

	<h2>Policy &amp; Resources Committee</h2> <h3>2 December 2014</h3>
<p style="text-align: right;"><b>Title</b></p>	<p><b>Brent Cross Cricklewood – Eversheds Contract Extension</b></p>
<p style="text-align: right;"><b>Report of</b></p>	<p>Cath Shaw, Enterprise and Regeneration Lead Commissioner</p>
<p style="text-align: right;"><b>Wards</b></p>	<p>Childs Hill, Golders Green and West Hendon</p>
<p style="text-align: right;"><b>Status</b></p>	<p>Public</p>
<p style="text-align: right;"><b>Enclosures</b></p>	<p>None</p>
<p style="text-align: right;"><b>Officer Contact Details</b></p>	<p>Angela Latty, Senior Regeneration Officer, E:angela.latty@barnet.gov.uk, T: 0208 359 7188</p>

<h2>Summary</h2>
<p>This report seeks authority to extend the contract of Eversheds on the Brent Cross Cricklewood Regeneration project, in respect of providing legal advice on the Compulsory Purchase Orders on the Brent Cross North Development and Brent Cross South Development.</p> <p>The report also seeks approval to authorise a waiver of the Contract Procedure Rules and to delegate authority to the appropriate Chief Officers to deal with the necessary contractual issues or arrangements.</p>

<h2>Recommendations</h2>
<ol style="list-style-type: none"> <li>1. That the Committee agree to the extension and variation of the contact for Eversheds as external advisors on the Brent Cross Cricklewood Regeneration Scheme, including a waiver of Contract Procedure Rules on the grounds described in the report.</li> </ol>

## **1. WHY THIS REPORT IS NEEDED**

- 1.1 The report seeks authority to allow the continuation of contracts to cover legal advice, community engagement, strategic property and specialist advice on the Brent Cross Regeneration Scheme. In April 2013, Cabinet Resources Committee approved the regularisation and extension of Eversheds contract. However, approval waiver of Contract Procedure Rules is now sought to allow the Eversheds to continue on the scheme.

## **2. REASONS FOR RECOMMENDATIONS**

### Eversheds

- 2.1 Eversheds were appointed as legal advisors to the scheme on 18 July 2005, to provide support on commercial negotiations and on matters relating to Compulsory Purchase Order (CPO). This was following a robust competitive tender process involving submissions from 5 legal firms. Eversheds represented 'value for money' and the best option and they were appointed to advise on the scheme. The Council extended Eversheds contract in January 2009.
- 2.2 Council's officers will be seeking Committee approval for resolution to make a CPO(s) on the scheme within the next month. Therefore, it is essential that Eversheds continues to provide legal advice on all matters relating to the CPO(s). This will ensure that the Council receives the specialist legal advice and support during this intensive process and that project costs are kept to a minimum.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 If the Council decides not to approve extension of Eversheds contract, then the Compulsory Purchase Order (CPO) process will be delayed.
- 3.2 The Council has recently undertaken a procurement process for an external legal advisor and Wragge Lawrence and Co were appointed to the Brent Cross Scheme. This appointment will be covered in a separate Delegated Powers Report. However, Council Officers are keen to ensure continuity on legal advice on CPOs matters as this will prevent delays to the implementation of this process. Therefore, it is recommended that Eversheds continue to advise the Council on these matters.

- 3.3 At present, Eversheds are advising the Council on matters relating to Brent Cross North Development (CPO1) and Brent Cross South Development (CPO2). Eversheds is also drafting the Statement of Reasons for the CPO 2, as the Council intends to seek a resolution to make a CPO within the next few months.

#### **4. POST DECISION IMPLEMENTATION**

- 4.1 Once the decision has been approved officers will prepare the relevant documentation in consultation with HB Public Law to enable this contract to be extended and varied.

#### **5. IMPLICATIONS OF DECISION**

##### **5.1 Corporate Priorities and Performance**

- 5.1.1 The regeneration of Brent Cross Cricklewood supports the Corporate Plan 2013-2016 priority '*To maintain the right environment for a strong diverse local economy*', and the strategic objective under this priority to sustain Barnet by '*promoting growth, development and success across the borough*'.
- 5.1.2 The Growth Strategy for Barnet recognised that regeneration and growth are vital for ensuring the future prosperity of the Borough and maintaining Barnet as a successful London suburb. The scheme to transform Brent Cross Cricklewood will play a major role in delivering this prosperity, doubling the size of the shopping centre and linking seamlessly to a new town centre for Barnet and North London across the North Circular Road. Brent Cross Cricklewood is one of Barnet's priority regeneration areas, and will provide approximately 7,500 new homes over the next 20 years. It is a key part of the wider revitalisation of the A5 corridor, linking Brent Cross Cricklewood with developments at West Hendon, Colindale and Edgware and improvements to Cricklewood Town Centre, to create a series of high quality modern suburbs.
- 5.1.3 The first phase of the Brent Cross Cricklewood project includes the redevelopment of the shopping centre, creation of major new infrastructure, improved links to the existing tube station, and delivery of around 2,461 new homes over the next 8-10 years. This will create an estimated 3,000 construction jobs, and 4,000 permanent jobs. The Thameslink Station is important to the success of the regeneration scheme in both place-making as well as viability terms. However, at present the scheme does not benefit from the delivery of the station until the later phases. Bringing the station forward in the delivery programme will increase the attractiveness of Brent Cross Cricklewood area as a place to live, shop and work and thereby improve the viability of Brent Cross Cricklewood South and will also increase the pace of delivery of new homes.

##### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

###### Finance

5.2.1 The Council has the following consultant team in place to advise the Council on the Brent Cross Cricklewood Scheme. Policy and Resources Committee is asked to re-confirm the continued appointment of the external advisors for this project and that the Strategic Director for Growth and Environment or the appropriate Chief Officers should deal with any necessary contractual issues or arrangements in consultation with HB Public Law.

Contract Name	Area of Expertise	Date Appointed	Expenditure to November 2014
			£000s
Eversheds	Legal - CPO	Jul 2005 and Jan 2009	£3,670

5.2.2 This contract was subject to a competitive process and continues to represent the best available option for the Council. As mentioned in the Cabinet Committee Report in 2005, the Council selected 5 legal firms from a Chambers list of law firms with experience in regeneration. Submissions were invited and each firm was requested to attend an interview. Eversheds bid scored the highest and represented 'value of money'.

5.2.3 Under the terms of the Collaboration Agreement signed by the Council and the Development Partners, Hammerson/Cricklewood Regeneration Limited and Standard Life are obliged to pay the Council's consultants costs in connection with this project. The Principal Development Agreement is due to be exchanged within a matter of weeks, and provision has also been made for the Council to recover its costs.

5.2.4 The costs associated with the further work required to progress the project in 2014/15 are estimated to be approximately £1.3m and will be recovered from the Development Partners. The Development Partners have confirmed that these costs are included in their approved budget. If the costs through monthly cost monitoring are likely to exceed this provision, then officers will renegotiate additional costs with the Development Partners.

#### Procurement

5.2.5 Contract Procedure Rules, paragraph 14.2 confirms the value referred to in Appendix 1 Table A headed 'Variation or Acceptance' is the total value of the original contract value plus the addition of the value of any extensions and/or variations i.e. the total value of the contract. Contract Procedure Rules, Section 17 (Table A) sets out acceptance thresholds for contract extensions and variations. As the value of Eversheds contract exceeds £172,514 and is within the budget for the scheme, approval is sought from the Policy and Resources Committee, and this is included in the recommendation on this report.

5.2.6 Since, Eversheds contract has been already been confirmed/extended before, this report seeks a waiver of the council's Contract Procedure Rules 14.3 to allow this contract to continue for a five year term with a possible extension (if

required). This waiver is sought in accordance with Contract Procedure Rules section 15. The proposed estimated fee for the making of a CPO is estimated to be in the region of £186,500, and these costs are recoverable from the Development Partners.

### **5.3 Legal and Constitutional References**

5.3.1 The original procurement exercise for the appointment of the Consultants mentioned in paragraph 5.2 of this report was carried out in accordance with the Council's Contract Procedure Rules and European Union public procurement rules.

5.3.2 Council Constitution, Responsibility for Functions, Annex A sets out the terms of reference of the Policy and Resources Committee including 'Corporate Procurement (including agreement of the Procurement Forward Plan and agreeing exceptions to CPRs). Contract Procedure Rules, paragraph 15.1 provides that 'All applications for a waiver of contract procedure rules must be submitted to Policy and Resources Committee specifically identifying the reason for which a waiver is sought, including justification and risk'.

5.3.3 In this case the conditions for extension and variation of contract (section 14 of Contract Procedure Rules) are not met as the contract has been extended before. A waiver is therefore needed. If this contract is not extended, there is a risk that Council will be without specialist advice and support on particular elements of the programme. This contract was subject to a competitive process and continues to represent the best available option for the Council.

5.3.4 HB Public Law will be instructed to draft and/or approve the contract extensions and/or variations.

### **5.4 Risk Management**

5.4.1 It is not considered that the issues involved are likely to raise significant levels of public concern or give rise to policy considerations as this decision relates to the re-confirmation of existing contracts, within the contractual terms, following a robust procurement process.

5.4.2 However if this contract is not extended, there is a risk that the Council will be without specialist legal advice and support on particular elements of the programme. This risk is being managed through the extension of these contracts.

5.4.3 The specific risks that would follow from not continuing with the Eversheds appointment is that the Compulsory Purchase process would be delayed, giving rise to both financial and reputational damage to the Council, and that consistent legal advice on the Compulsory Purchase, commercial and planning documents would be disrupted, with a risk that commercial damage could occur and open the Council up to the risk of both financial and

contractual claims.

## **5.5 Equalities and Diversity**

- 5.5.1 It is not envisaged that the re-confirmation of these contracts will result in a detrimental effect on any resident(s) with 'protected characteristics', over and above the effect on those without 'protected characteristics', due to the universal nature of the service being provided. The council understands that it has an obligation to meet its public sector equalities duty under the Equality Act 2010 including where public functions are delivered on its behalf by other organisations and will do everything necessary to ensure that there is continuing compliance with this duty

## **5.6 Consultation and Engagement**

- 5.6.1 It is not considered that this issue will require consultation and engagement with service users, as these decisions relates to the extension of existing contracts, within the contractual terms, following a robust procurement process.

## **6. BACKGROUND PAPERS**

- 6.1 Cabinet, 29 March 2005 (Decision Item 6) – agreed to enter into a Collaboration Agreement with the development partnership (Cricklewood Regeneration Limited, Hammerson and Standard Life).  
<http://barnet.moderngov.co.uk/Data/Cabinet/200503291900/Agenda/Document%204.pdf>
- 6.2 Cabinet Report, 18 July 2005, authorised appointment of the legal firm Eversheds to provide specialist legal advice for the Cricklewood and Brent Cross Project.  
<http://barnet.moderngov.co.uk/Data/Regeneration%20&%20Development/20050718/Agenda/appointment%20of%20legal%20advisors%20to%20support%20the%20council%20in%20negotiations%20for%20the%20cricklewood%20and%20brent%20cross.pdf>
- 6.3 Cabinet, 5 December 2005 (Decision Item 7) – approved, amongst other matters, that 1) the Eastern Lands Addendum be adopted as Supplementary Planning Guidance; and 2) the Eastern Lands Supplementary Guidance is incorporated into the Cricklewood, Brent Cross and West Hendon Development Framework.  
<http://barnet.moderngov.co.uk/Data/Cabinet/200512051900/Agenda/Document%204.pdf>
- 6.4 Cabinet Resources Committee, 18 April 2013 (Decision Item 14) - noted that the Brent Cross Cricklewood Development Partners wished to modify the existing planning consent to allow re-phasing; approved that the Director for

Place begin preparations to enable the Council to procure a development partner to deliver the regeneration of the southern parts of Brent Cross Cricklewood Regeneration Area and confirmed the continued appointment of the external advisors for the Brent Cross Cricklewood Regeneration project, and the procurement of appropriate additional advice, and to delegate authority to the Director for Place to deal with necessary contractual issues or arrangements.

<http://barnet.moderngov.co.uk/mgConvert2PDF.aspx?ID=8369&ISATT=1#search=%22Brent%20Cross%20%22>

6.5 Delegated Powers Report, 17 May 2013, approved the appointment of AECOM to provide planning, environmental and transport expertise in relation to the re-phasing of the Cricklewood Brent Cross (CBX) Regeneration Scheme

6.6 Cabinet Resources Committee, 16 January 2014 (Decision Item 6) - approved the changes to the terms of the Brent Cross Principal Development Agreement (as considered and approved by CRC in October 2010) and the terms for the Co-operation Agreement as set out in Section 9 of this report; authorised the Chief Executive in consultation with the Leader of the Council to agree the detail of the Brent Cross Principal Development Agreement and Co-operation Agreement; approved commencement of market testing through the issue of a Prior Information Notice to inform the delivery strategy for the Brent Cross Cricklewood South area; and approve that the Council enter into negotiations with landowners to acquire land required in advance of any Compulsory Purchase Order, subject to approval of the bid for capital funding by Cabinet on 25 February 2014; and approved that the Council continue the design and development work to develop the business case and funding strategy for delivery of the Thameslink Station, subject to approval of the capital funding bid by Cabinet on 25 February 2014; and delegate authority to the Strategic Director for Growth and Environment to procure the necessary advice and consultants to progress the Brent Cross project workstreams and deal with the related contractual issues and arrangements.

<http://barnet.moderngov.co.uk/mgConvert2PDF.aspx?ID=12505&ISATT=1#search=%22Brent%20Cross%20%22>

6.7 Assets, Regeneration & Growth Committee, 8 September 2014 (Decision Item 10) – approved the appropriate Chief Officers be authorised to negotiate and enter into agreements to acquire by private treaty the land and interests and; to approve and enter into agreements and undertakings with the owners and/or occupiers of the land in the said areas so as to facilitate its acquisition.

<http://barnet.moderngov.co.uk/documents/s17302/Brent%20Cross%20Cricklewood%20-%20Report.pdf>