

	<h2>Housing and Growth Committee</h2> <h3>26 November 2019</h3>
Title	Brent Cross central team
Report of	Councillor Richard Cornelius
Wards	All
Status	Public with an accompanying exempt appendix.
Urgent	No
Key	Yes
Enclosures	<p>Appendix A – Financial Analysis (contains exempt information which is not for publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972, as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information))</p> <p>Appendix B – Equality Impact Assessment</p>
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Summary

This report enacts recommendations of Policy and Resources Committee on 17 June 2019 to review the future contractual arrangements with Capita for those staff involved in the management and governance of the Brent Cross Cricklewood (Brent Cross) development scheme, and to report the outcome to the Assets, Regeneration and Growth Committee.

This report assesses three options for future contractual arrangements using the Treasury's 'Five Case Business Model Approach': 1) Extend Special Project (SPIR) with RE to include current resources; 2) Cease SPIR with RE and staff transfer to the council; and 3) Develop a new SPIR with RE with reduced staffing and some staff transfer to the council. It proposes that option 3 is progressed, as this will enable the council to strengthen strategic control while maintaining the integrity of statutory functions (planning and

highways) by keeping them with Re as part of a wider family of specialists. It further proposes that the Deputy Chief Executive carries out all necessary actions to implement option 3.

Officer Recommendations

That the Committee:

- 1. Notes and endorses the outcome of the review of contractual arrangements for the Brent Cross development scheme, namely that integrated programme management and land delivery functions should move to the council and that regulatory planning and highways related to Brent Cross should remain with RE, subject to the outcome of staff consultation and financial due diligence.**
- 2. Notes that the preferred option will not create an increased financial pressure above continuation of the contractual arrangements currently in place, and six staff would be directly impacted.**
- 3. Acknowledges that the Deputy Chief Executive, acting in the best interests of the council, will carry out all necessary actions and negotiations to implement option 3.**

1. WHY THIS REPORT IS NEEDED

Background

- 1.1. At its meeting on 17 June 2019, Policy and Resources Committee considered a report on the 'Review of Capita Contracts' which included an initial review of services RE provides in relation to Brent Cross as part of the RE contract through Special Projects and authorised the Deputy Chief Executive to:
 - 1.1.1. review the future contractual arrangements with Capita for those staff involved in the management and governance of the Brent Cross Cricklewood (Brent Cross) development scheme; and to
 - 1.1.2. commence staff consultation on any proposed changes arising out of that review and to report the outcome of the review and consultation to the Assets, Regeneration and Growth Committee, for noting, in due course, with any decisions to be referred to Policy and Resources.
- 1.2. The paper to Policy and Resources Committee noted that there are two key services: a central team that provides integrated project management, planning support and a clienting function across the Brent Cross programme; and a Brent Cross Thameslink delivery team managing procurement and delivery of a train

station and associated infrastructure, waste transfer station and Train Operating Company accommodation. The Special Project related to the central Brent Cross team was agreed until September 2019, with the option of the Special Project then being further extended to December 2019 in the first instance and then being further extended, or being subject to an alternative arrangement. The council is under no obligation to extend the Special Project arrangement with RE. The other Brent Cross Thameslink Special Project is at a crucial stage in its delivery and utilising expertise from within the wider Capita Group to deliver the services. It was recommended that the Special Project in relation to the central team should be reviewed to ensure that delivery and governance arrangements are appropriate as the wider Brent Cross programme moves into the delivery phase. No changes to the arrangements for the Thameslink Special Project were proposed.

2. REASONS FOR RECOMMENDATIONS

2.1. The council's project management toolkit requires that a Full Business Case sets out, for each option, the advantages, disadvantages and risks of that option; and that for the preferred option a detailed financial appraisal is undertaken. For more significant projects, best practice is to adopt the Treasury's 'Five Case Business Model Approach', which involves:

- A **strategic case** – a robust and evidence-based case for change, including the rationale for intervention, and a clear definition of the outcomes to be achieved.
- An **economic case** – identifying and appraising a 'long list' of realistic and achievable options, to assess how well they meet the objectives and critical success factors agreed for the scheme; and subjecting a shortlist of options to cost-benefit analysis to identify a "preferred option".
- A **commercial case** – typically this focuses on ensuring that the preferred option will result in a viable procurement and well-structured deal. In this case, the emphasis is on commercial deliverability, given the starting point of the existing contractual relationships.
- A **financial case** – to demonstrate that the preferred option will result in a fundable and affordable deal.
- A **management case** – to demonstrate that the preferred option can be delivered successfully.

2.2. Public consultation conducted as part of the Strategic Contract Review, and reported to Policy and Resources Committee on 17 June 2019, endorsed the three strategic aims of i) delivering high quality services; ii) securing best value for money for Barnet's residents; and iii) strengthening the council's strategic control of services. Residents expressed a preference for in-house provision. This has been considered in developing the strategic case.

- 2.3. The SPIR in place for staff involved in the management and governance of the Brent Cross Cricklewood (Brent Cross) development scheme has been assessed against three key options:
1. Extend SPIR with RE to include current resources
 2. Cease SPIR with RE and staff transfer to the council
 3. Develop a new SPIR with RE with reduced staffing and some staff transfer to the council

Strategic case

- 2.4. The Brent Cross Cricklewood Regeneration programme is the long-standing objective and vision of Barnet Council to regenerate the borough of Barnet by creating new homes, expanding the Brent Cross shopping centre and improving transport links by the development of a new mainline station and the improvement of highways, roads and traffic junctions. To date, integration across the three projects (Brent Cross North, Brent Cross South, and Brent Cross Thameslink) has been provided through a Special Project (SPIR) with RE.
- 2.5. There are four main elements to the Brent Cross Regeneration team SPIR; all of these report into the Brent Cross Director, a joint employment post:
- a) An integrated programme management function and financial and communications resource, to support cohesion across Brent Cross North, Brent Cross South, and Brent Cross Thameslink regeneration projects;
 - b) Residential relocations and land delivery to enable regeneration;
 - c) Regulatory planning and transport planning; and
 - d) Infrastructure and highways.
- 2.6. The Brent Cross Programme is of critical importance to the council and is moving into delivery phase, which will require a more intensive focus. It is, therefore, considered that there is a strong case for change, to introduce more strategic control to the service and a shift of management resources from RE to the council. It is more challenging to effect change with a SPIR than with directly employed staff, due to the administrative process required, and so directly employed staff provide more flexibility to respond to changing priorities. Option 1 (extend the SPIR to include current resources) is therefore not considered the most appropriate option.
- 2.7. Option 2 (cease SPIR with RE and staff transfer to the council) would enable maximum control and flexibility for the council. However, moving all posts to the council would not be straightforward as there are interdependencies between the core contract and the SPIR, in particular as they relate to the statutory planning and highways functions. Keeping statutory services in their entirety with RE would help maintain the integrity of statutory functions as part of a wider family of specialists. It is therefore considered that option 2, which would separate statutory functions, would not be in the council's best interests.

2.8. Option 3, would involve the council taking on elements a) and b) of the Brent Cross SPIR which are considered to have the most strategic impact. In particular the integrated programme management function would have a key role in providing a strong clienting function for the services remaining with RE (including the separate Brent Cross Thameslink SPIR) as well as arrangements with development partners. Elements c) and d) (planning and highways) are primarily regulatory in nature and there is less need for flexibility in these elements to respond to emerging priorities, reducing the benefit of option 2.

Economic case

- 2.9. Work to develop the economic case has focused on the financial costs of each option. For option 1, the extended SPIR costs have been based primarily on the current SPIR, for option 2, costs have been modelled using some actuals provided by Re and applying council on-costs and contractor rates as applicable, and for option 3, costs have been based on a combination of options 1 and 2.
- 2.10. Actual costs and information that would enable Capita's profit to be calculated are commercially sensitive. Costs are therefore set out in Appendix A, which is exempt from publication.
- 2.11. A number of assumptions have been made in assessing the economic case. Under options 2 and 3 the council would cease paying some or all SPIR costs, which include an element of profit. The reduction in cost is more significant in option 2 than in option 3 due to the larger number of posts.
- 2.12. Pension costs for staff who acquire the right to join the Local Government Pension Scheme, when they enter council employment, are the primary source of additional costs for the council associated with insourcing these services. The additional ongoing running costs associated with option 2 are comparatively higher than those for option 3, primarily due to the larger number of staff involved and therefore greater impact of increased pension costs.
- 2.13. In terms of cost to implement, option 1 would involve reviewing and revising the existing SPIR to ensure it is fit for purpose going forward, this work would be contained within existing retained client, finance and commercial resources. Developing a new SPIR under option 3 would likewise be contained within existing resources. Work to transfer staff from RE to the council and map interfaces with remaining Re services would primarily be undertaken by existing retained client, HR, finance and commercial resource, with some existing project resource.
- 2.14. Cost estimates indicate that:
- Option 1 – this would be a continuation of current costs.

- Option 2 – running costs would be lower than options 1 and 3. There would be a one-off implementation resource implication as noted above.
- Option 3 – running costs would be lower than option 1. There would be a one-off implementation resource implication as noted above.

2.15. With all options there is the potential for additional or reduced cost if further or fewer resources are needed to deliver in line with the Brent Cross objectives. This would be as a result of demands of the programme rather than a direct implication of the option chosen.

2.16. In terms of non-financial benefits, the primary benefit of options 2 and 3 would be increased strategic control; option 3 would deliver the majority of the benefits around strategic control. There would also be increased flexibility, as an in-house team arguably has more flexibility to respond to changing priorities than one operating within the constraints of a contractual relationship.

Commercial case

2.17. The aim of the commercial case is to demonstrate that the preferred solution can be delivered commercially. Option 1 is most straightforward. Options 2 and 3 would involve a price reduction based on posts deleted from the SPIR, and option 3 would also require negotiation of a new SPIR. Discussions around interaction with the core services would likely be required under option 2; this could take significant time and an outcome favourable to the council is not assured. Option 3 would enable the council to move more quickly to implementation as no commercial discussions would need to take place around statutory functions. While option 3 involves both moving posts to the council and negotiating a new SPIR, it is considered commercially possible to achieve this by January 2020.

Financial case

2.18. The economic case assesses which option offers the best balance of costs and benefits, whereas the role of the financial case is to test that the preferred option is affordable. Option 1 is considered to be deliverable at no additional cost to the council, subject to any additions that may be needed to the SPIR to deliver additional services. Options 2 and 3 would be deliverable at lower cost.

Management case

2.19. Option 2 impacts on 22 employees all of whom are based in Barnet. Option 3 impacts on six employees all of whom are based in Barnet and function as a cohesive team. All options are considered to be achievable from a management point of view. Option 2 is more complex, due to the larger number of staff and would not maintain the integrity of planning and highways statutory functions as they would be split between the council and RE.

Conclusion

- 2.20. Whilst both options 2 and 3 would meet the strategic aim of improving strategic control, option 2 would involve greater commercial complexity which may slow timeframes. It is considered that the key benefit of strategic control would be gained from moving the integrated programme management and land functions to the council, rather than the planning and highways aspects of the Brent Cross SPIR. Keeping statutory services in their entirety with RE (as proposed under options 1 and 3) would help maintain the integrity of statutory functions as part of a wider family of specialists. Additional financial benefits that would be accrued by moving the whole SPIR functions to the council are not considered to be justified by the additional complexity involved and the potential loss of specialism by separating statutory functions.
- 2.21. It is, therefore, proposed that the Committee note that option 3 will be progressed, subject to the outcome of further financial due diligence and negotiation with Capita.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1. As per the reasons for recommendations section of this report, options to extend the Brent Cross SPIR with RE to include current resources (option 1) and to cease the SPIR with RE and staff transfer to the council (option 2) have been considered and are not recommended as the preferred option for the reasons set out above.

4. POST DECISION IMPLEMENTATION

- 4.1. Following the report coming to Committee, work will continue on concluding the necessary commercial negotiations and financial due diligence. Alongside this, work will commence on implementing the transition of staff to the council. This will include carrying out informal briefing of staff, with formal TUPE consultation commencing upon conclusion of the commercial negotiations. Work will also take place with RE to agree a new SPIR for resources that would remain with RE to support delivery of the Brent Cross programme.

5. IMPLICATIONS OF DECISION

5.1. Corporate Priorities and Performance

- 5.1.1. The aims of this review are consistent with those set out in the December report to Policy and Resources Committee, confirmed through the consultation process, which were designed to ensure high quality, good value services as envisaged in the council's Corporate Plan.
- 5.1.2. The comprehensive regeneration of Brent Cross Cricklewood is a long-standing

objective of the Council and a key regeneration priority of the Mayor of London. The regeneration of Brent Cross Cricklewood supports the Council's Corporate Plan 2024 which states our three outcomes for the borough focus on place, people and communities:

- A pleasant, well maintained borough that we protect and invest in
- Our residents live happy, healthy, independent lives with the most vulnerable protected
- Safe and strong communities where people get along well.

5.1.3. Under a pleasant, well maintained borough that we protect and invest in, the priorities are:

- ensuring decent quality housing that buyers and renters can afford, prioritising Barnet residents
- investing in community facilities to support a growing population, such as schools and leisure centres
- responsible delivery of our major regeneration schemes to create better places to live and work, whilst protecting and enhancing the borough.

5.1.4. The scheme to transform Brent Cross Cricklewood will play a major role in delivering future 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.

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

5.2.1. The implementation costs are modest and can be contained within monies already allocated to the Strategic Contract Review. The costs are being funded from reserves, which were enhanced by the £4.12m commercial settlement agreed by the Urgency Committee on 30 November 2018.

5.2.2. In terms of the preferred option, option 3 will not result in an additional cost to the council above that already budgeted.

5.3. **Social Value**

5.3.1. The Public Services (Social Value) Act 2013 requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits. Before commencing a procurement process, commissioners should think about whether the services they are going to buy, or

the way they are going to buy them, could secure these benefits for their area or stakeholders.

- 5.3.2. The Brent Cross Programme provides significant opportunities to build social value. Tracking benefits, such as social value benefits, is actively carried out by the Brent Cross integrated Project Management team, which will continue.

5.4. **Legal and Constitutional References**

- 5.4.1. Council Constitution, Article 7 (Committees, Forums, Working Groups and Partnerships) provides that the Housing and Grown Committee, is responsible for regeneration schemes and asset management. This report is coming to this committee as a referral from Policy and Resources Committee as per paragraph 1.1 of this report.

- 5.4.2. Legal advice will be taken as required on the revised SPIR.

- 5.4.3. The Council and Capita must comply with their legal obligations under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014) (TUPE) in connection with the transfer of the staff under these proposals.

5.5. **Risk Management**

- 5.5.1. A key consideration is ensuring that experienced staff who will provide diligent review and challenge are working on the programme. The current team provided through the Brent Cross SPIR have amassed significant knowledge and ensuring a smooth transition to the council needs to be managed carefully to ensure staff are retained. The council is working with RE to ensure that there is regular, joined-up, communication in respect of the proposal to transfer some staff to the council.
- 5.5.2. There is a risk that decisions may be based on incomplete or flawed data, leading to the council taking on services that it does not understand and/or cannot afford to operate. This is being managed through close working with RE.
- 5.5.3. There is a risk to delivery of the Brent Cross Cricklewood programme if those working on the programme focus their time and attention on the process of moving resources to the council. This will be kept under review throughout the process, including through contract management mechanisms.
- 5.5.4. Programme governance arrangements are in place. As part of these arrangements, a risk register has been prepared and this is reviewed and updated on a regular basis.

5.6. Equalities and Diversity

5.6.1. Equality and diversity issues are a mandatory consideration in the council's decision-making process. Decision makers should have due regard to the public-sector equality duty in making their decisions. The equalities duties are continuing duties; they are not duties to secure a particular outcome. The equalities impact will be revisited on each of the proposals as they are developed. Consideration of the duties should precede the decision. It is important that the Housing and Growth Committee, or the officer decision maker if the decision is delegated to them, has regard to the statutory grounds in the light of all available material such as consultation responses. The statutory grounds of the public-sector equality duty are found at section 149 of the Equality Act 2010.

A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) tackle prejudice, and
- (b) promote understanding.

5.6.2. An initial Equalities Impact Assessment for the decision proposed in this report is attached at Appendix B.

5.7. **Consultation and Engagement**

Public consultation and Best Value consultation

5.8. Public consultation conducted as part of the Strategic Contract Review, and reported to Policy and Resources Committee on 17 June 2019, has been considered in developing the strategic business case, as referred to in 2.2 of this report.

Staff consultation

5.8.1. Any proposals that involve the transfer of services from one provider to another (including transfer in-house or to alternative providers) will entail a statutory requirement to provide information and consult with staff representatives under the Transfer of Undertakings (Protection of Employment) Regulations (TUPE). These requirements will be triggered once a decision to transfer services has taken place and prior to any transfer being effected.

5.8.2. However, it should be noted that it is good practice to engage with all staff from the point at which any potential for transfer of services becomes generally known, throughout the decision-making and transition periods and for a period post-transfer (if a transfer takes place). Early engagement with staff assists in managing the risks of staff becoming unsettled or distracted as outlined above. It also assists in preventing loss of key staff during the decision-making and transition periods, as well as ensuring the council continues to attract high calibre individuals by maintaining its reputation as an employer of choice.

5.8.3. Likewise, early engagement and ongoing dialogue with staff representatives is also good practice, with the aim of early identification and resolution of issues, reaching agreement on processes and approach to managing the workforce aspects of transfer and addressing any issues that may arise at the earliest opportunity so that statutory consultation and the transition itself can run smoothly for affected staff.

5.9. **Insight**

5.9.1. The analysis undertaken to date has been based on the current contractual model, information provided by Capita, and legal review of the contract.

6. BACKGROUND PAPERS

- 6.1. Approval of preferred bidder for DRS services:
<https://barnet.moderngov.co.uk/documents/s9226/DRS%20Cabinet%20Report.pdf>
- 6.2. Cabinet Resources Committee delegated authority to the Strategic Director for Growth and Environment [now the Deputy Chief Executive] to put in place contractual arrangements relating to Brent Cross -
<http://barnet.moderngov.co.uk/mgConvert2PDF.aspx?ID=12505&ISATT=1#search=%22Brent%20Cross%20%22>
- 6.3. Year four review of RE contract:
<http://barnet.moderngov.co.uk/documents/s43591/PCM%20RE%20Contract%20Review%20Report%20Nov%202017.pdf>
- 6.4. Report to Policy and Resources Committee, Review of Capita Contracts – Strategic Outline Case:
<http://barnet.moderngov.co.uk/documents/s47263/Capita%20Realignment.pdf>
- 6.5. Report to Policy and Resources Committee, Review of Capita Contracts
<http://barnet.moderngov.co.uk/documents/s50134/Review%20of%20Capita%20Contracts.pdf>
- 6.6. Report to Policy and Resources Committee, Review of Capita Contracts
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CIId=692&MIId=9850&Ver=4>

