

	<p style="text-align: center;">ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER in consultation with the Chairman of the Housing and Growth Committee 13 August 2020</p>
<p style="text-align: center;">Title</p>	<p style="text-align: center;">Brent Cross Cricklewood Scheme – Deed of Variation to the Funding Development Agreement (Plots 53 & 54)</p>
<p style="text-align: center;">Report of</p>	<p>Deputy Chief Executive</p>
<p style="text-align: center;">Wards</p>	<p>Child’s Hill, Golders Green and West Hendon</p>
<p style="text-align: center;">Status</p>	<p>Public</p>
<p style="text-align: center;">Enclosures</p>	<p>Appendix 1 (Public) - Plots 53 & 54</p>
<p style="text-align: center;">Officer Contact Details</p>	<p>Angela Latty, Regeneration Manager BXN & BXS, Email: Angela.Latty@barnet.gov.uk</p>

Summary

This report seeks authorisation for the Deputy Chief Executive to approve and complete the Deed of Variation to the Funding Development Agreement (FDA) between London and Quadrant Housing Trust (L&Q) and the Council for the relocation of the Whitefield Estate Part 1 as authorised by the Housing and Growth Committee on 27 January 2020.

Decisions

1. To authorise the Deputy Chief Executive to approve and complete the Deed of Variation to the Funding Development Agreement (“FDA”) to be entered between the Council and London and Quadrant Housing Trust (L&Q) to deliver the development on Plots 53 and 54 for the relocation of Whitefield Estate Part 1.

1. WHY THIS REPORT IS NEEDED

- 1.1 As part of the revised delivery strategy, the council has taken on the delivery of the new replacement homes for the residents in Whitefield Estate Part 1 with London and Quadrant (L&Q) by assuming the obligations under the Funding Development Agreement (FDA). The FDA was novated from HASI to the Council on 12 November 2019.
- 1.2 These residents will be relocated to new homes on Plots 53 and 54 which is situated alongside Brent Terrace, as shown in Appendix 1. In June 2015, the Reserved Matters Application was approved to build 47 replacement homes on these plots.
- 1.3 Currently, the Council and L&Q are working to agree the programme for the delivery of the development on Plots 53 and 54. As a result, the FDA needs to be amended so that it aligns with the emerging programme. Further changes are also required to ensure that Shared Equity offer is consistent with the deal being offered to residents in Whitefield Estate Part 2, and that existing council tenants will be charged Barnet Rents as referred to in Residential Relocation Strategy, which was approved by planning in Dec 2015.
- 1.4 On 27 January 2020, the Housing and Growth Committee delegated authority to the Deputy Chief Executive in consultation with the Chairman of the Housing and Growth Committee to finalise and enter into a Deed of Variation to the Funding Development Agreement between L&Q to reflect the current programme and to be consistent with the Part 2 Whitefield Estate Shared Equity Offer and council policy as set out in paragraph 1.4. Link to the report is as follows.

<https://barnet.moderngov.co.uk/documents/s57432/Brent%20Cross%20Cricklwood%20Update.pdf>
- 1.5 This DoV will allow the main contract work to start on site when the stopping order has concluded, which is likely to mid next year unless the Stopping Up objections are removed.
- 1.6 If the current objections are withdrawn this summer, construction work could start on site in the Autumn. This would enable L&Q to make use of a temporary construction access road which could be constructed to provide access from the North to mitigate potential disruption from construction traffic during the first stage of the project until the end of April next year. However, if the objections are not withdrawn by this time it would not be cost effective to provide this access road for short time. In which case resources will be allocated to other mitigation measures.
- 1.7 The stopping-up process, although being dealt with through “written representations”, has been delayed by several months due to Covid-19. The Inspector is now expected to visit the site in January 2021 with a decision in March that year, which if the order is confirmed would allow the main works to start on site.
- 1.8 In preparation for a start on site, L&Q have procured an external contractor to deliver their obligations in the FDA to build the new homes. This is being progressed through a negotiated tender with Bugler Developments Limited (BDL) and this process is being managed by Currie and Brown. A Tender (Value for Money) Report produced by Currie and Brown has been submitted to the Council for review. This report includes the scope

of works, cost, tender programme, contractor's proposals and an assessment of the possible impact of Covid-19.

- 1.9 The construction contract includes a pre-construction services agreement "pcsa", in line with normal practice, to enable the contractor to complete pre-construction design elements and place orders with utility providers to meet programme requirement, fees associated with this agreement and which have been expended to date will be due on execution of the Deed of Variation.
- 1.10 The Deed of Variation to the FDA is now agreed and both the Council and L&Q are ready to exchange

2. REASONS FOR RECOMMENDATIONS

- 2.1 As reported at the Housing and Growth Committee in January 2020, the Council is party to the FDA which is being varied through a Deed of Variation.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 No alternative options were considered as this is the desired approach to ensure the delivery of replacement homes for the Whitefield Estate residents.

4. POST DECISION IMPLEMENTATION

- 4.1 Once the contracts have been engrossed, officers will prepare the relevant documentation for sealing.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The reports to the Assets, Regeneration and Growth Committee describe in detail the ways in which the regeneration of Brent Cross Cricklewood supports the Council's Corporate Plan 2015-20 as updated. The reports relevant to this decision are included within the background documents.

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

Finance

- 5.2.1 These payments are set out in the Exempt Report and are funded from the £59.2m Critical Infrastructure budget of which £55m is HMG Grant funded for Brent Cross Cricklewood. This forms part of the £319.5m revised funding agreement approved in April 2019.
- 5.2.2 The current estimated Grant funding requirement now includes additional costs that have been identified as a result of possible delays and Covid-19. Further details are provided in the "exempt" part of this DPR including the proposed mitigation measures to bring additional costs back to a balanced position.

5.3 Social Value

5.3.1 The Brent Cross Cricklewood programme will secure wider social, economic and environmental benefits. This is set out in more detail within the relevant sections of the Committee reports included within the background section of this DPR.

5.4 Legal and Constitutional References

5.4.1 The Council's power to enter into various arrangements to progress the redevelopment of the Brent Cross Cricklewood scheme is contained in the general power of competence under Section 1 of Chapter 1 of the Localism Act 2011. 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 restrictions contained in legislation.

5.4.2 The Council has a range of powers to enter into the legal agreements envisaged by this report, including the general power of competence under Section 1 of Chapter 1 of the Localism Act 2011 to do anything that individuals can do subject to any specific restrictions contained in legislation and Section 111 of the Local Government Act 1972 which 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.

5.4.3 The council's Constitution, Article 7.5 responsibility for function, states the functions of the Housing and Growth Committee, includes responsibility for regeneration schemes and asset management. The authority to approve and enter into the variation was delegated to the Deputy Chief Executive by Housing and Growth Committee on 27 January 2020.

5.5 Risk Management

5.5.1 As the Council is party to FDA, it will retain the necessary step-in rights in the event of non-performance by L&Q to protect its residents and also to ensure the regeneration programme is maintained. It is also intended to include an ability for the Council to require the FDA to be novated to it, if the BXN Partners fail to satisfy the conditions or default.

5.6 Equalities and Diversity

5.6.1. This is set out in more detail within the relevant section of the Committee reports included within the background section of this DPR.

5.7 Consultation and Engagement

5.7.1 A detailed account of the communications approach as well as consultation and community engagement undertaken by the Council and its development partners is set out in detail within the relevant section of the Committee reports included within the background section of this DPR.

6. BACKGROUND PAPERS

- 7.1 Housing & Growth Committee, 27th January 2020, Brent Cross Cricklewood Update Report
<https://barnet.moderngov.co.uk/documents/s57432/Brent%20Cross%20Cricklwood%20Update.pdf>

8. DECISION TAKER'S STATEMENT

- 8.1 *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. The decision is compliant with the principles of decision making in Article 10 of the constitution.*

Deputy Chief Executive

Dated: 13.08.20

Approved by Chairman of the Housing & Growth Committee