	<p><b>ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER 26 February 2015</b></p>
<p style="text-align: right;"><b>Title</b></p>	<p><b>Brent Cross Cricklewood Commercial Agreements</b></p>
<p style="text-align: right;"><b>Report of</b></p>	<p>Andrew Travers, Chief Executive</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 with an accompanying Exempt Report and Exempt Appendixes.</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>Cath Shaw, Commissioning Director, Growth and Development Karen Mercer, Programme Director, Re</p>

### Summary

To execute the commercial agreements in respect of the Brent Cross Principal Development Agreement (and associated documents), CPO Indemnity Agreement, Co-Operation Agreement and CRL Share Purchase Agreement in accordance with the terms approved by Cabinet Resources Committee dated 16 January 2014 and Urgency Committee on 26 February 2015..

### Decisions

1. To authorise the execution of the Brent Cross Principal Development Agreement (and associated documents), CPO Indemnity Agreement, Co-Operation Agreement and CRL Share Purchase Agreement and Disclosure Letter.

#### 1. WHY THIS REPORT IS NEEDED

- 1.1 This report is needed to authorise the execution of the Brent Cross Cricklewood commercial agreements to ensure the delivery and comprehensive regeneration of the Brent Cross Cricklewood Regeneration proposals. This is in accordance with resolution of the Cabinet Resources Committee on 16 January 2014 and Urgency Committee on 26 February 2015 which authorised the Chief Executive in consultation with the Leader of the

increased acquisition costs to be met from the capital budget as set out in the Exempt Section 2 of the Urgency Committee report. The Committee also authorised the Chief Executive in consultation with the Leader of the Council to agree the detail of the amendments to the Co-operation Agreement and CRL Share Purchase Agreement (see background papers at Section 6).

- 2.6 The Co-operation Agreement and CRL Share Purchase Agreement as agreed in July 2014 have now been amended in accordance with proposed terms approved by Urgency Committee as detailed in the Legal Report prepared by Wragge Lawrence Graham & Co attached as set out in the exempt report.
- 2.7 The Council's property advisor has confirmed that the transaction still fulfils the requirements of S233 and that this transaction is the best that can be reasonably be negotiated with the Development Partners as set out in the exempt report.
- 2.8 The detail of the proposed changes have been provided to the Council's Chief Executive and to the Leader of the Council and the documents are now in their final agreed form to be executed in advance of the Assets, Regeneration and Growth Committee on 3 March 2015.
- 2.9 The delegations granted to officers under the previous Governance regime remain valid, and as such the Chief Executive in consultation with the Leader of the Council is authorised to execute these documents.

### **3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

- 3.1 These legal documents are required to ensure the delivery of the regeneration proposals. Failure to approve the DPR and sign the legal documentation will jeopardise the Brent Cross Cricklewood project.

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

- 4.1 The Brent Cross Principal Development Agreement (and associated suite of documents), CPO Indemnity Agreement, Co-Operation Agreement and CRL Share Purchase Agreement and Disclosure Letter will be executed in advance of the Assets, Regeneration and Growth Committee on 3 March 2015.

### **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 '*promote growth development and success across the borough*' and contributes to the corporate plan outcome '*To maintain the right environment for a strong diverse local economy*'.

5.3 The costs associated with the legal agreements in respect of the Hammerson Land and CRL is set out in the Exempt report.

#### **5.4 Legal and Constitutional References**

5.4.1 The Council's Constitution, Responsibility for Functions, Annex B states the powers delegated to Officers, including that the Chief Executive has lead responsibility to implement the Council's policies, ensuring that it delivers to its objectives and duties, within budget and according to strategic priorities and statutory requirements.

5.4.2 The Council has a power of general competence under Section 1 of Chapter 1 of the Localism Act 2011 and this empowers the Council to enter into legal arrangements for the development of the Brent Cross Cricklewood regeneration scheme. Section 1 of the Localism Act 2011 provides local authorities with a broad power to do anything that individuals can do subject to any specific prohibitions and restrictions on Local Government powers pre-dating the power of general competence.

5.4.3 The Council has the power to acquire and dispose of land in accordance with Sections 120 to 123A of the Local Government Act 1972, and subject to obtaining appropriate consents and approvals.

5.4.4 The Public Services (Social Value) Act 2012 requires the Council to consider whether it can achieve an improvement to the economic, social and environmental well-being of an area as part of the procurement of these services. If so, the social value objectives identified must be written into the procurement process. All of this must be achieved with regard to value for money and in a way that is compliant with existing public procurement law. "Social value" objectives can include the creation of employment, apprenticeship and training opportunities for local people, trading opportunities for local businesses and the third sector; and the promotion of equality and diversity through contract delivery.

5.4.5 Section 111 of the Local Government Act 1972 provides that a local authority has power to do anything which is calculated to facilitate, or is conducive or is incidental to, the discharge of its functions.

5.4.6 The public sector equality duty referred to in Section 5 also required consultation to ensure the Council complies with its duties under the Equality Act 2010.

#### **5.5 Risk Management**

5.5.1 The key risks are clearly set out in the 16 January 2014 report to CRC and Urgency Committee dated 26 February 2015 as well as the advisor reports in support of this DPR and within DPR 2207 within Section 6.

- 5.6 It is important to note that all relevant equalities and diversity issues were considered as part of the original planning application, which was approved in October 2010.
- 5.7 The equalities implications will be regularly reviewed and updated during the life of the project.

## 5.7 Consultation and Engagement

- 5.7.1 Extensive consultation has and will continue to be undertaken with key stakeholders and the community to ensure that the Brent Cross Cricklewood scheme reflects local needs including the needs of those with protected characteristics, as well as securing the future of North London's only regional shopping centre.

## 6. BACKGROUND PAPERS

- 6.1 Cabinet, 26 April 2004 (Decision Item 8) – approved the adoption of the Cricklewood, Brent Cross and West Hendon Development Framework as Supplementary Planning Guidance.
- 6.2 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>]
- 6.3 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, 25 March 2008 (Decision Item 16) – approved the outline terms so far agreed with the Brent Cross partners and Cricklewood Redevelopment Limited, including the proposals for the finalisation of the financial terms, be approved in principle subject to the outcome of Counsel's advice on procurement issues, and that the finally agreed terms for the Development Framework Agreement and the Principal Development Agreements be reported to a future meeting of the Cabinet for approval. [<http://barnet.moderngov.co.uk/Data/Cabinet%20Resources%20Committee/200803251900/Agenda/Document%2015.pdf>]
- 6.5 Cabinet, 21 October 2009 (Decision Item 7) – approved the terms and conditions of entering into the Development Framework Agreement and the Principal Development Agreements, subject to approval of the Brookfield Europe and Hammerson Guarantor companies by the Director of Finance and

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

- 6.9 DPR 2207 - To execute the commercial agreements in respect of the Brent Cross Principal Development Agreement and the Co-Operation Agreements in accordance with the terms approved by Cabinet Resources Committee dated 16 January 1014

<https://barnet.moderngov.co.uk/ieDecisionDetails.aspx?ID=5694>

- 6.10 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>

- 6.11 Assets, Regeneration & Growth Committee, 15 December 2014. Committee noted progress on the Brent Cross Cricklewood Regeneration project. <http://barnet.moderngov.co.uk/documents/s19845/BXC%20update%20-%20Publish.pdf>

## 7. DECISION TAKER'S STATEMENT

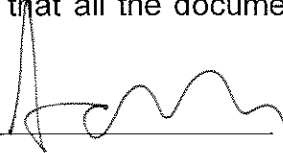
- 7.1 *I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations.*

## 8. OFFICER'S DECISION

### I authorise the following action

- 8.1 that, following consultation with the Leader of the Council, the Brent Cross Cricklewood Principal Development Agreement (and associated Grant of Option (Developer), Deed of Variation, Supplemental Agreement and Letter from LBB to Kleinwort Benson and Hammerson), Co-operation Agreement, the CRL Share Purchase Agreement and Disclosure Letter and CPO Indemnity Agreement are now agreed and that all the documents should be executed on behalf of the Council.

Signed Andrew Travers, Chief Executive



Date 26 February 2015