCSO) procurement process is 10 months to Contract award.
- 4.2 Unless the option to vary and extend contracts is exercised the council will need to carry out costly tendering processes before January 2013, resulting in arrangements that may not deliver best value for money.

- 4.3 Some of the savings identified in 2012-13 budgets have been based on the re-negotiation of existing support contracts. If waivers are not granted then there is a risk that predicted savings may not be achieved.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Under the Equality Act 2010, the council and all other organisations exercising public functions on its behalf must have due regard to the need to: a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; b) advance equality of opportunity between those with a protected characteristic and those without; c) promote good relations between those with a protected characteristic and those without. The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation. It also covers marriage and civil partnership with regard to eliminating discrimination.
- 5.2 All future partners/contractors will be made aware of their obligations under this act as part of the procurement process.

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

- 6.1 The anticipated 2012/13 spend relating to these contracts is tabulated below and includes RPI uplifts to which the existing contracts are subject. These uplifts will be challenged but where suppliers enforce the uplift, or a lower percentage increase, the result will be a pressure on IS budgets. The contracts below are funded within the existing IS budget provision or within other Service Budgets. Table one shows the contracts where the cost comes from IS and other services budgets. Table two shows contracts funded within solely within IS budgets.

Table one

Contract	2011/12 spend	2012-13 spend
2e2	£350,000 for One Barnet projects and refresh activity and £18,000 one off in addition to current contract value	
HP (Essex online Partnership)	£295,000 Spend comprises of IS capital projects and requests for IT equipment from within other Service Areas.	
Insight	£328,000 Spend comprises of IS capital projects and requests for IT equipment from within other Service Areas.	£350,000 £100,000

Table two

Contract	2011/12 spend	2012-13 spend
Caretower	£15,930	£15,930
Cognite	£19,200	£19,200
LANDdesk	£48,000	£48,000

Logica		£1.4m
Quest	£6,500	£6,500
Civica (PTC)	£8,000	£8,000
Hornbill	£20,000	£20,000
Scansafe	£40,000	£40,000
Library RFID	£36,000	£36,000
FAST	£14,000	£14,000
MessageLabs	£18,000	
Vodafone	£23,850	£23,850

6.2 There are no issues related to Staffing and Property

7. LEGAL ISSUES

7.1 In the event that the lifetime values of the contracts, dealt with within this report, exceed the, relevant, European Threshold, the Public Contracts Regulations 2006 (as amended) will apply. Any non-compliance with the Regulations carries a risk of legal challenge and the imposition of sanctions if successful.

7.2 With reference to contracts, which have values above the, relevant, EU threshold it is considered that reliance may be placed upon Regulation 14 of the Public Contracts Regulations 2006 (as amended), which implement the European Directive into domestic legislation. Regulation 14 enables a Contracting Authority to negotiate a contract with a particular supplier, without the publication of a contract notice, when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the public contract may be awarded only to a particular economic operator.

7.3 The Treaty provisions of equal treatment, fairness and non-discrimination must be complied with, by the council, in carrying out its functions and in exercising its powers.

7.4 With respect to the council's own Contract Procedure Rules, the Cabinet Committee has power to waive any one of more of those Rules if satisfied that waiver is justified on any one or more of the grounds set out in Section 8, below.

8. CONSTITUTIONAL POWERS

8.1 The Constitution, Part 3, Section 3.6 sets out the functions of the Committee, including the power, set out in contract procedure Rule 5.5 and Table 5-1, to Authorise and Accept contracts.

8.2.1 Section 5.8 of the Contract Procedure Rules enables a Cabinet Committee to waive the requirements of the Contract Procedure Rules if satisfied, after considering a written report by the appropriate officer, that the waiver is justified because:

8.2.2 the nature of the market for the works to be carried out or the supplies or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of Contract Procedure Rules is justifiable; or

8.2.3 the contract is for works, supplies or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or

- 8.2.4 the circumstances of the proposed contract are covered by legislative exemptions (whether under EU or English Law); or
- 8.2.5 there are other circumstances which are genuinely exceptional.
- 8.2.6 Waiver of the Contract Procedure Rules is being sought, herein, on the basis of exceptional circumstances, in view of the complex nature of the contracts dealt with in this report; the time which it would take to carry out full procurement process(es); and the impending externalisation of NSCSO to an private partner.

9. BACKGROUND INFORMATION

- 9.1 Historically, the procurement and management of contracts for IT were owned by the IT department and managed in line with corporate procurement guidelines. The set-up of IT within local government is very complicated and a number of interdependences between systems need to be effectively managed to run an effective operation. During periods of significant change, it is not prudent to change systems that are operating effectively as this introduces new risk into the delivery of the IT and this can lead to additional cost to resolve the impact of any failure from unnecessary technical changes.
- 9.2 Over the last 5 years, devolved IS teams and capability from across the organisation have been centralised into the corporate IS team. In creating this capability a number of additional contracts were inherited and many of these would now need to be re-procured. As the council is seeking to procure a new partner through NSCSO, it would be inappropriate to re-procure contracts at this stage as best value is usually obtained through longer term contracts, and novating long term contracts to a new supplier in January 2013, may introduce the risk of additional cost. The background for each contractual arrangement where IS are requesting a waiver of Corporate Procedure Rules is listed below.
- 9.2.1 **2e2**
The authority has a requirement to procure an online system to enhance the training provision for staff. The development is for the provision of a flexible LBB maintained training portal. The initial use of the system will be to provide enhanced self service procurement training, but future use is not limited and it can be used to develop training on any subject. A number of suppliers have been approached to quote for this work, however, despite best endeavours, the only supplier willing to quote for this extra service are 2e2 at a cost of £18,000. This report requests authorisation to vary the existing contract to include the provision of the e learning module at a cost of £18,000. Current total annual cost of the 2e2 contract is £950,000 approved by CRC in 2009. Authorisation for additional costs of £368,000 for 2011-12 for part incurred costs of the Telephone technology refresh project, and Infrastructure refresh activity and future planned work of the e-learning module.
- 9.2.2 **HP (Essex online partnership)**
The arrangement with HP was entered into, in May 2010, on the basis of the Essex Online Partnership. A range of products, including but not limited to printers, PC's laptops and tablet devices have been/are being procured through this arrangement, until 31st March 2012. However, following scrutiny of our internal compliance it has been noted that this contract with HP may no longer be compliant. Authorisation is, therefore, required for spend of £295,000, in respect of these items, until 31st March 2012. As an interim solution, authorisation is being sought to vary the council's contract with Insight to

account for this extra spend, post 31st March 2012.

9.2.3 **Insight**

The call off procedure followed to appoint Insight was competitively tendered through the Buying Solutions framework in May 2010. The framework is compliant and can be used for call off procedures until 28th March 2013. Authorisation is required to enable spend with Insight to include the provision of IT software licences, all hardware including HP until 31st March 2013. Annual spend for 2011 – to date is £328,000 and forecasted spend from to date to 31st March 2013 is £350,000. In the interim period identified above authorisation is required to purchase HP products with a forecasted expenditure of £100,000 from Insight whilst a competitive procurement process is undertaken

9.2.4 **Caretower**

The Caretower hardware for the LogRhythm system was installed to maintain compliance with the provisions of the Government secure extranet (GCSx) The support is single source and required as insurance against failure of the specialist hardware. Cost for 2011-12 is £15930 and for 2012-13 £15930.

9.2.5 **Cognite RDT committee papers system**

The current Committee Papers procurement began in 2004 as a replacement system to its predecessor system called TROVE which was competitively tendered for at the time. A project is currently underway to replace this system, being led by the Governance Service and approval is sought to continue support payments until the replacement system is installed, tested and proven. Cost of £4800 per quarter and £19,200 per annum.

9.2.6 **LANDesk**

The LANDesk System currently procured from Sparxent Europe Ltd. The LANDesk System software was competitively procured in 1999 to provide a “discovery tool allowing greater management of the Council’s IT services and infrastructure. As part of on-going improvements to the IS service its use was extended to cover a large range of system and security management services, including remote software distribution and audit capability. Value for money has been established by obtaining competitive quotes which have indicated that our current solution is cost effective. The annual licence component of the spend is £28,000 and the support contract is a further £20,000.

Authorisation is requested to spend £48,000 for a suitable license and support contract from 1st March 2012 to the 28th Feb 2013.

9.2.7 **Logica**

The Hardware underpinning the SAP ERP system was procured with the SAP Software as part of the Modernising the Way we Work (MWW) programme undertaken by the council in 2004. The server infrastructure is run by the managed service provider Logica, and located in the Bridgend data centre. Key components of the hardware now need replacing. The proposed architecture design maximises available features balancing cost, performance and fault tolerance:

The cost of this refresh is £200,000 and authorisation is sought to vary the existing contract to include this work. Annual cost for 2012-13 is £1.2 million which has been allocated through the Council’s Forward Plan.

9.2.8 **Quest**

The Quest software products ‘Spotlight’ and ‘Message stats’ were procured as a cost effective tool to manage the LBB Microsoft mail systems. They are fully integrated and

embedded in the management of the Microsoft 'Outlook' mail system used by LBB as a primary communication channel. Any change to these applications would require tender of requirements and new capital investment. The current annual support cost for the two products is £6500 per annum, authorisation total request £13,000.

9.2.9 **Civica (PTC)**

The PTC scheduling software is used to provide back office automation in scheduling overnight file transfers between LBB systems. Authorisation is sought to continue the maintenance payments licensing the existing software until March 2013 at an annual cost of £8,000

9.2.10 **Hornbill**

The Hornbill product 'Support Works' was originally procured via an OGC Buying Solutions framework in 2009. Subsequently the scope of the application was extended to include the functionality required for the HR helpdesk. Authorisation is sought for £20,000 for 2011-12 and to extend this contract for one year until March 2013 for a further £20,000 by which time the new NSCSO provider will be in place. Total authorisation requested £40,000.

9.2.11 **Scansafe**

The ScanSafe contract was novated in 2004 from the original Star Internet contract to LBB as part of the MOI project and has subsequently continued in force under the annual renewal clause present in the novated contract. The current Scansafe cost is £40,000 per annum which is to be paid in March 2012 Scansafe provides a Web filtering and scanning service provided, which ensures employee compliance with IS policies required for regulatory assurance, and protects the IS infrastructure against malicious attack. Authorisation is required for 2011 -12 at a cost of £40,000 and to pay the 2012-13 contract value of £40,000, total authorisation required is £80,000.

9.2.12 **Library RFID systems**

The council library service has RFID installed at 7 locations and is authorised under the Library strategy programme to procure 7 more similar systems for other locations. Authorisation is sought to place the maintenance contract with existing provider. The cost of the existing maintenance is £36,000 per annum, total authorisation required is £72,000.

9.2.13 **Fast**

The Membership of the Federation against Software Theft, (FAST) the UK compliance organisation is part of the IS software compliance programme. Since its launch in 1984, The Federation has been the UK's leading authority on software piracy issues. LBB are participating in the software compliance programmes run by this vendor. Authorisation is required for 2011-12 and 2012-13 to continue membership at an annual cost of £14,000, total authorisation required £28,000.

9.3.14 **MessageLabs**

To extend the provisions of the secure e-mail service authorised in the CRC report of 28th Feb 2012 to extend from 1000 users (500 initial trial + 500 new provisions) to 2000 users increasing the authorised cost under the contract from £104,000 to £122,000 per year in line with instructions received from the information Governance committee. Due to the contract being regularised the increase in user numbers is largely offset by the negotiated reduction in costs. Costs per user per month reduced to £2.34 as opposed to £3.15 per month under the current contract, giving an annual increase of £18,000 over that currently authorised.

9.3.15 **Vodafone**

To authorise payments to Vodafone until the end of April 2012, when a compliant contract will be in place. A direct award is in the process of being finalised which will be for a two year period and has been awarded on the basis of Vodafone being the cheapest supplier.

10 **LIST OF BACKGROUND PAPERS**

10.1 None.

AGENDA ITEM: 18

Pages 147 – 153

Meeting	Cabinet Resources Committee
Date	4 th April 2012
Subject	Extension of Term Maintenance Contracts
Report of	Cabinet Member for Resources and Performance
Summary	To extend the existing Term Maintenance Contracts for building, mechanical, electrical, lifts and water hygiene beyond the contracted dates for a period of nine months.

Officer Contributors	Martyn Carter, Procurement Manager (Commercial Services) Martin Wilkinson, Building Compliance Surveyor (mech) (Commercial Services)
Status (public or exempt)	Public
Wards affected	All
Enclosures	None
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

Contact for further information: Martin Wilkinson, Building Compliance Surveyor (Mech) (Commercial Services), 020 8359 4563, martin.wilkinson@barnet.gov.uk. or Martyn Carter (Commercial Services), 020 8359 7267, martyn.carter@barnet.gov.uk

1. RECOMMENDATIONS

- 1.1 That the Committee authorise a waiver of Contract Procedure Rules to allow extension of the following Term Maintenance Contracts for nine months with the following Contractors:**

Kirkman and Jourdain Ltd. The three year value of this contract is £1,348,670 and the anticipated spend for the nine month extension is £337,167

D Long Construction Ltd. The three year value of this contract is £3,349,173 and the anticipated spend for the nine month extension is £837,292

Oakray Ltd, The three year value of the Mechanical Maintenance Contract with this company is £560,595 and the anticipated spend for the nine month extension is £140,148

Oakray Ltd. The three year value of the Electrical Maintenance Contract with this company is £401,727 and the anticipated spend for the nine month extension is £100,431

RGE Services Ltd. The three year value of this contract is £227,157 and the anticipated spend for the nine month extension is £56,789

T&D Barrs Ltd. The three year value of this contract is £244,914 and the anticipated spend for the nine month extension is £61,228

Clearwater Technology Ltd. The three year value of this contract is £576,165 and the anticipated spend for the nine month extension is £144,041

Industrial Lifts Services Ltd. The three year value of this contract is £133,359 and the anticipated spend for the nine month extension is £33,339

Initial Ltd. The three year value of this contract is £105,000 and the anticipated spend for the nine month extension is £26,250

Extension of contracts shall enable both cyclical and responsive maintenance works to be undertaken throughout the Council's non-housing operational buildings from 1st April 2012 until 31st December 2012.

- 1.2 To waive the Council's Contract Procedure Rule 5.6.1 as the additional expenditure incurred as a result of the extension will exceed 10% of the initial contract value.**
- 1.3 To waive the Council's Contract Procedure Rule 5.6.2 as the original contract period has been extended before**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 DPR Serial No.395 (ET056) of the Director of Environment & Transport dated 2nd November 2007 approved the establishment of a Planned Building Maintenance Contract for Minor/Planned Works.**

2.2 Cabinet Resources Committee Report of the Cabinet Member for Resources and Performance dated 2nd March 2011 approving the Extension of Term Maintenance Contracts

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

3.1 The Corporate Plan 2011-2013 has as one of its priorities 'Better services with less money' with some of its key strategic objectives to 'explore new ways of bundling and commissioning services to generate better outcomes for less money' and to 'ensure that 100 percent of the 50 largest contracts, by spend, are under formal contract.'

3.2 The Council's objectives regarding use of property include the following:

- More efficient and strategic use of property;
- More effective use of property; and
- More efficient and strategic use of public sector systems

This involves the continued use of a number of specialist contractors to ensure high standards of maintenance and repair within Council buildings.

4. RISK MANAGEMENT ISSUES

4.1 A risk assessment has been carried out and the main issues have been summarised in the following table:

Risk	Early Warning Mechanisms/ Hazards	Residual Risk		Consequences / Mitigating Actions
		Likelihood	Impact	
Failure to have a new Contract in place	Existing Contracts expire on in April 2012	High	High	Loss of essential service necessary to meet legislative requirements, enable preventative maintenance and support service delivery/ it is proposed to extend the existing Contracts
Discovery of asbestos in concealed areas	Asbestos Surveys undertaken for all corporate buildings and reports kept at each site	Low	Medium	Delay and additional cost of removal if found / Asbestos survey reports have been passed to all Premises Managers.

Contractor liquidation/insolvency	Lack of performance. Essential maintenance work not undertaken	Low	High	Delay and additional costs/ Financial check prior to Contract award/ Regular monitoring of contracts & performance indicators.
Health & Safety – working in an operational building	Regular site inspection/construction sites	Low	Medium /High	Injury/Experienced contractors, segregation of working areas
Contractors working with vulnerable people	All Contractors to be CRB checked	Low	Medium /High	Delays whilst checks are being undertaken/All operatives should already be CRB checked as existing contracts are in place.
Financial risk of not having a contract in place	Existing Contracts expire on in April 2012	High	High	Additional cost of having to do work piecemeal/ Ensure contract terms and conditions in place

4.2 The various issues have been considered and are unlikely to raise significant levels of public concern or give rise to policy considerations.

5. EQUALITIES AND DIVERSITY ISSUES

5.1 The Equality Act 2010 requires public bodies, when making strategic decisions such as deciding priorities and setting objectives, to consider how their decisions might help to reduce the inequalities associated with socio-economic disadvantage. Such inequalities could include inequalities in education, health, housing, crime rates, or other matters associated with socio-economic disadvantage. It is for public bodies subject to the duty to determine which socio-economic inequalities they are in a position to influence.

5.2 The proposed works will enhance the Borough's reputation as a good place to live and work and will assist in ensuring that all Council buildings meet statutory legal and safety obligations. The works will also ensure suitability for service delivery.

5.2 The successful Contractors indicated, in their earlier Pre Qualification Questionnaires (PQQ's) that they will support the Council in meeting its public obligations to promote race, equality and disability equality whilst undertaking work on behalf of the Council.

5.3 The Planned Building Maintenance Contract had been procured using the Council's procurement process which sets out to the contractors their responsibility in supporting the Council's service delivery.

5.4 As part of the tendering process, advertisements were placed in the Barnet local press inviting interest from local contractors. Generally, the successful contractors have some form of training schemes running within their organisations.

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

6.1 The annual expenditure for the five disciplines based on the last three financial years is as follows:-

Discipline	Total Annual Expenditure	No of Contracts
Building	£ 919,568	3
Mechanical	£ 268,503	2
Electrical	£ 209,628	2
Water Treatment	£ 192,055	1
Lifts	£ 44,453	1

The ongoing expenditure will be monitored via the Council's ordering system (SAP) and this forms the basis of one of the Council's KPI's.

6.2 Council Officers from Commercial Services have held discussions with the present Term Contractors with a view to retaining them for a further nine months and they have agreed to the extension. The option of requesting discounts for the extension period was explored in order to make savings but the contractors have already held their prices for two years. They are not able to reduce prices further.

6.3 The extension of the term contracts will result in the establishment of a robust and transparent method of selecting contracting services advocated in the Council's Procurement Strategy. The contracts will provide a call off facility for use by premises managers and will facilitate maintenance and repair in all Council non-housing operational buildings.

6.4 The Council will ensure that appropriate and timely building maintenance is implemented thereby ensuring that all buildings are operated safely, efficiently and more sustainably, reducing avoidable energy and water consumption and associated carbon emissions.

6.5 There are no staffing or IT implications.

6.6 Any financial implications will be managed within the existing Commercial Directorate.

7. LEGAL ISSUES

7.1 The Public Contracts Regulations 2006, apply to contracts for works, services and supplies which are over particular financial thresholds. Contracting authorities are required to advertise works and supplies contracts, including Part A service contracts which are above the threshold. In addition, in order to offer equal opportunity in line with the EU treaty principles of non-discrimination, equal treatment, transparency,

proportionality and mutual recognition, contracting authorities are encouraged to advertise before awarding contracts. The contract value for some of the contracts are above the threshold set for service contracts but based on the contents of this report the relevant EU procurement process was complied with in the award of the contracts.

- 7.2 The Council should however, for those contracts with the value below the relevant threshold consider the rule relating to aggregation as set out in Regulation 8(19) of the Public Contracts Regulations 2006 that a contracting authority should not enter into separate contracts nor exercise a choice under a valuation method with the intention of avoiding the application of the Regulations to those contracts.
- 7.3 The contract extensions will be on the terms and conditions of the original contracts unless other terms and conditions of contract are approved by the Assistant Director – Legal.

8. CONSTITUTIONAL POWERS

- 8.1 Section 5.8 of the Contract Procedure Rules details that the rules may only be waived on the decision of a Cabinet Committee and only where that Committee is satisfied, after considering a written report by the appropriate officer, that the waiver is justified because:

- 5.8.1 the nature of the market for the works to be carried out or the supplies or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of Contract Procedure Rules is justifiable; or
- 5.8.2 the contract is for works, supplies or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
- 5.8.3 the circumstances of the proposed contract are covered by legislative exemptions (whether under EU or English Law); or
- 5.8.4 there are other circumstances which are genuinely exceptional

- 8.2 Table 5-2 of the Contract Procedure Rules (Acceptance thresholds for contract extensions and variations) states that for contract extensions greater than £156,442 authority must be sought from Cabinet Committee.

9. BACKGROUND INFORMATION

- 9.1 The existing contracts were tendered in 2006 with contracts starting in April 2007. The contract was for a three year period with the option to extend for a further year at the Authority's sole discretion. The initial option to extend the contract for one year was authorised in 2010. Subsequently, a second extension was authorised in 2011.
- 9.2 The current contracts cover a number of services operating within all of the Council's Corporate building stock and within those schools that sign up to the Councils Building Maintenance Service. The contracts cover both cyclical and responsive maintenance works.
- 9.3 The contract awards were as follows:

Kirkman & Jourdain Ltd., D Long Construction Ltd.,
Oakray Ltd. – Mechanical and Electrical services North of the Borough

T&D Barrs Ltd. – Mechanical services South of the Borough
RGE Services Ltd. – Electrical services South of the Borough
Clearwater Technology Ltd.– Water Hygiene Borough wide
Industrial Lift Services Ltd. – Lifts Borough wide

- 9.4 A tender process for the new contracts commenced during 2011. A contract notice to advertise the tender was published in the Official Journal of the European Union but withdrawn several weeks later. This was necessary because it became evident that additional information was required for the notice to be compliant with procurement regulations. It was also evident that following advertisement, there were additional service categories to be added to the tender notice which should enable improved economies of scale for the Council. Tender advertisement is planned for April 2012 in order to re-commence the tender. The tender process will take nine months to complete when combined with subsequent reporting and contract implementation periods. The extension is required in order to maintain contract compliance during the procurement process.
- 9.5 In accordance with Contract Procedure Rules as noted in paragraph 9.1 above, there has already been a contract extension and therefore this matter must be referred to the relevant Cabinet Committee for authorisation as stated in paragraph 8.1 above.

10. LIST OF BACKGROUND PAPERS

- 10.1 None.

Legal – PD
CFO – JH/MC

AGENDA ITEM: 19 Pages 154 – 158

Meeting	Cabinet Resources Committee
Date	4 April 2012
Subject	Provision of Recruitment Services
Report of	Cabinet Member for Resources and Performance
Summary	To approve the award of a call off contract, under the terms of the Office of Government Commerce (OGC) Non Permanent Wider Public Sector Human Resources (RM692/L5A) framework agreement, to Advantage Professional for a period of 2 years (with an option to extend for a further 12 months) from 30 April 2012
Officer Contributors	Sarah Murphy-Brookman Assistant Director HR (Deputy Chief Executive Service) Praful Ladwa, Corporate Procurement (Commercial Services)
Status (public or exempt)	Public
Wards affected	None
Enclosures	None
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in	Not applicable

Contact for further information: Sarah Murphy-Brookman Assistant Director HR, 020 8359 7912

1. RECOMMENDATION

- 1.1 To approve the award of a call off contract under the terms of the Office of Government Commerce (OGC) Non Permanent Wider Public Sector Human Resources (RM692/L5A) framework agreement, to Advantage Professional for a period of 2 years (with an option to extend for a further 12 months) from 30 April 2012.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 None.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Corporate Plan 2011-13 states that “we will continue to drive costs out of the Council through transforming our internal organisation” and that we will focus on “...making sure we get the best value from resources across the public sector, including our people and assets” and to meet the Council’s corporate priority “Better services with less money” strategic goal to maximise improvements and savings in back office functions. The award of this contract will contribute to this corporate priority.

4. RISK MANAGEMENT ISSUES

- 4.1 Officers have considered whether there are any risk issues involved likely to raise concern or give rise to policy considerations and are content none exist.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The Equality Act 2010, requires public bodies and all other organisations exercising public functions on its behalf to have due regard to the need to: a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; b) advance equality of opportunity between those with a protected characteristic and those without; and c) promote good relations between those with a protected characteristic and those without.
- 5.2 All preferred suppliers under the Office Government Commerce (OGC) Non Permanent Wider Public Sector Human Resources (RM692/L5A) framework contract have confirmed through the formal tender process, that they comply with all their statutory obligations under the Sex Discrimination Act 1975, Race Relations Act 1976 and the Disability Discrimination Act 1995 or any statutory modification or re-enactment thereof relating to discrimination in employment.

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

- 6.1 There are no adverse staffing, IT or property issues as a result of participating in the framework contract.
- 6.2 OGC objectives are to provide its members and other client bodies a comprehensive, cost effective contracting and procurement service, covering a diverse range of services. The established framework is fully compliant with the Public Contracts Regulations 2006. Terms and conditions are established to underpin the framework, and the framework is centrally managed and monitored by OGC and participating organisations.
- 6.3 The expenditure in the period 1 October 2010 until 30 September 2011 was £103, 673 and future expenditure will be dependent upon actual usage however it is expected to be approximately £170,000 per annum. Funding for the services required is met from individual service budgets on a project by project basis and any expenditure is contained within existing budgets. The Council has not given any guarantees of volumes of work or expenditure.
- 6.4 Under the rules of the framework agreement the Council can directly award a contract to a Service Provider based upon the supplier margins offered. Procurement benchmarked each of the suppliers on the framework agreement in order to satisfy that Advantage Professional would provide value for money. The result of the benchmarking exercise revealed that Advantage Professional offered the most competitive margins as detailed below:

Supplier	Margin Offered
Advantage	12%
Supplier A	18%
Supplier B	14%
Supplier C	14%
Supplier D	15%

7. LEGAL ISSUES

- 7.1 Public Contracts Regulations 2006 defines framework as an agreement between one or more contracting authorities and one or more economic operators i.e. a client and contractor or contractors or consultant or consultants (depending upon the nature of the framework), which establishes the terms governing particular call-off contracts that may be awarded during the term of the framework, in particular with regard to price and quantity. Where a framework agreement has been previously published in the OJEU, individual call-offs pursuant to its terms do not have to be.
- 7.2 Framework agreements are referred to in paragraph 6.9 of the Council's Contract Procedure Rules (as set out at paragraph 8.3 below), and on the basis of the information contained in the report the relevant provisions of the Council's Contract Procedure Rules have been met.

7.3 In accordance with the Council's Contract Procedure Rules, there will be a need for the Council and the contractor to enter into a formal contract with the successful tenderer.

8. CONSTITUTIONAL POWERS

8.1 Constitution Part 3 "Responsibility for Functions" paragraph 3.6 of the Constitution sets out functions of the Cabinet Resources Committee.

8.2 The Councils Contract Procedure Rules (CPR) Section 5 sets out the "Authorisation & Acceptance Procedures" and Table 5-1 states that authorisation by Cabinet Committee is required for contract value of £500,000 and above.

8.3 Framework agreements are referenced under paragraph 6.9.1.1 through to 6.9.1.5 of the Contract Procedure Rules, as set out below.

"Before procuring or entering into a framework agreement, the Commercial Director shall be satisfied that:

6.9.1.1 the term of the arrangement shall be or is for a period of no longer than four years duration;

6.9.1.2 the terms and conditions of the arrangement do not compromise the Council's contractual requirements;

6.9.1.3 the parties to the arrangement are recognised public bodies or providers from the private sector;

6.9.1.4 full, open and proper competition in respect of the creation of the framework agreement has taken or will take place in accordance with the Relevant EU Rules and/or Relevant Contract Procedure Rules

6.9.1.5 Preference should be given to use of any Government Procurement schemes e.g. OGC".

8.4 In this case, the proposed contract is for 2 years (with an option to extend for a further 12 months) from 30 April 2012. And the Commercial Director has confirmed that the framework agreement represents a prudent, efficient and economical way of ensuring compliance with procurement rules; and the Commercial Director has given approval to join the framework agreement.

8.5 The cumulative spend including previous expenditure is not projected to exceed £500,000 over the life of the contract, this contract does not therefore constitute a key decision.

9. BACKGROUND INFORMATION

9.1 The Council identified the need for specialist temporary workers. In line with the Corporate Procurement Rules existent at that time the incumbent supplier was given the opportunity to supply appropriate temporary workers. This was not successful and the temporary worker profiles were then advertised through specialist providers. A number of Agencies provided candidates for interview and the candidates provided by Advantage Professional were selected.

- 9.2 At the point of the temporary worker selection the expenditure was not anticipated to be beyond CPR limits.
- 9.3 There is an ongoing need for the specialist temporary workers. This proposal will ensure that there is continuity of service and the award of a two year call off contract to Advantage Professional under this OGC framework contract will ensure that the partner who will manage the back office services under the NSCSO project will then be able to manage the knowledge transfer from the temporary workers to themselves.
- 9.2 The Corporate Procurement Team has identified a compliant procurement route which will formalise current and future requirements. The OGC Buying Solutions framework that has been identified permits Contracting Authorities to place contracts by 'direct award' based upon whole life costs and the suitability of suppliers to deliver the specific requirement.

10. LIST OF BACKGROUND PAPERS

- 10.1 None.

Legal: PD

CFO: MC/JH

AGENDA ITEM: 20 Pages 159 - 167

Meeting	Cabinet Resources Committee
Date	4 April 2012
Subject	Environment Planning and Regeneration Contracts
Report of	Cabinet Member for Resources and Performance
Summary	The report seeks: (i) waiver of, relevant, rules within the Council's Contract Procedure Rules to enable regularisation of contractual arrangements within Environment Planning and Regeneration; (ii) authority to regularise contracts; and (iii) authority to extend an Environment Planning and Regeneration Framework.

Officer Contributors	Lynn Bishop, Assistant Director of Environment Planning and Regeneration Mark Rawlings, Business support Officer, Environment Planning and Regeneration Charlene Witter, Procurement Officer, Commercial Services
Status (public or exempt)	Public
Wards affected	ALL
Enclosures	Appendices 1 and 2 – details of contracts
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in	Not applicable
Contact for further information:	Mark Rawlings, Business Support Officer, Environment Planning and Regeneration.

020 8359. 2376

1. RECOMMENDATION

1.1 That the Committee authorise a waiver of Contract Procedure Rules as necessary and authorise

1.1.2 The continuation of the Greenwich Leisure Contract in its current form without completion of the management agreement and lease pending the assignment of the Copthall stadium under lease to Saracens.

1.1.3 The continuation of arrangements for works with J'O Leary & Sons for allotment maintenance until superseded by the new minor works contract.

1.1.4 The continuation of arrangements for works and services with the listed vendors until superseded by new contracts:

Bush Wheeler Services

DF Keane

Gemco

Palmerston

Iris Gardening Services

Iris Play Inspections

Spaldings/Bell Brush

RM Countryside

1.1.5 The continuation of arrangements for supplies and services with Rigby Taylor for greenspace materials until superseded by the new minor works and goods contract.

1.1.6 Regularisation and continuation of appointments for the consultants and legal advisors for the relevant regeneration schemes:

AECOM - Dollis Valley

CBRE - Mill Hill

CBRE - Brent X & Cricklewood

CBRE - Dollis Valley

DLA Piper

DLA Piper

Eversheds

Paul McDermott

Turner & Townsend

Urban Practitioners

Nabarro

1.1.7 Continued spend against JC Decaux, the provider of Borough street furniture, for a period of 12 months with effect from 1st April 2012.

1.1.8 Continued spend against Castrum, provider of the tenancy database, until regularisation of the existing contractual arrangement.

1.1.9 Extension of the existing framework for the parking bailiff contractors for one month until the 30th April with an option to end for a further month, pending completion of the One Barnet parking outsourcing

1.1.10 Continued spend against Appia, highways asset management consultants, until 30th April 2012.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Audit Committee at its meetings on 16th June 2011 and 6th September 2011 reviewed and agreed the Procurement Controls and Monitoring Plan produced following the comprehensive review of the Council's contract monitoring arrangements.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 Regularisation of and extension to the Environment Planning and Regeneration (EPR) Contracts are sought to ensure that EPR does not hinder or impede the Council's 'One Barnet' objectives. Authorisations are being sought to enable officers to secure that there are contracts in place to cover the period between now and the commencement of new arrangements with any new service provider.
- 3.2 The regularisation of and extension of contracts will, going forward, support the Council's Corporate Plan objective of: 'Better services with less money' – through efficient, compliant procurement and contract management including reduction of administration costs associated with placements.

4. RISK MANAGEMENT ISSUES

- 4.1 If the contracts, identified in this report, are not regularised and extended where necessary, the Council will lose the ability to create and provide a better, more efficient service and looking over the long term, the potential to use these partnerships to deliver services to others. The remaining estimated time for the Development and Regulatory Services (DRS) phase one procurement process is 10 months to Contract award.
- 4.2 Unless the option to regularise and extend contracts is exercised the council will need to carry out costly tendering processes before January 2013, resulting in arrangements that may not deliver best value for money.
- 4.3 Some of the savings identified in 2012-13 budgets have been based on the re-negotiation of existing contracts. If waivers are not granted then there is a risk that predicted savings may not be achieved.
- 4.4 There is a risk of challenge within the context of European procurement regulations, with respect to any contract with a lifetime value which exceeds the, relevant, European threshold and which may not have been tendered in accordance with European procurement rules. Officers are continuing to interrogate historical records to determine the process(es) which was/were utilised in these cases, prior to selection of the contractor.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 In providing the Services, the Contractor shall, to the same extent as if it were a public authority within the meaning of the Equality Act 2010 (or any European equivalent),

comply with the 2010 Act together with all applicable amendments, regulations and Codes of Practice or any future or other legislation which concerns discrimination in employment and service delivery (the Equalities Provisions) and shall in particular comply with the public sector equality duty under Section 149.

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

6.1 The anticipated 2012/13 spend relating to these contracts is tabulated below and are funded within the existing EPR budget provision and also project budget provision via Principal Development Agreements or the capital programme.

Current Supplier	Anticipated 2012/13 spend
Bush Wheeler Services	£88,000
DF Keane	£40,000
Gemco	£38,000
Palmerston	£30,000
Iris	£40,000
Iris	£40,000
J O'Leary and Son	£50,000
Rigby Taylor	£35,000
Spaldings/Bell Brush	£40,000
RM Countryside	£300,000
AECOM - Dollis Valley	£45,000
CBRE - Mill Hill	£210,248
CBRE - Brent X & Cricklewood	£45,000
CBRE - Dollis Valley	£25,000
DLA Piper	£30,000
DLA Piper	£29,750
Eversheds	£40,657
Paul McDermott	£21,200
Turner & Townsend	£14,000
Urban Practitioners	£44,903
Nabarro	£152,036
Castrum	£48,000
JC Decaux	£75,701
Appia	£75,000
JBW, CCS, Jacobs and Equita	£0

6.2 There are no issues related to Staffing and Property

6.3 There are less than 10 months remaining before the part outsourcing of the EPR service as part of the DRS 'One Barnet' Project, leaving a short period of time to address and implement major procurement projects.

7. LEGAL ISSUES

- 7.1 In the event that the lifetime values of the contracts, dealt with within this report, exceed the, relevant, European Threshold, the Public Contracts Regulations 2006 (as amended) will apply. Any non-compliance with the Regulations carries a risk of legal challenge and the imposition of sanctions if successful.
- 7.2 The Treaty provisions of equal treatment, fairness and non-discrimination must be complied with, by the council, in carrying out its functions and in exercising its powers.
- 7.3 With respect to the council's own Contract Procedure Rules, the Cabinet Committee has power to waive any one of more of those Rules if satisfied that waiver is justified on any one or more of the grounds set out in Section 8, below.

8. CONSTITUTIONAL POWERS

- 8.1 The Constitution, Part 3, Section 3.6 sets out the functions of the Committee, including the power, set out in contract procedure Rule 5.5 and Table 5-1, to Authorise and Accept contracts.
 - 8.2.1 Section 5.8 of the Contract Procedure Rules enables a Cabinet Committee to waive the requirements of the Contract Procedure Rules if satisfied, after considering a written report by the appropriate officer, that the waiver is justified because:
 - 8.2.2 the nature of the market for the works to be carried out or the supplies or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of Contract Procedure Rules is justifiable; or
 - 8.2.3 the contract is for works, supplies or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
 - 8.2.4 the circumstances of the proposed contract are covered by legislative exemptions (whether under EU or English Law); or
 - 8.2.5 there are other circumstances which are genuinely exceptional.
 - 8.2.6 Waiver of Contract Procedure Rules is being sought, herein, on the basis of exceptional circumstances, in view of the time which it would take to carry out a full procurement process; and the impending externalisation of DRS to a private partner.

9. BACKGROUND INFORMATION

- 9.1 Historically, the procurement and management of contracts for the EPR contracts detailed in this report were owned by EPR and procured with assistance from Commercial Services and the Legal department. These contracts have been managed effectively in line with Corporate Procurement guidelines in order to provide an efficient service. As the Directorate enters a period of significant change, it is not prudent to vary suppliers that are operating effectively as this introduces new risk with regards to the delivery of the projects, services and regeneration schemes. Project and service continuity would be disrupted with valuable time, money and resources lost ensuring future providers are adequately briefed and are capable of providing and delivering work to the required standard.
- 9.2 As the Council is seeking to procure a new partner through DRS, it would be inappropriate to re-procure contracts at this stage as best value could not be achieved by

changing suppliers at such a critical stage of DRS delivery. The background for each contractual arrangement where EPR are requesting a waiver of Contract Procedure Rules is listed below and on subsequent appendices.

9.2.1 **Copthall Stadium**

The current management arrangement in place with Greenwich Leisure Ltd (GLL) for the Stadium delivers management of the leisure function for all activities undertaken at the Stadium. This current arrangement although firmly in place, in practice, does not conform to compliant contract as neither the lease, nor the management agreement - both of which were prepared and ready for execution – were, in the event, completed. The decision was taken not to complete the lease and contract in light of the, then, discussions which were taking place with another, prospective, partner, with the co-operation of Greenwich Leisure Ltd.

Discussions are advanced with an alternative, prospective, partner to develop this asset and then to undertake the management of the longer term activities and function of this site, for the long term. It is felt that the focus of resources therefore would be better placed on delivering the longer term outcomes of the new contract and lease for delivery.

Therefore the current contract with GLL will remain technically non-compliant until the lease and contract with Saracens supersede it, hence authority is sought to continue the contractual relationship, with Greenwich Leisure Ltd, without completion of the lease and management agreement.

Contract start date 1st April 2010

Contract end date 31st December 2017

Contract value £2.249 million

9.2.2 **BT Redcare**

Please see other report on this agenda detailing the Borough's CCTV requirement.

9.2.3 **Greenspaces contracts** (Appendix 1)

There are nine functional contracts which provide support to the existing greenspaces staff as well as enable and support greenspaces work. The contracts include works and supplies and services elements. The compliancy of these contracts has been prioritised to ensure that those that are high risk or of significant seasonal impact are addressed accordingly.

Considering current resources and taking account of the knowledge gained when dealing with the high priority contracts, procurement processes are underway to deliver compliance of these contracts by May 2012.

Approval is sought to continue these arrangements with individual quotations exercises as projects arise whilst the appropriate procurement arrangements are put in place to manage the longer term aggregation of the values of these contracts.

9.2.4 **Environment, Planning and Regeneration Contracts** (Appendix 2)

The fifteen contracts detailed in Appendix 2 are currently in use by the directorate to supply services and support the ongoing activities and service provision.

The regeneration schemes are at a critical phase of delivery and a waiver is sought in order to continue with all these arrangements. Replacement of these providers at such a critical point would severely disrupt the Council's ability to deliver these schemes and would also have an impact on service delivery. These arrangements are to be regularised by 14th April 2012.

The parking bailiff framework Service Level Agreement requires an extension until the outsourcing of parking is complete on the 1st May 2012. The framework has been extended previously and therefore a waiver is sought to further extend the framework for one month to protect the Council against non payment of penalty charge notices.

The street furniture contract with JC Decaux requires clarification over the contract end date as the document quotes two dates. The documentation is being reviewed by Legal Services

A waiver is sought to continue with the Highways Asset Management consultant, Appia, and to regularise the contract in accordance with the Contract Procedure Rules.

The current arrangement with Castrum cannot be evidenced as a fully compliant executed contract cannot be evidenced. Work is progressing in identifying a suitable supplier and technology platform to replace the current system. In order to continue the current level of service and accurately record tenancy data, a waiver is sought to continue the current arrangement until 14th April 2012.

Each supplier identified has a specific plan of action to regularise as soon as is feasible. Monitoring of spend and activity is ongoing to ensure that thresholds are not breached and to mitigate the possibility of scrutiny and challenge.

10 LIST OF BACKGROUND PAPERS

10.1 None.

Current Supplier	Description of Works/Services	Contract Type	Contract Value
Bush Wheeler Services	Countryside Maintenance	Direct Contract	£88,000
DF Keane	Building Maintenance	Direct Contract	£40,000
Gemco	Emergency Repairs	Direct Contract	£38,000
Palmerston	Equipment Repair	Direct Contract	£30,000
Iris	Gardening Services	Framework	£40,000
Iris	Play area inspection		£40,000
J O'Leary and Son	Allotment Maintenance	Direct Contract	£50,000
Rigby Taylor	Purchase of Materials	ESPO Framework	£35,000
Spaldings/Bell Brush	Purchase of Materials	Framework	£40,000
RM Countryside	Maintenance, repairs, fabrication and works	Framework	£300,000

Appendix 2

Current Supplier	Service	Description Of Service Provided	Contract Type	Value	Expected Compliance Date
AECOM - Dollis Valley	Regeneration	Specialist technical advice during development partner selection	HCA Framework	£45,000	14/04/2012
CBRE - Mill Hill	Regeneration	Specialist technical advice		£210,248	14/04/2012
CBRE - Brent X & Cricklewood	Regeneration	Advice for principal development negotiations		£45,000	14/04/2012
CBRE - Dollis Valley	Regeneration	Specialist technical advice during development partner selection	HCA Framework	£25,000	14/04/2012
DLA Piper	Regeneration	Planning advice & drafting of the S106	Legal Framework	£30,000	14/04/2012
DLA Piper	Regeneration	Legal advice	Legal Framework	£29,750	14/04/2012
Eversheds	Regeneration	Legal advice on PDA		£40,657	14/04/2012
Paul McDermott	Regeneration	Legal Advice on planning	Legal Framework	£21,200	14/04/2012
Turner & Townsend	Regeneration	Independent monitoring of scheme cost plan	HCA Framework	£14,000	14/04/2012
Urban Practitioners	Regeneration	Finchley Church End town centre strategy		£44,903	14/04/2012
Nabarro	Regeneration	Legal advice on PDA and CPO	Direct Contract	£152,036	14/04/2012
Castrum	Housing	Housing tenancy database	Direct Contract	£48,000	14/04/2012
JC Decaux	Highways	Provision and maintenance of borough street furniture	Direct Contract	75701 pa	06/04/2012
JBW, CCS, Jacobs and Equita	Parking	Recovery of debts for unpaid penalty charge notices	SLA	£0	one month extension to expire 1st May 2012

AGENDA ITEM: 21

Page nos. 168 - 172

Meeting	Cabinet Resources Committee
Date	4 April 2012
Subject	Extension of Agency Staff Contract
Report of	Cabinet Member of Resources and Performance
Summary	To extend the existing Agency Staff Contract for a period of 6 months beyond 1 st April 2012

Officer Contributors	Praful Ladwa, Procurement Manager (Commercial Services) Mark Rudd (Head of HR Service Delivery)
Status (public or exempt)	Public
Wards Affected	All
Key Decision	
Reason for urgency / exemption from call-in	N/A
Function of	Cabinet Resources Committee
Enclosures	None
Contact for Further Information:	Praful Ladwa , Procurement Manager 020 8359 7057

1. RECOMMENDATIONS

- 1.1 That the Commercial Services Director be authorised to extend the current Contract for the supply of Temporary Agency Staff held by Hays Resource Management for a period of six months from the 2nd April 2012 to 30th September 2012.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet Resources Committee meeting dated 02 March 2011 (Agenda Item No. 16) approved the recommendation to extend the existing contract by a period of 1 year as outlined in the report titled Extension of Agency Staff Contract.
- 2.2 Cabinet Resources Committee Report titled: Award of contract for the provision of Neutral Vendor Services for the provision of a Managed Agency Temp Desk and the supply of Temporary Workers with an option to extend, dated 25th February 2008 (Agenda Item No. 5).

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Corporate Plan 2011-2013 includes the priority of 'Better services with less money' with one of its key strategic objectives to ensure that our support services effectively service the organisation through high quality, high value services.

4. RISK MANAGEMENT ISSUES

- 4.1 During 2010 it became apparent that public finances nationally were to be significantly constrained. For the Council, as a people organisation, this meant that the most significant impact would be upon people costs. Recruitment was identified as a significant issue - there was a concern not to create additional redundancy costs plus there was also an urgent need to be able to redeploy permanent workers who were displaced because of proposed budget reductions. To address these objectives, the organisation made a decision in June 2010 that it should move towards a more flexible approach to managing its workforce. This meant that vacancies were predominately filled on a temporary basis, and only in the areas of 'hard to fill' roles were permanent appointments made.

The contract for the supply of Temporary Agency Staff is critical to the delivery of this objective.

- 4.2 The current contract with the supplier of Temporary Agency staff expires on 31st March 2012. Ending the contract without alternative provision would undermine the Councils approach to flexibly managing its workforce.
- 4.1 The Council will continue to ensure that the supplier of Temporary Agency Staff is compliant with all service requirements whilst conducting a re-procurement exercise which is envisaged to be completed and a new contract awarded by early Spring 2012.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The current Contractors have demonstrated that they can support the Council's Equal Opportunities policies when they submitted their tenders. There have not been any negative equalities issues arising during the course of the current contract.

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

- 6.1 Percentage mark-ups that the incumbent provider applies have been kept at the same levels as negotiated for the previous contract extension. The table below details mark-ups that will apply by job category.

	General	Blue Collar	Tech & Prof	Qualified Social Care	Unqualified Social Care
Agency Pricing	% Mark-up	% Mark-up	% Mark-up	% Mark-up	% Mark-up
Existing	12%	14%	14%	18%	14%
New starter	12%	14%	14%	18%	14%

- 6.2 The Supplier has offered a reduction in the management fee as they have relocated dedicated resources that were based at Council locations to a shared resource centre. The management fee is reduced from £275,000 to £216,021 per annum, a saving of £58,949 per annum. The six month cost of the contract in 2012/13 will be £108,010 and this will be met by services using the contract as an on-cost on the charge for agency staff employed.

- 6.3 The overall value of the contract is difficult to estimate as it is dependent upon actual usage. Total contract spend since the contract commenced in 2008 is detailed below:

Financial Year	Spend (including Management Fee)
2008-2009	£12.5m
2009-2010	£11.95m
2010-2011	£9.2m
2011-2012	£10.3m

- 6.4 Based on existing usage the estimated of the value of the contract for the period of the extension would be circa £5m.

- 6.5 The table below details the actual and cumulative contract spend:

Term	Spend	Cumulative Spend
Initial 3 year period	£23.65m	
First 1 year	£10.3m	£33.95m

extension		
Final 6 month extension	£5m	£38.95m

6.6 It should be noted that in the CRC report dated 25th February 2008 the estimated annual expenditure was £10.5m or £31.5M over the 3 year initial term of the contract.

6.7 The Supplier has achieved an overall saving during the initial 3 year period of the contract of £6.85m by benchmarking temporary pay rates and negotiating reduced margins with providers from its own supply chain.

7. LEGAL ISSUES

7.1 None except any referred to within the main body of this report.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

8.1 Table 5-1 of the Contract Procedure Rules (Acceptance thresholds for contract extensions and variations) states that for contract extensions greater than £156,442 and approval to extend a contract more than once authority must be sought from Cabinet Committee.

9. BACKGROUND INFORMATION

9.1 In 2006 the London Contracts & Supply Group (LCSG) Framework contract was awarded to Hays Resource Management for the neutral supply of temporary and permanent staff. The contract was awarded for a period of 5 years with than an option to extend for 2 further periods of 1 year. The original contract five year period was completed on March 2011 and subsequent first contract extension will be completed on 31 March 2012.

9.2 The Council's expenditure to date is as follows:

Financial Year	Spend (including Management Fee)
2008-2009	£12.5m
2009-2010	£11.95m
2010-2011	£9.2m
2011-2012	£10.3m

9.3 Based on existing usage the estimated of the value of the contract for the period of the extension would be circa £5m.

9.4 The period of the extension has been agreed with the Supplier in order that a smooth transition from the incumbent supplier to the new supplier can be achieved with minimal loss of service and impact to the Council.

- 9.5 In January 2012, the Council has commenced the re-procurement of the service provision. Service Providers from the Lot 2a of the Managed Staffing Agency Resources (MSTAR) Framework have been invited to submit proposals. The re-procurement had been delayed as the Council had envisaged collaborating with other London Boroughs; however, the Councils requirement did not match that of other Boroughs who only wish to find a provider for general administration & clerical roles. The new contract will offer a 'One-Stop Shop' solution and increases contract compliance within Council by providing for all of the Council's temporary staffing needs including particularly 'hard to fill' job roles in Education. In addition Interim Managers and Consultants can be procured via this route.
- 9.6 The MSTAR framework is managed by Eastern Shires Purchasing Organisation (ESPO) and is fully compliant with EU and national procurement legislation.

10. LIST OF BACKGROUND PAPERS

10.1 None

Cleared by Finance (Officer's initials)	MC
Cleared by Legal (Officer's initials)	SS

AGENDA ITEM: 22 Pages 173 – 176

Meeting	Cabinet Resources Committee
Date	4 April 2012
Subject	Extension of Building Cleaning Contracts
Report of	Cabinet Member for Resources and Performance
Summary	To extend the existing Contracts for cleaning at Corporate Buildings and Schools for a period of one year beyond 1 st April 2012.

Officer Contributors	Praful Ladwa Procurement Manager (Commercial Services)
Status (public or exempt)	Public
Wards affected	All
Enclosures	None
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

Contact for further information: Praful Ladwa, Procurement Manager, 020 8359 7057.

1. RECOMMENDATIONS

- 1.1 That the Commercial Services Director be authorised to extend the existing Contracts for Building Cleaning for a period of twelve months from the 1st April 2012 to 31st March 2013. Once the extension has been granted a full EU compliant process will commence.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 CRC Report Agenda Item 4 25th February 2008 which approved the recommendation of the award of contracts to Turner and Churchill.
- 2.2 CRC Report Agenda item 17 02 March 2011 which approved the recommendation to extend the existing contracts by a period of 12 months.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Corporate Plan 2011-2013 includes the priority of 'Better services with less money' with one of its key strategic objectives to increase the number vendors under formal contract.

4. RISK MANAGEMENT ISSUES

- 4.1 The contracts expire on 31 March 2012. Ending the contracts without alternative provision would leave the Council's corporate buildings and school's in an untidy and un-hygienic state. By extending the contracts any health & safety issues will be avoided without the loss of service.
- 4.2 The Council will continue to ensure that the Cleaning Contractors are compliant with all the service requirements detailed within the contracts, whilst conducting a full OJEU tendering exercise.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The current Contractors demonstrated that they can support the Council's Equal Opportunities policies when they submitted their tenders. There have not been any negative equalities issues arising during the course of the current contracts.
- 5.2 There is ongoing contract monitoring to ensure that the cleaning contractors undertake ESOL training for its employees. In addition there is ongoing evidence of the contractor undertaking training in relation to Safeguarding.

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

- 6.1 There are four corporate building cleaning contracts – Children's Service and Care Settings A 50132, Children's Service and Care Settings B 50133, Children's Service and Care Settings C 50134; and, Facilities Settings D 50135). Contracts A, C, D are delivered by Turners, Contract B is delivered by Churchill's.
- 6.2 The Council has held discussions with the main buildings cleaning contractor - Turners with a view to creating savings based on this final 12 month extension. However there will be no reduction in cleaning of toilets, kitchen areas, Chief Executive and Leader's offices.

- 6.3 The total annual saving identified by Turners is £39,767. This saving has been achieved by a reduction in staff costs for the cleaning of Corporate Buildings and Libraries only.
- 6.4 Churchill's has offered not to apply the price increase for inflation in April 2012. This equates to approximately £84,810. The majority of this cost avoidance relates to schools and Barnet Homes managed locations and has been calculated using the latest published RPIx figure of 4.8% as published by the Office of National Statistics.
- 6.5 The combined value of Contracts A, C and D for 2012-2013 with Turners will be £1,252,619 for period of the final 12 month contract extension. The total value of the Contracts A, C and D including for contract extensions (initial 3 year term plus two extension periods of 12 months each) is £7,795,005.
- 6.6 The value of Contract B with Churchill for 2012-2013 will be £193,116 for the period of the final 12 month contract extension. This figure is greatly reduced from the original contract price due to more schools and academies deciding not use the corporate contract. The total value of Contract B including extensions (initial 3 year term plus two extension periods of 12 months) is £1,366,232.
- 6.7 The total value of the final 12 month contract extension for all building cleaning services contracts is £1,445,734
- 6.8 The total value of all contracts for building cleaning services (initial 3 year term plus two 12 month extensions) will be £9,161,237.

7. LEGAL ISSUES

- 7.1 None except any referred to within the main body of this report.

8. CONSTITUTIONAL POWERS

- 8.1 Table 5-1 of the Contract Procedure Rules (Acceptance thresholds for contract extensions and variations) states that for contract extensions greater than £156,442 and approval to extend a contract more than once authority must be sought from Cabinet Committee.

9. BACKGROUND INFORMATION

- 9.1 The existing contracts were tendered during late 2007 and early 2008 with contracts starting in April 2008. The contracts were initially for a three year period with the option to extend for a further two years. An option to extend the existing contracts for 12 months has already been taken. The OJEU notice that was published detailed the Council's option to extend the contract for up to 2 years.
- 9.2 The existing contracts for the cleaning of the Council's corporate buildings and a number of schools numbered: A50132, B50133, C50134, D50135 commenced on 7th April 2008. Contracts were awarded to Turners and Churchill's following a full OJEU tender exercise.

The contract term was for three years and there was provision for annual contract extensions to a maximum of 2 years. The combined value of the contracts over the 3 year period was £6,230,000.

- 9.3 The initial corporate cleaning contracts covered the Council's corporate buildings and 40 Schools and other Educational Settings within Barnet. The remainder of the schools having

made their own arrangements for building cleaning. Since then a number of schools have made a decision not to utilise the corporate contract which has reduced the total value of the contract.

9.4 The contract awards were as follows:

Turners Contract A £1,650,000
 Contract C £1,450,000
 Contract D £2,150,000

Churchill's Contract B £980,000

The value of these contracts was based upon the tender returns from each of the successful suppliers and assumed that the suppliers would provide services for all Corporate Buildings, Schools (Primary & Secondary), Care Centres, Youth Centres and facilities owned by Barnet Homes. After contract award for example schools could decide whether or not to participate in the contract and therefore be included in the contract monitoring.

9.5 There is a pricing schedule for the cleaning of every building to enable the monitoring of costs and reconciliation of invoices. Regular client side management and monitoring of the building cleaning contracts has been occurring since April 2008 and performance has been satisfactory throughout both the initial term of the contract and subsequent extension period.

9.6 The table below summarises the current cost of each contract and the proposed new cost:

Current Cost for Apr 2011- Mar 2012

	Contract A	Contract B	Contract C	Contract D	Total
LBB	£21,644	£14,589	£74,879	£570,001	£681,113
Schools	£365,476	£164,133	£220,048		£749,657
Barnet Homes	£13,387	£14,394	£22,654	£4,297	£54,732
Total	£400,507	£193,116	£317,581	£574,298	£1,485,502

Proposed Cost for Apr 2012- Mar 2013

	Contract A	Contract B	Contract C	Contract D	Total
LBB	£21,644	£14,589	£72,982	£532,130	£641,345
Schools	£365,476	£164,133	£220,048		£749,657
Barnet Homes	£13,387	£14,394	£22,654	£4,297	£54,732
Total	£400,507	£193,116	£315,684	£536,428	£1,445,734

10. LIST OF BACKGROUND PAPERS

10.1 None.

Legal – SS
 CFO – MC