

	<p>ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER 21 December 2016</p>
Title	Brent Cross Cricklewood Commercial Agreements
Report of	John Hooton, Interim Chief Executive
Wards	Childs Hill, Golders Green and West Hendon
Status	Public
Enclosures	None
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<h3>Summary</h3>
To execute a Deed of Variation and other associated documents in respect of the Brent Cross Cricklewood South Project Agreement.

<h3>Decisions</h3>
<ol style="list-style-type: none"> To authorise the execution of a Deed of Variation and other associated documents to the Brent Cross Cricklewood South Project Agreement.

1. WHY THIS REPORT IS NEEDED

This report is needed to authorise the execution of a variation to the Brent Cross South Project Agreement to ensure the delivery and comprehensive regeneration of the Brent Cross Cricklewood Regeneration proposals. This is in accordance with a resolution of the Assets Regeneration and Growth Committee 12 December 2016 which authorised the Chief Executive in consultation with the Leader of the Council to **‘complete any required consequential amendments to the Brent Cross South Project Agreement, Limited Partnership Agreement, Shareholder Agreement and**

associated documents as a result of the Council entering into legal agreements with third parties in respect of the CPO process and revised programme’.

2. REASONS FOR DECISIONS

- 2.1 On 11 July 2016, the Project Agreement between the Council and BXS Limited Partnership (acting by its general partner BXS GP Limited) was completed.
- 2.2 The Deed of Variation relates to an extension of the time period referred to in clause 7.3 of the PA. The PA currently requires the "First Phase Proposal" to be submitted by 31 December 2016 and it is proposed that this time period is amended so that the First Phase Proposal is submitted as soon as reasonably practicable after 17 April 2017 and, in any event, by 30 June 2017.
- 2.3 The proposed extension has been requested by BXS Limited Partnership in order to fit with the revised programme for the delivery of the Brent Cross South project.
- 2.4 The documentation which will implement the extension of time has been approved by the Council's solicitors, Gowling WLG.
- 2.5 On 12 December 2016, the Assets Regeneration and Growth Committee delegated authority to the Chief Executive in consultation with the Leader to finalise and complete any required consequential amendments and agreements.

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 Once the decision has been approved the Deed of Variation and other associated documents will be executed.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.2

- 5.1.1 The regeneration of Brent Cross Cricklewood supports the Council's Corporate Plan 2015-20 which states that the Council will work with local, regional and national partners to strive to ensure that Barnet is a place:

- of opportunity, where people can further their quality of life
- where people are helped to help themselves, recognising that prevention is better than cure
- where responsibility is shared, fairly
- where services are delivered efficiently to get value for money for the taxpayer.

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.

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

5.2.2 The proposed Deed of Variation relates to an extension of time in the Project Agreement, and has no specific financial implications for the Council. A contribution to the Council's legal costs in the sum of £1,000 is to be paid by BXS Limited Partnership under the terms of the Deed of Variation.

5.3 **Legal and Constitutional References**

5.3.2 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. Full Officer Delegated power reports are required for decisions delegated by Committee to officers.

5.3.3 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-empting the power of general competence.

- 5.3.4 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.
- 5.3.5 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.
- 5.3.6 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.
- 5.3.7 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.

5.4 Risk Management

- 5.4.2 The key risks are clearly set out in Assets Regeneration and Growth Committee dated 12 December 2016 and 30th November 2015.
- 5.4.3 The key risks and issues must be seen in the context of the real potential regeneration benefits of the scheme coming forward and the likely impetus that this will have for comprehensive development, including a new station. The various agreements being signed do not impose any development obligations on the Council, but if the South does proceed, there are various constraints which the Brent Cross Development Partners has required as a condition of delivering the infrastructure which will serve the Southern Development.

5.5 Equalities and Diversity

- 5.1 The changes in wording will not give rise to any specific equalities and diversity issues.

5.6 Consultation and Engagement

5.6.2 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 Assets, Regeneration and Growth Committee dated 30 November 2015 approved the terms for the amendments to the Brent Cross Property Development Agreement and Co-operation Agreement and authorised the Chief Executive in consultation with the Leader of the Council to agree the detail of the Brent Cross Property Development Agreement and Co-operation Agreement and any required subsequent changes in the associated commercial documentation; noted progress on land acquisitions within the CPO red line boundary and that the CPO Inquiry for Brent Cross Cricklewood CPO1 and Brent Cross Cricklewood CPO 2 is scheduled for 17 May - 17 June 2016; approved the Brent Cross South Joint Venture Structure that will inform the Project Agreement and documentation necessary to form the Brent Joint Venture; noted the establishment of the Shadow Joint Venture Board and gave approval for the terms of reference for Shadow Shareholder Board for the Brent Cross South Joint Venture to be drawn up including a process for appointing Members for agreement at the next practicable meeting of the Council; and noted progress on the Thameslink Station project, in particular the station design and funding strategy.

<http://barnet.moderngov.co.uk/documents/s27725/Brent%20Cross%20Cricklewood%20Project%20update.pdf>

- 6.2 Council 1 March 2016 noted the report of Assets, Regeneration and Growth Committee on 30 November 2015 as attached at Appendix 1 which approved the Joint Venture Structure and authorised the establishment of a Shadow Shareholder Board for the Brent Cross South Joint Venture, and that its terms of reference and membership to be drawn up for Council approval; noted the Brent Cross South Joint Venture Structure at Appendix 3 attached to the report of the Assets, Regeneration and Growth Committee on 30 November 2015; approved by the Committee on 30 November 2015; agreed the terms of reference for the Shadow Shareholder Board for the Brent South Joint Venture as outlined in paragraph 2.15; agreed that the composition and Membership of the Shadow Shareholder Board be agreed, as per paragraphs 2.13 and 2.14 of the report; noted the decisions outlined in Appendix 2 which will be required by the Shadow Shareholder Board as detailed in the Project Agreement and Shareholder and associated documentation necessary to form the Brent Cross South Joint Venture; and noted that the Project Agreement, Shareholder Agreement and associated documentation will be reported to Assets, Regeneration and Growth Committee on 17 March 2016 for approval and that that report will recommend that the Chief Executive be authorised in consultation with the Leader to finalise the documentation.

<http://barnet.moderngov.co.uk/documents/s29974/Report%20to%20Council%20Report%20-%20Report%20of%20Assets%20Regeneration%20and%20Growth%20Committee%20-%20Brent%20Cross%20Cricklew.pdf>

- 6.19 On 12 December 2016, Assets, Regeneration and Growth Committee Addendum approved the following recommendation: Authorise the Chief Executive in consultation with the Leader to finalise and complete any required consequential amendments to the Brent Cross South Project Agreement, Limited Partnership Agreement, Shareholder Agreement and associated documents as a result of the Council entering into legal agreements with third parties in respect of the CPO process and revised programme.

<https://barnetintranet.moderngov.co.uk/documents/b28688/Addendum%20to%20Agenda%20item%2020%20-%20Brent%20Cross%20Cricklewood%20Update%2012th-Dec-2016%2019.00%20Assets%20Regenerati.pdf?T=9>

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 Deed of Variation and other associated documents to the Project Agreement should be executed on behalf of the Council.

Signed Chief Executive

Date 22/7/17
