

DELEGATED POWERS REPORT NO.

1715

SUBJECT: West Hendon Collateral Warranties

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 the Governance Service for publishing

All reports		
1. Governance Service receive draft report	Name of GSO Date	Maria Lugangira 26-06-12
2. Governance Service cleared draft report as being constitutionally appropriate	Name of GSO Date	Maria Lugangira 29-06-12
3. Finance clearance obtained (<i>report author to complete</i>)	Name of Finance officer Date	Hayley Woolard 28-06-12
4. Staff and other resources issues clearance obtained (<i>report author to complete</i>)	Name of Resource officer Date	Siobhan Reade 26-06-12
5. Strategic Procurement clearance obtained (<i>report author to complete</i>)	Name of Strategic Procurement officer Date	N/A N/A
6. Legal clearance obtained from (<i>report author to complete</i>)	Name of Legal officer Date	Tobenna Erojikwe 29-06-12
7. Policy & Partnerships clearance obtained (<i>report author to complete</i>)	Name of P&P officer Date	Andrew Nathan 27-06-12
8. Equalities & Diversity clearance obtained (<i>report author to complete</i>)	Name of officer Date	Andrew Nathan 27-06-12
9. The above process has been checked and verified by Director, Head of Service or Deputy	Name Date	Stephen McDonald 02-07-12
10. Signed & dated report, <u>scanned or hard copy</u> received by Governance Service for publishing	Name of GSO Date	Maria Lugangira 03-07-12
11. Report published by Governance Service to website	Name of GSO Date	Maria Lugangira 24-07-12
12. Head of Service informed report is published	Name of GSO Date	Maria Lugangira 24-07-12
Key decisions only:		
13. Expiry of call-in period	Date	N/A
14. Report circulated for call-in purposes to Business Management OSC members & copied to Cabinet Members & Head of Service	Name of GSO Date	

**ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER
(EXECUTIVE FUNCTION)**

Subject	West Hendon Collateral Warranties
Officer taking decision	Interim Director of Environment, Planning and Regeneration
Date of decision	2 July 2012

Summary	Approval is sought for the execution of the collateral warranties received to date that directly arise from the Principal Development Agreement for the Initial Phase (Pilot and Phase 2A) of the development.
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Officer Contributors Angela Latty, Senior Regeneration Officer, Strategic Planning and Regeneration

Status (public or exempt) Public

Wards affected West Hendon

Enclosures

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

Key decision Not Applicable

Contact for further information: Noreen Twomey, Strategic Planning and Regeneration
0208 359 7646

Serial No. 1715

1. RELEVANT PREVIOUS DECISIONS

- 1.1 Cabinet, 30 August 2005 (Decision item 5) – approval to enter into a the Principal Development Agreement with Metropolitan Housing Trust, Metropolitan Living Limited, Barratt Homes Development PLC and Barratt Homes Limited for the West Hendon Area Regeneration Project.
- 1.2 Cabinet, 11 October 2005 (Decision item 7) – approval for the final arrangements for the entering the Principal Development Agreement be subject to approval by the Leader of the Council following comments from Cabinet Overview and Scrutiny Committee.
- 1.3 Cabinet, 3 April 2006 (Decision item 8) –approved the final arrangements for entering into the Principal Development Agreement for the West Hendon Regeneration Project.
- 1.4 Cabinet Resources Committee, 25 March 2008 (Decision item 14) – approved the transfer of the former Lakeview Children’s Centre site to Barratt Metropolitan Limited Liability Partnership for redevelopment of 8 new affordable houses.
- 1.5 Planning and Environment Committee, 22 December 2008 (Decision item 8) – approved the Reserved Matters planning application to develop Phase 2A of the development.
- 1.6 The Leader of the Council approved by delegated powers on 15 February 2010; (Delegated Powers Report number 993) an extension to the expiry date of the Principal Development Agreement and a Deed of Variation for the Pilot and Phase 2A.
- 1.7 Cabinet Resources Committee, 22 April 2010 (Decision item 5) – approved the disposal of land forming part of Phase 2A to Barratt Metropolitan Limited Liability Partnership for the development of 186 new homes.
- 1.8 Cabinet Resources Committee 30 November 2010 (Decision 7); approved the extension of the Principal Development Agreement to 12 months to 15 December 2011 and authorised officers to grant a further extension of up to 12 months to 15 December 2012 (which has now been granted)
- 1.9 The Director of Housing, Planning and Regeneration approved by delegated powers on 22 June 2011 (Delegated Powers Report number 1,324) to execute the Collateral Warranties for Faithful and Gould on the West Hendon Scheme.

2. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 2.1 The regeneration of the West Hendon estate supports the Corporate Plan 2012-2013 priority of ‘A successful London Suburb’ and the strategic objective under this priority to *sustain Barnet as a successful place through regeneration, and supporting enterprise and employment.*
- 2.2 The regeneration of the West Hendon estate also supports the One Barnet Sustainable Community Strategy 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 shared ownership 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 schemes.
 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.
- 2.3 The proposed estate regeneration also complies with strategic objectives in the Council's Housing Strategy 2010- 2025 (to be updated to incorporate Barnet's proposed approach to housing reform approved by Cabinet on 14 September 2011), 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 It has been considered whether the issue involved is likely to raise significant levels of public concern or give rise to policy considerations and it is not considered that the issue will raise significant levels of public concern.
- 3.2 Collateral Warranties will arise directly from the Principal Development Agreement during the life of the delivery of the project and are necessary to ensure proper delivery of the regeneration proposals. The development partners are obligated under the Principal Development Agreement to facilitate the entry into warranties where necessary. The Council carries no responsibility for fees or other costs associated with the Consultants work. The forms of warranty used are in line with industry standards.

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 the Council's duties under the Equalities Act 2010.
- 4.2 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

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

- 5.1 There are no implications for finance, procurement, performance and value for money, staffing, IT, property or sustainability.

6. LEGAL ISSUES

- 6.1 The collateral warranties are a requirement of the Principal Development for the scheme and they are meant to ensure that the contractors and sub-contractors mentioned below have a duty of care to the Council with respect to works that are to be carried out by the contractor or sub-contractor within the context of the West Hendon regeneration scheme.

7. CONSTITUTIONAL POWERS

- 7.1 The Council's Constitution in Part 3, Responsibility for Functions, paragraph 6.1 provides that Chief Officers can take decisions without consultation of Cabinet Members, where it is a decision authorised to be taken by the Chief Officer under the Contract Procedure Rules or it involves the implementation of policy or earlier decision of the Council or Cabinet or Committee or 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. BACKGROUND INFORMATION

- 8.1 The West Hendon Principal Development Agreement was approved by the July 2006 Cabinet Meeting, and was executed on the 30 August 2006. The Principal Development Agreement is the legal contract between the Council and its development partners, Barratt Metropolitan Limited Liability Partnership.
- 8.2 The Principal Development Agreement has not gone unconditional, and in order to commence works on the initial phase of the development, the Council and BM LLP entered into a Deed of Variation to the Principal Development Agreement for the Initial Phase. This deed was executed on 29 April 2010, and it allows the Initial Phase to commence without triggering the main Principal Development Agreement provisions.
- 8.3 The Principal Development Agreement together with the Deed of Variation to Principal Development Agreement for the Initial Phase will operate as the legal framework for development of this phase. Under the terms of the Principal Development Agreement collateral warranties are required between the Council and key consultants acting for our development partners on the regeneration of the West Hendon Estate. Collateral Warranties are required between the Council and key consultants, contractors and sub-contractor acting for Barratt Metropolitan Limited Liability Partnership in the development and regeneration of the West Hendon Estate. These warranties are part of the Council's risk management strategy, and provide for a direct duty of care to the Council by the consultants, contractor and sub-contractors. The warranties also provide an option for the Council to step in to the appointment of the consultants in the event of failure by Barratt Metropolitan Limited Liability Partnership. The Council carries no responsibility for fees or other costs associated with the consultants work.

8.4 The following warranties are to be entered into between the Council, Barratt Metropolitan Limited Liability Partnership and the respective members of the 'Infrastructure and Community Facilities Team'. The 'Infrastructure and Community Facilities Team' as described within the Principal Development Agreement comprises the following:

Pilot Phase (Lakeview) & Phase 2A Houses

- Principal Architect – Ann Thorne Architects LLP (M5 Houses)
- Structural Engineer - Colin Toms & Partners LLP (Pilot Houses and M5 Houses)

Phase 2A (Lakeside)

- Principal Architect – Hughes, Jones, Farrell Ltd (Block L6)
- Architect – Hlmad Ltd (Block L6)
- Structural Engineer - URS Corporation Engineer (Block L6)
- Mechanical and Electrical Engineer - Fire Design Solutions (Block L6)/ White Code Limited (Block L6) / HBS Consulting Engineers (Block L6)
- Highways Consultant - Scott Wilson Ltd (Block L6)
- Landscape Consultant – Fabrik (Block L6)

8.6 The requirement to enter into these collateral warranties is provided for under clause 9.5 of the Principal Development Agreement. The forms of warranty used are in line with industry standards and are set out in Schedule 3 of the Principal Development Agreement.

9. LIST OF BACKGROUND PAPERS

9.1 Schedule 3 - Agreed Form of Collateral Warranty.

9.2 Any person wishing to inspect the background papers listed above should telephone Noreen Twomey, Regeneration Officer, Strategic Planning and Regeneration on 020 8359 7646.

10. OFFICER'S DECISION

I authorise the following action:

10.1 That Collateral Warranties between the Council and consultants acting on behalf of Metropolitan Housing Trust and Barratt Metropolitan Limited Liability Partnership in respect of the Initial Phase of the West Hendon Regeneration Scheme should be executed.

Signed	Pam Wharfe <hr/>
	Interim Director Environment, Planning and Regeneration
Date	2 July 2012 <hr/>