## DELEGATED POWERS REPORT NO. 1444

### SUBJECT: Extension of West Hendon Regeneration Scheme PDA

### Control sheet

All of the following actions MUST be completed at each stage of the process and the signed and dated report MUST be passed to Governance Service for publishing

### All reports

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## Extension of West Hendon Regeneration Scheme PDA

### Officer taking decision
Interim Director of Environment Planning and Regeneration

### Date of decision
3 October 2011

### Summary
The West Hendon Regeneration Scheme requires a further extension of time to the existing commercial agreement between the Council and its development partners to review feasibility options. The existing Principal Development Agreement (PDA) expires on 15 December 2011, and this report authorises:

a) an extension to the above expiry date by a further 12 months up to 15 December 2012.

### Officer Contributors
Angela Latty, Assistant Project Manager  
Abid Arai, Senior Project Manager  
Tom Wyld, Senior Planning Officer

### Status (public or exempt)
Public with no separate exempt report

### Wards affected
West Hendon

### Enclosures
Appendix A: Revised Masterplan Timescale

### Reason for exemption from call-in (if appropriate)
Not applicable

### Contact for further information
Contact for further information: Angela Latty, Regeneration Service (PER) on 0208 359 7188
1. **RELEVANT PREVIOUS DECISIONS**

1.1 Planning and Environment Committee 27 July 2005 (Decision 9); Outline planning consent for the West Hendon Regeneration Scheme (W13937/04), subject to an agreed Section 106.

2.2 Cabinet 30 August 2005 (Decision 5), West Hendon Regeneration Project – Approval of the Principal Development Agreement.

2.3 Cabinet 11 October 2005 (Decision 7), West Hendon Regeneration Project – approval of the Principal Development Agreement – Comments from Cabinet Overview and Scrutiny Committee.

2.4 Planning And Environment Committee 25 January 2006 (Decision 7); approved amendments to Outline Planning Consent (W13937/04), to vary with additions of S106 Heads of terms relating to Additional Planning Obligations relating to Energy Strategy and Accessibility and Inclusive Design.

2.5 Cabinet Decisions 3 April 2006; (Decision 8); West Hendon Regeneration Project – Approval to enter into the Principal Development Agreement.

2.6 Planning and Environment Committee 11 December 2007 (Decision 10); approved demolishing of former Lakeview Children’s Centre and the redevelopment of the site with 8 affordable housing subject to the completion of a Section 106 Agreement.

2.7 Planning and Environment Committee 3 March 2008 (Decision 8); approved amendments to Outline Planning Consent (W13937/04) to vary phasing; reconfigure the central square; make general changes the alignment of building blocks and vary the layout of block ‘L’ and surrounding road layout.

2.8 Cabinet Resources Committee 25 March 2008 (Decision 14); approved the transfer of the former Lakeview Children’s Centre site to Barratt Metropolitan Ilp for redevelopment of 8 new affordable houses.

2.9 Planning and Environment Committee 22 December 2008 (Decision 8); approved Reserved Matters Application to develop Phase 2A of the development.

3.0 DPR 870 (7 August 2009); approved and agreed a Deed of Variation to extend the expiry date on PDA, and make amendments to the provisions for the TUPE agreement and information on the Masterplan.

3.1 DPR 993 (15 February 2010); approved the extension of the PDA expiry date by four months to 15 June 2010, and to enter the Deed of Variation to the PDA for commencement of the Initial Phase (Pilot and Phase 2A).

3.2 DPR 1092 (16 June 2010); approved the extension of the PDA expiry date by six months to 15 December 2010.

3.3 Planning and Environment Committee 29 July 2010 (Decision 9); Approved variation to S106s attached to Approved Outline Application (W13937/04) and Pilot
Phase (W13230A/07) to spread Lakeview Children’s Centre Financial Contribution (£1,621,213) over phases after ‘2a’ and to link 1st Educational Payment (£371,362) to occupation rather than implementation of phase 2a.

3.4 DPR 1224 (26 November 2010); Approved appropriation of land by BMLLP in relation to phase 2a.

3.5 Cabinet Resources Committee 30 November 2010 (Decision 7); approved the extension of the PDA to 12 months to 15 December 2011 and authorised officers to grant a further extension of up to 12 months by DPR.

2. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

2.1 The regeneration of the West Hendon Estate contributes to the delivery of the Corporate Plan 2011-2013 priority of a ‘successful London Suburb’. A strategic objective under the above priority is: 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.

2.2 This key priority is underpinned by ‘Three Stand Approach’: Protection, Enhancement, and Growth, which promotes sustainable growth, regeneration and high quality transformation into a vibrant and successful, mixed-tenure neighbourhood.

2.3 The regeneration of the West Hendon Estate supports the ‘One Barnet Programme’ principles through the following objectives:

- A new relationship with citizens
  the new development will offer more choice and promote independence by providing a number of different housing options such as shared equity, shared ownership etc to residents and those in the wider community

- A one-public-sector approach
  working together with other public sector partners to ensure the successful delivery of the scheme.

2.4 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.

3. RISK MANAGEMENT ISSUES

3.1 The Principal Development Agreement (PDA) seeks to minimise the Council's risks whilst safeguarding the Council’s desired outcomes. The Council’s prime concern is to ensure that the redevelopment commences and is viable.
3.2 A further extension to the West Hendon PDA is required to prevent it from being terminated. If the PDA is terminated, the Council would be required to commence a new procurement process to find a partner to regenerate the West Hendon Estate. A new PDA would also be required for the regeneration and redevelopment of the area. This would affect the programme duration and cost to the scheme.

3.3 Under the existing PDA, the Council’s development partners are responsible for Council costs up to £500,000 prior to the PDA being signed and annual Council costs of up to £100,000 per annum during the development period. These can be claimed at the Satisfaction Date for the PDA. If the PDA terminates, the Council will no longer be able to recover these costs.

3.4 There is also a risk resulting from the original planning permission for the West Hendon scheme being approved prior to the Government’s introduction of the Community Infrastructure Levy (CIL) Regulations. Proposals for a new London wide CIL with a draft charging schedule are now out for public consultation. The Mayor will consider representations in the autumn and the legislation will be implemented in spring 2012.

3.5 It is worth noting that an amendment to the existing planning permission through a Section 73 application, or submission of a new application would trigger liability to London wide CIL, if the application was to be determined following adoption (due 1 April 2012). This may place additional burden on BMLLP by adding costs to the scheme.

3.6 In order to improve the scheme viability for the Initial Phase, the Council deferred the Section 106 contribution on the former site of the Lakeview Children’s Centre to the later phases of the scheme. If BMLLP decides not to proceed with the rest of the regeneration, this contribution will be lost. The total amount deferred is £1.6 million (indexed linked).

3.7 If the regeneration of the estate fails to proceed, the Council still has an obligation to bring the current housing stock up to Decent Homes Standards. The properties in Council ownership will require major investment to ensure that these properties remain habitable in the medium and long term. There is currently no financial provision to upgrade these homes in the Decent Homes Programme.

3.8 The Council will need to identify alternative funding sources and this may include securing provision from the Housing Revenue Account.

3.9 If the PDA is extended until 15 December 2012, but by early 2012 it transpires that the Development Partners have not got a viable scheme to progress, there is a risk that the Council would be tied into the PDA for longer than needed. However, the Initial Phase is due to be on site for this period, and any process to select and appoint a new developer would probably take at least 12 months.

4. EQUALITIES AND DIVERSITY ISSUES

4.1 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.
The West Hendon 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.

4.2 It is not considered that the issue 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.

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

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

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

6. LEGAL ISSUES

6.1 Section 2 of the Local Government Act 2000 gives the Council the power to do anything that it considers likely to achieve the promotion of the social, economic and environmental well being of it’s area. And in exercising this power the Council must have regard to its Community strategy.

6.2 The proposed extension of the PDA is supported by the above mentioned power.

7. CONSTITUTIONAL POWERS

7.1 Council Constitution, Part 3, Responsibility for Functions; paragraph 6.1 (Powers Delegated to Officers) enables Chief Officers to take decisions in consultation with the Cabinet Member concerned, amongst other things, to discharge the duties allocated to them or dealt with by their staff, except for matters specifically reserved to Executive Members, Cabinet meeting, Cabinet Committees, Committees or Council.
8. BACKGROUND INFORMATION

8.1 In November last year, the Cabinet Resources Committee (CRC) approved an extension to the expiry date of the West Hendon PDA by a further 12 months to 15 December 2011. The extension has enabled BMLLP to begin the Pilot phase and Phase 2a and to undertake a preliminary review of the viability of rest of the scheme. Initial findings from the review indicated that a S73 application could address the significant funding gap that existed. However following further viability investigations by BMLLP, this is no longer a feasible approach. It is now considered necessary to comprehensively review the Masterplan in the light of the current financial climate.

8.2 The November CRC Report sets out the conditions for a further extension. It states that the Council can only extend the PDA if BMLLP has made reasonable progress on the review. At the time CRC members also approved the programme for the review, which has a number of key milestones set against a 12 month timescale. The revised masterplan programme has been appended to this report as Appendix A.

8.3 The original expiry date for the PDA was 10 August 2009, however, all parties agreed to extend the expiry date to 15 February 2010 in accordance with the terms of the PDA. Further extensions to the 15 June 2010, 15 December 2010 and 15 December 2011 followed.

8.4 Although, the PDA was approved by the Council in August 2006, the agreement is not yet unconditional (the date on which the conditions precedent are satisfied) because the scheme has suffered from series of delays. One of key factors for the delay was the poor economic climate from 2006 to 2009 which led to the decline in the housing market. The financial viability was further exacerbated by funding shortages. The recent recession has had a significant impact on the projected sales prices at West Hendon, and this also affected the viability of the scheme.

8.5 Masterplan Review

8.5.1 The current masterplan was developed in a more economically vibrant time, and it is no longer financially viable in today’s climate. In June, last year BMLLP undertook an appraisal on the scheme and it showed that the costs were aggravated by the following features:

a. Providing car parking at basement level.
b. Acquiring Ramsey Close housing and the adjacent petrol station through a Compulsory Purchase Order (CPO).
c. Acquiring the A5 frontage properties in the early stages relative to the values achievable through redevelopment before the existing estate is replaced.
d. Relocating the main sewer to accommodate new development.
e. Misalignment between the proposed construction phases and the required demolition phasing for the existing estate.

8.5.2 BMLLP considered developing a new master plan but at first this was thought to be too lengthy and expensive process. Discussions were held with the Council in which cheaper materials were considered for phase 2a, the approach however was not acceptable. Other considerations that have been dismissed include increasing
the height of the blocks or changing the quality of the public realm. However, these changes may comprise the quality of the scheme and would also trigger a new planning application.

8.5.3 BMLLP’s original assessment showed that the scheme had a deficit of £186 million, and that significant changes where required to the masterplan to improve viability. BMLLP undertook a further appraisal in October 2010, this highlighted that the scheme deficit could be reduced to £40 million. A scope assessment produced in January 2011 by BMLLP’s planning consultants demonstrated that the viability could be further reduced to £28 million with 3 fundamental changes:

(i) The reduction of car parking provision from a 1:1 ratio to 0.8:1 ratio allowing the removal of proposed double basement car parks

(ii) A reduction in the number of affordable housing units from 680 units (31%) to 543 units (25%) In combination with a change in the tenure of the Affordable units currently split 81% Social Rented to 19% Intermediate and proposed as 53% Social Rented to 47% intermediate.

(iii) Re-phasing to shift CPO costs and A5 improvement works to later phases

8.5.4 The reduction in the affordable social rented homes would still ensure sufficient units for existing secure tenants on the estate. The reduced level of affordable housing detailed above would be a minimum level subject to viability. Clauses within the S106 legal agreement attached to a planning approval would ensure that increased viability of the scheme linked to changes in the housing market would result in improvement to affordable housing provision. This proposal would result in no overall increase to the numbers of new homes being built at West Hendon, the total number of units proposed would remain at 2171.

8.5.5 BMLLP had proposed to submit these changes through a Section 73 application in September 2011. It was understood that this approach would require an extension of time to allow careful consideration of both planning outcomes and financial viability. Furthermore a Legal opinion would have been required on the acceptability of and risks associated with such an approach and the updates required for the Environmental Statement.

8.5.6 In Late July 2011 BMLLP met with the Council’s Deputy Chief Executive and senior officers to discuss their commitment to the regeneration of West Hendon. This meeting resulted in a re-consideration of BMLLP’s approach and they have now committed to undertaking a comprehensive review of the scheme to ensure that all options are thoroughly examined over the next six months. A Section 73 application has not been ruled out; however this new approach will determine whether a new application, with an amended masterplan or a Section 73 application is the best way forward to achieve deliverable regeneration of West Hendon.

8.5.7 The review will involve:

- Options review, considering amendments to the existing masterplan and consent versus a new masterplan and application to correct the viability gap.
• Engagement with all stakeholders and obtain “buy in” to any proposed amendments and an understanding of the reasoning behind them.
• A coordinated recommendation from the BMLLP team as to a proposed way forward.

8.5.8 This comprehensive review is likely to be completed within the next 4 months. The target timeline is as follows:
• Initial Options Review – September 2011
• Selected Option development – October – December 2011
• Full Report and Recommended Way Forward – Mid/End December 2011

8.5.9 So far, 4 workshops have been held and the review process is proceeding well, though it is not yet known what the conclusions will be.

Consultation with Residents
8.5.10 Since October 2010, BMLLP has been engaged with the residents about a possible review of the existing masterplan. The proposed changes to the masterplan were presented to residents in May 2011 at the Residents Regeneration Group Public Meeting. Further non-statutory consultation events were held by BMLLP on the 11th and 15th of June 2011, to gauge public opinion on the proposed changes. Although, BMLLP are consulting with residents about these potential changes to the scheme, the Council has yet to endorse their changes to the scheme.

8.5.11 These events and presentations were made to keep the public abreast of BMLLP intentions to review the masterplan and to provide a progress update on scheme. BMLLP and the Council will continue to consult residents throughout this process.

8.5.12 As part of the Options Review BMLLP will also prepare a revised consultation strategy, which will maintain the principles of the strategy followed to date but take into account the revised programme and the outcome of the Options Review.

The Initial Phase
8.6.1 The Initial Phase comprises the Pilot Phase and Phase 2A of the development and construction and enabling works are well underway, with progress being made to complete the Pilot Phase of 8 affordable houses later this year. Phase 2A also known as Lakeside contains 35 affordable homes for social rent and 151 private homes for sale, this is due to be completed in 2012.

8.6.2 As part of the decant process, Barnet Homes have undertaken housing needs visits to assess the suitability of secure tenants for the new homes. Barnet Homes visited tenants in the proposed next phase of the development, and others in future phases. They visited secure tenants in 11-72 Warner Close, 33-61 and 110-125 Tyrrel Way, 1-10 Marriotts Close and part of Ramsey Close.

Estate Maintenance
8.7.1 Barnet Homes are undertaking initial stock condition surveys across all regeneration estates and council homes in the borough to determine what works needs to be prioritised. Barnet Homes intends to plan for future maintenance works against the proposed phasing programmes for each scheme. They are aiming to
complete this work by November. But the work on West Hendon is to be delayed until the conclusion of the masterplan review.

8.7.2 On conclusion of the masterplan review, Barnet Homes will formally present the council with their proposal on Option A, which is set out below.

- Option A - a detailed programme of maintenance works which takes the proposed re-phasing into consideration and future maintenance of the remainder of the properties over the life time of the regeneration which is due to completed in year 2022

8.7.3 Option A should ensure that no unnecessary works are carried out whilst the regeneration is in progress.

8.7.4 If the regeneration does not proceed, the Council will need to consider an alternative approach. Since, Barnet Homes will need to maintain the estate whilst the Council seeks to secure alternative funding or procures a new development partner for the scheme.

8.7.5 Barnet Homes is also developing a proposal for Option B which set out below:

- Option B - a detailed programme of maintenance works for the estate, if the regeneration is not going ahead, and the cost for undertaking these works.

8.7.6 Option B provides an indication on the level maintenance works required and on any associated costs.

PDA Extension

8.8.1 On the basis that BMLLP have made some progress on the masterplan review, officers would like to recommend a further extension to the PDA. A further extension would also allow the Council to re-assess the financial obligations within the agreement.

8.8.2 If the expiry date is not extended the PDA would expire and the Council would not be able to secure its historic expenditure from the developers as detailed in the risk section of the report. The Council would have to re-procure another regeneration scheme with new partners or identify other funding sources to upgrade the homes on the West Hendon Estate.

9. LIST OF BACKGROUND PAPERS

9.1 None.

10. CONSULTATION WITH CABINET MEMBER(S)

10.1 The Cabinet Member for Regeneration has been consulted and agreed that action taken.
11. OFFICER’S DECISION

I authorise the following action

11.1 That approval to be given for the Council to enter into a Deed of Variation to the PDA for the West Hendon Regeneration Scheme which extends the expiry date of the agreement for a further 12 months to 15 December 2012.

Signed Pam Wharfe
Interim Director of Environment Planning and Regeneration

Date 3/10/11
# APPENDIX A

## West Hendon Regeneration Scheme

**Barratt Metropolitan Limited Liability Partnership (BMLLP)**

### Comprehensive Masterplan Review Programme

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<td>Early October 2011</td>
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