

Policy and Resources Committee

20 July 2021

Title	Proposed Hendon Hub Redevelopment Full Business Case
Report of	Chairman of the Policy and Resources Committee
Wards	Hendon
Status	Public (except for exempt financial Annex 1 which is exempt from publication in accordance with paragraph 3 of Schedule 12A of the Local Government Act 1972 on account that it contains information relating to the financial or business affairs of any particular person including the authority holding the information)
Urgent	No
Key	Yes
Enclosures	<p>Appendix 1 – Hendon Hub Development Proposal Full Business Case</p> <p>Appendix 2 – Project Plans</p> <p>Appendix 3 – Equalities Impact Assessment</p> <p>Appendix 4 – Consultation Report</p> <p>Appendix 5 – Risk Schedule</p> <p>Appendix 6 – Master Programme</p> <p>Appendix 7 – Library Design Survey Responses</p> <p>Exempt Annex 1 – Financial Information</p> <p>Exempt Annex 1a – Supporting Financial Information</p>
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Summary

This report seeks approval of the Full Business Case (FBC) for the proposed regeneration of three main sites in Hendon, plus several ancillary sites, with a view to submitting a planning application in Summer 2021. This business case recommends a private finance route for funding the scheme, more particularly private placement as opposed to an income strip deal. In addition, it recommends that the main contractor is procured by way of the Crown Commercial Service (CCS) framework, and that an agent is procured through an approved framework to secure final funding offers and to provide further structuring advice. It also recommends and details scheme changes that have come about as a result of feedback from the public consultation, which took place from March 2021 to June 2021. It also makes a request for further funding for fees of £4.53m, noting that this budget should be reimbursed as part of a funding deal, and details further risk mitigation measures that have been put in place since the Outline Business Case was approved in December 2020. The scheme is proposed to provide a relocated, upsized and future-proofed new Hendon Library, and a further rationale is provided for that, with a final approval for moving the library being sought. The business case also provides an update on the negotiations on the Agreement to Lease with Middlesex University (MDX)

Officers Recommendations

1. That having, considered the consultation responses (Appendix 4) and the Equalities Impact Assessment (Appendix 3), the Committee approves the Full Business Case (FBC) for Hendon Hub as set out in Appendix 1.
2. That the Committee approves, in principle, private financing for the development, in particular private placement relying on the Middlesex University (MDX) covenant. That the Committee further approves in principle that, in the event that market conditions are such at the time of seeking final funding offers, meaning that it is not possible to secure a funding offer using the Middlesex University covenant consistent with the parameters set out in the business case, a London Borough of Barnet (LBB) guarantee is made available subject to suitable risk mitigation.
3. The Committee approves that the process of obtaining formal funding offers from the market, the decision on final structure of the deal, the final choice of funding partner(s), and the negotiation and completion of the legal agreements are all to be delegated to the S151 Officer, in consultation with the Chairman of Policy & Resources Committee after taking appropriate legal and financial advice, and acting in the best interests of the Council.
4. The Committee approves the procurement, through an approved framework, of a professional advisor to secure final funding bids and advise on the

structuring of the transaction. The development of the procurement process, including the negotiation and completion of legal agreements is delegated to the S151 Officer, in consultation with the Chairman of Policy & Resources Committee after taking appropriate legal and financial advice, and acting in the best interests of the Council.

5. That, having considered the consultation responses (Appendix 4), the library engagement process (Appendix 7) and the Equalities Impact Assessment (Appendix 3), the Committee approves Hendon Library moving to the new proposed location within Hendon.

6. That the Committee approves the changes to the scheme since the Outline Business Case (OBC) was approved, as detailed in the FBC, including:

- Reduction of the proposed student accommodation unit numbers, with the introduction of 33 independent homes for young adults on Meritage Centre site, plus 28 affordable housing units above the proposed new library.
- No loss of car parking spaces, with The Burroughs and Osidge Lane car parks removed from the scheme. 100% reprovision of the Fuller Street car parking spaces and the reprovision of the Town Hall car park in the main Middlesex University car park.
- Introduction of a health and wellbeing centre (subject to finalising terms with the relevant NHS bodies).
- Creation of a 'community hub' located in a prominent location on the Ravensfield, Fenella and Town Hall Car Park (RFC) site.
- The PDSA veterinary practice to be relocated to Fuller Street Car Park with the parking spaces lost re-provided on the Prince of Wales estate, together with improved landscaping.
- The Met Police's Safer Neighbourhood Team facility proposed to be located adjacent to the proposed new Library (subject to final agreement), and improved lighting and enhanced CCTV locally.
- Enhanced public access to the current historic Hendon Library building, including access to the ornate 2nd floor reading rooms and staircase. Removal of the temporary library site from the programme.

7. To approve the development of the procurement process for the building contractor(s) for the scheme and the recommendation to proceed to procure via the Crown Commercial Service (CCS) framework, the progression and completion of which was delegated at OBC stage to the Deputy Chief Executive in consultation with the Chair of Policy & Resources Committee.

8. To approve an additional budget of £4.53m for design and development fees, further land assembly acquisitions, deal structuring advice and legal fees, in order to proceed to procure one or more contractors and secure funding for the scheme recommended in this paper, noting that expenditure from this budget should be reimbursed as part of a funding deal.

9. That the Committee agrees to the use of the Community Benefit Assessment Tool (CBAT) on grant of new leases in respect of the following units, and delegates approval to the Deputy Chief Executive, in consultation with the Chairman of Policy & Resources Committee:

- a. The RFC unit, initially allocated to Meridian**
- b. The RFC unit, initially allocated to the African Cultural Association**
- c. The new RFC community hall**
- d. 154 Station Road, initially allocated to Mencap**
- e. The RFC unit, initially allocated to the Metropolitan Police**

10. That the Committee agrees to the following and delegates authority to the Deputy Chief Executive, in consultation with the Chairman of Policy and Resources Committee, to negotiate, approve finalise and complete all legal and other documentation and associated actions in connection with and to give effect to:

- a. Related S106 and CIL agreements;**
- b. Any and all other Agreements to Lease and/or other occupational arrangements on the Hendon Hub site (retail units / CBAT leases / health uses / affordable housing and others as required);**
- c. Related construction contracts;**
- d. Any other matters required, such as the appropriation of land required for planning purposes and any non-material or minor amendments to the scheme.**

11. That the Committee notes that good progress is being made with regard to negotiations on the Agreement to Lease and Lease with Middlesex University (MDX), approval of which was delegated at OBC stage to the Deputy Chief Executive in consultation with the Chair of Policy & Resources Committee.

12. That the Committee approves that any actions arising from the results of the Environmental Impact Assessment Scoping Opinion Request are to be delegated to the Deputy Chief Executive in consultation with the Chairman of Policy & Resources Committee.

13. The Committee approves that any land acquired by the Council by private treaty within the area shown red on the plan at Appendix 2, in order to facilitate the Hendon Hub Scheme, shall be acquired for planning purposes pursuant to section 227 of the Town and Country Planning Act 1990.

14. That the Committee notes that pursuant to sections 203 and 204 of the Housing and Planning Act 2016, land acquired under sections 226 or 227 of the Town and Country Planning Act 1990 may then be developed and used in accordance with planning permission for the proposed scheme notwithstanding any interference with any subsisting interests, rights or restrictions (subject to the payment of compensation calculated in accordance with sections 7 and 10 of the Compulsory Purchase Act 1965).

15. The Committee delegates to the Deputy Chief Executive, in consultation with the Chairman of Housing and Growth Committee and the Chairman of Policy and Resources Committee any actions required to take the scheme forward in relation to property and title aspects to deal with any appropriation,

statutory consultation and applications for consents or statutory and/or procedural compliance in order to lawfully deliver the scheme.

16. The Committee delegates to the Executive Director for Children's Services, in consultation with the Chairman of the Community Leadership and Libraries Committee, any actions required in association with the proposed new library.

1. WHY THIS REPORT IS NEEDED

- 1.1 The Full Business Case (FBC) appended to this paper, provides analysis of the proposed Hendon Hub development scheme, in accordance with HM Treasury's Green Book. The purpose of this paper is to seek approval of the FBC for the development, which it is considered will deliver a number of benefits including a new modern public library, new facilities for Middlesex University, which will be available for use by local residents, a new prominent community hub, continued access to the existing Hendon library building and improved green spaces and public realm. Following presentation of the OBC to P&R Committee in December 2020, the number of proposed student units has been reduced, and affordable housing introduced into the scheme, after a period of public consultation. Committee approval is sought for changes to the scheme since OBC.
- 1.2 To seek approval for the preferred financing and contractor procurement strategies, such that commercial and construction risk is reduced to a minimum as far as is possible.
- 1.3 To seek decisions from Committee and to highlight next steps and budget implications.

Governance process

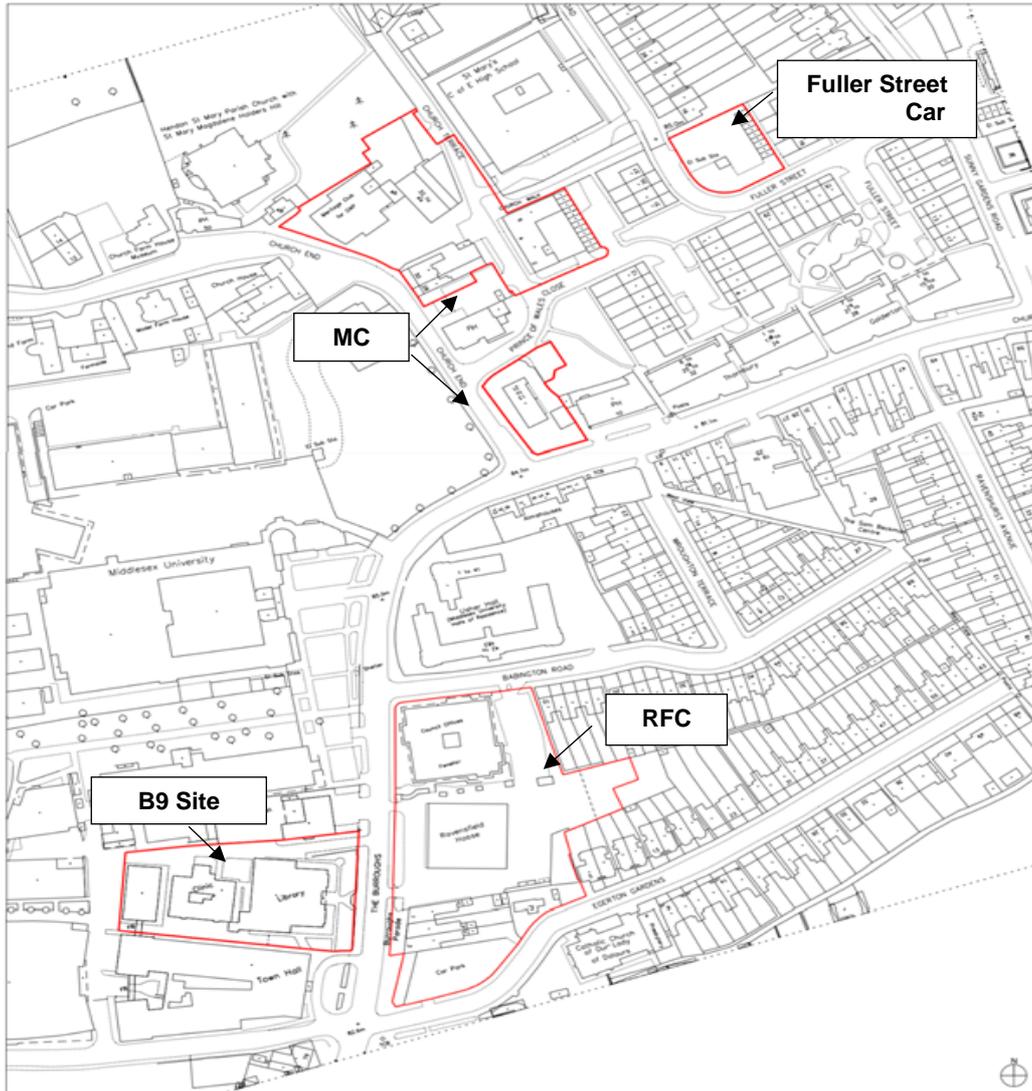
- 1.4 The Strategic Outline Case (SOC) was approved by the former Assets and Regeneration Committee (ARG), now renamed as the Housing and Growth Committee (H&G). The Outline Business Case (OBC) was presented to the Policy and Resources Committee (P&R) in December 2020.

The Proposal

- 1.5 Following approval of the SOC by Committee in June 2019, and the presentation of the OBC to Policy and Resources Committee (P&R) in December 2020, London Borough of Barnet (LBB) has progressed the evolution of Hendon Hub, the proposed mixed-use development in Hendon. This has been done in conjunction with its key stakeholder Middlesex University (MDX), to Full Business Case (FBC), in alignment with HM Treasury Green Book requirements and LBB's Growth Strategy.
- 1.5 The agreed objectives established at OBC have not changed, with the project aiming to deliver against the following:
- Contribute towards regeneration and place-making of the area
 - Support LBB and Middlesex University (MDX) housing objectives
 - Minimise design, funding and construction risk
 - Maximise social returns
 - Maximise the pace of returns

- 1.7 The three main sites remain the same as those proposed at OBC:
- Ravensfield, Fenella and Town Hall Car Park site (“RFC”)
 - Meritage Centre (“MC”), including Fuller Street car park
 - Building 9 (“B9”) which includes the current Hendon Library building.
- 1.7.1 Additional third-party properties will also be acquired. The figure below shows the updated red line boundary for the scheme, and current scheme designs can be found attached as Appendix 2. Where third parties, such as the community uses, need to move locations those relocation sites have been agreed with the operators, which has been captured in the Equalities Impact Assessment (EQIA).
- 1.7.2 Good progress is being made with regards to third-party acquisitions. Should acquisition of all third-party interests not prove possible by private treaty, the Council will need to consider following due legal and governance process using statutory powers available under the Compulsory Purchase Act 1965, the Acquisition of Land Act 1981 and other relevant enactments conferring powers of compulsory acquisition on local authorities. In addition, there will be the requirement to appropriate 17 Meritage Centre / Prince of Wales Close properties, from the Housing Revenue Account (HRA) to the General Fund. Reporting on the general appropriation of 3rd party rights will be prepared for the Deputy Chief Executive as necessary. In order to deliver the scheme, there will also be a requirement to decant any existing secure/flexible tenancies and compliance with the statutory processes, and, further, where the tenant does not vacate the property any application for a possession order will require compliance with schedule 10a of the Housing Act 1985 and availability of suitable alternative accommodation

1.7.3 The revised scheme proposed for Committee approval is described below:



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Project
Hendon Hub
Drawing Title
Combined Site Redlines

Client
LBB Barnet

SK 170621 FOR INFORMATION
CS/097063

Scale: 1:500

Deliverable	Area GIA
Ravensfield, Fenella, and Car Park (RFC)	
Retail	415 sqm
Arts and Cultural Institute (ACI)	4,450 sqm
Student Accommodation	388 units (8,623 sqm)
MDX Estates Office	100 sqm
Affordable living accommodation	28 units (2,329 sqm)
Proposed new library	830 sqm
African Cultural Association (ACA)	65 sqm
Meridian and Community Hall	400 sqm
Citizen's Advice Bureau (CAB)	340 sqm
Parking and external works	35 spaces
Meritage Centre (MC)	

Student Accommodation	195 units (5,704 sqm)
Health provision (potential GP Surgery)	470 sqm
Independent Living Units	33 units (1,556 sqm)
Building 9 (B9)	
Academic Space	3,490 sqm
Library ground floor conversion for MDX	689 sqm
Library upper floor conversion	880 sqm
New Town Hall Lease	N/A
Offsite	
MENCAP to move to 154 Station Road	65 sqm
PDSA to move to Fuller Street Car Park	510 sqm
Schools Library Resources Service (SLRS) to move to Quinta Club, EN5 2AP	332 sqm
Landscaping Improvements to:	N/A
<ul style="list-style-type: none"> • Land to rear of Sunnyfields Sports Pitch • Land to West of Almhouses, The Burroughs • Land to East of Almhouses, The Burroughs • Prince of Wales Estate / Fuller Street Playground 	
Total GIA	31,248 sqm

- 1.8 Since the OBC was approved, there has been a 14-week public consultation period, with the aim to engage with local residents and other stakeholders, with regard to the proposals, and seek their feedback. The Committee will wish to note that Officers have taken the feedback from this consultation very seriously. These are discussed in more detail in 5.13, below. Council Officers do realise that for some residents the proposed changes won't sufficiently address concerns raised. All objections have been carefully considered and discussed. In some cases, however, it has been considered that there is a strong rationale for maintaining aspects of the original proposals. In these circumstances, LBB has attempted to mitigate concerns where possible.

Having reflected on the feedback, detailed in the consultation report, and the equalities impact assessment (EQIA) attached in the appendices, Officers believe there are a number of opportunities to improve the scheme in line with that feedback. These predominantly include a reduction in the quantum of student accommodation and the provision of additional benefits to the local community. The suite of scheme changes recommended for approval in this FBC are:

- 1.8.1 Reduction of the proposed student accommodation unit numbers from 792 to 583 (26% reduction) with the introduction of 33 independent homes for young adults on Meritage Centre site, plus 28 affordable housing units above the proposed new library. The smaller average size of student units (28 sq. m) plus the national minimum space and amenity standards for residential accommodation and the requirements of the particular user groups mean that not all the student accommodation can be replaced like for like. The amended scheme shows a reduction in total housing numbers as a result. The heights of two of the blocks closest to the Meritage Centre have also been reduced to better suit their adjacency to the listed St Mary's Church.

- 1.8.2 No loss of car parking spaces, with development over two car parks now removed from the original scheme that was taken to OBC, namely The Burroughs car park, and Osidge Lane Car Park. There will also be a 100% re-provision of the Fuller Street car parking spaces, facilitated by reconfiguration of existing spaces and improved landscaping. The car parking spaces currently provided by the Town Hall car park will be re-provided by bookable spaces in the main Middlesex University car park. There will be spaces closer to the Town Hall made available for those Members who may have restricted mobility.
- 1.8.3 Introduction of a health and wellbeing centre (subject to finalising terms with the Clinical Commissioning Group (CCG)). The project team are hoping to be able to provide a GP surgery which would provide improved primary health services to the area.
- 1.8.4 Creation of a 'community hub' located in a prominent location on the RFC site, adjacent to the proposed new library building. This will include community uses to be relocated from the Meritage Centre in new, modern facilities and is proposed to include Citizen's Advice Bureau, Meridian (formerly Chinese Mental Health), African Cultural Association and the Meritage community hall.
- 1.8.5 The Met Police's Safer Neighbourhood Team have now been offered a facility adjacent to the proposed new Library, to help improve public safety and reduce any anti-social behaviour in the area. This security presence will be amplified by improved lighting and enhanced CCTV locally. Middlesex University (MDX) are also taking action to attempt to reduce the number of incidents of anti-social behaviour by students in the area.
- 1.8.6 There will be enhanced public access to the current historic Hendon Library building, including access to the ornate 2nd floor reading rooms and staircase. The majority of the existing Hendon library building will be retained, and none of the listed features in this building (or any other buildings) will be demolished, internally or externally, and are in fact proposed to be restored as part of the scheme, subject to planning. Enhancements are proposed in rooms that have lost their original features. The programme has been amended so that the library should only now need to move once, and therefore the temporary library on the Burroughs car park, which was proposed at OBC stage, will not be required.
- 1.8.7 The PDSA is now proposed to be moved circa 170 yards away from where they are currently located with their new building proposed to be located on the current Fuller Street car park just to the rear of their current facility. Moving PDSA to Fuller Street, rather than to Osidge Lane (as in the OBC scheme), will mean they can still provide services to Hendon, with the additional benefit of enhanced landscaping and play spaces within the area. The time to walk from the existing to the proposed facility is likely to be less than three minutes for a person without mobility issues. The new facility will be modern, fit for purpose accommodation with dedicated car parking spaces and has been designed to PDSA's specification and requirements. It is proposed that a long lease of the site is provided to PDSA. The spaces that will be lost from Fuller Street Car Park will be re-provided on the Prince of Wales estate.

- 1.9 The African Cultural Association (ACA), Meridian and the community hall are proposed to be relocated to a community hub that is to be located approximately 0.3 miles away from their existing facilities, on the RFC site. The time to walk from the existing to the proposed facility is likely to be circa 6 minutes for a person without mobility issues. The new facilities will be located adjacent to the proposed library building and will occupy a prominent location on The Burroughs. It is recommended that the Committee agrees to the use of the Community Benefit Assessment Tool (CBAT) on the grant of the new leases in respect of the following units. All these uses are currently assessed on the CBAT tool for their existing units. The Citizens Advice Bureau (CAB) will also be located in the same 'community hub' on the RFC site.
- 1.10 The MENCAP unit is proposed to be relocated to 154 Station Road, Hendon, which is a council-owned building located approximately 0.6 miles away from their current facility on the Meritage Centre (a circa 14 minute walk for a person without mobility issues, or a 5 minute drive). MENCAP have a proposed change in service offer that this building will better facilitate, and this relocation site has been worked up in tandem with them. It is recommended that the Committee agrees to the use of the Community Benefit Assessment Tool (CBAT) on the grant of the new lease in respect of this unit.
- 1.11 African Cultural Association, Citizen's Advice Bureau, Meridian and the community hall will all require temporary facilities, whilst the development is taking place, with the earliest being required by May 2022. It is proposed that these are located locally to the existing facilities to ensure minimal service disruption. The project team are actively working on finding temporary relocation sites either on Brent Street, on the Burroughs or in other local facilities. The team are working with Middlesex University and also looking at the programming of the development, to ensure that the users who currently use the community hall can be fully facilitated during the development. Equalities Impact Assessments will be undertaken for both the temporary and permanent moves.
- 1.12 The Schools Library Service (SLS) is proposed to be relocated to the Quinta Club, which is located circa 6.3 miles away from its current facility in Hendon Library (or a circa 16-minute drive, depending on traffic). It is a destination use as it will be used specifically by schools and will not be a facility that is generally open to the public. It will provide a far superior facility for the Schools Library Service, who currently operate in cramped conditions in Hendon Library. It will provide larger, fit for purpose accommodation for the SLA as a designated facility, with better car parking and access for local schools. The accommodation is a Council owned facility and as such will be rent free for the service.
- 1.13 Equalities Impact Assessments will be undertaken for all proposed moves, in conjunction with the individual service uses. All units will be the same size as their existing units or, if different, will reflect their current service needs and have been agreed in consultation with the individual users
- 1.14 The design of all sites has been modified in line with discussions that have been ongoing as part of the formal pre-planning application process with LBB planning department. This includes the design on the RFC where the building height now significantly 'steps down' to the rear to ensure that those living close by are less affected by the size and scale of the new buildings.
- 1.15 The Barnet Library Service launched an engagement exercise in parallel to the Hendon Hub consultation. The Library Services' intention was to understand the sentiment of

users of this existing library and to define from feedback what features and services users would like to see in a new Hendon Library, shaping what would be an improved future library service.

- 1.15.1 The engagement was hosted separately but in alignment with the Hendon Hub Consultation and was hosted on the Engage Barnet <https://engage.barnet.gov.uk/proposed-new-hendon-library> between March to June 2021
- 1.15.2 A summary of the Hendon Hub plans and a link to the engagement for the new Hendon Library survey were also made available to respondents online on the Barnet Library Service webpage. Details of the library survey and Hendon Hub consultation were also emailed to library users and stakeholders. The online questionnaire was widely promoted, and alternative formats were made available on request.
- 1.15.3 A petition has been prepared in opposition to the Library moving to a new facility and the Committee will wish to note that Officers have taken seriously the concerns of local residents in this regard. This petition is reported elsewhere on the agenda in accordance with the provisions of Article 3 (Residents and Public Participation) of the Constitution. There were 1382 signatories to the petition which centred around relocating the library from its existing location, with all signatories opposing the proposed move. Some of those signing the petition may have been misinformed by the petition which wrongly claims that the existing library building is to be demolished. However, Officers still recommend to Committee that from both a place-shaping and service delivery perspective, the optimum solution is to move the Hendon Library to a brand-new building. Barnet Library service are fully supportive of the relocation of the library to a modern facility on the RFC site, and it reflects the ambition highlighted in the Activist Report (which contained an independent evaluation of the Library Service in Barnet) due to:
 - 1.15.3.1 The opportunity for an open frontage, bringing a light-filled and welcoming facility that will attract a larger footfall, inspire a new generation, and provide access to 21st century technology
 - 1.15.3.2 The opportunity for more flexible and efficient spaces, adapted to deliver a more dynamic set of services to the community and an improvement to the Local Studies Service
 - 1.15.3.3 The return to a three-storey library offer not being deemed economically viable within Hendon due to the high operational, staffing, and security costs which would have to be met by a restricted libraries budget. Hendon Library does not occupy the most central and busiest location within the borough and, therefore, is not an appropriate location for the largest library
 - 1.15.3.4 The current facilities consisting of cramped and substandard spaces, with little natural daylight penetration into the building, creating poor quality areas.
 - 1.15.3.5 The high operational costs of the existing facility and its inflexible footprint.
- 1.15.4 The library is proposed to move across the road on The Burroughs circa 110 yards away (a circa 2-minute walk away for a person without mobility issues). It is proposed to include an improved disabled access, better planned space to take into account

equalities for all users with circa 100 sq. m being proposed for the use of the community and local groups. The library will be rent free.

- 1.16 As described at OBC stage, the Hendon Hub development will be largely facilitated by 40-year leases with the University over the new academic space, offices and student accommodation, pump priming the development of other additional assets including retail, residential accommodation, buildings reserved for community organisations and the public realm.
- 1.17 There is, understandably, concern over the strength of university covenants in the light of the recent Covid-19 pandemic. MDX's financial year ends on 31st July and it is understood that that they will report a loss of circa £12m for 2020/21. However, £9m of that will be attributable to pension deficits and the University has maintained its cash position. Take up of courses for the 2021/22 financial year appears to be strong, and they are forecasting that they will return to making operating surpluses. This situation will be monitored carefully in conjunction with MDX.
- 1.18 The Agreement for Lease (AfL) with MDX was delegated at OBC stage to the Deputy Chief Executive in consultation with the Chair of Policy and Resources (P&R) Committee. Good progress has been made on this to date and it is anticipated that it will be signed prior to the submission of the planning applications. Whilst there maintains a risk that the AfL will not proceed, MDX have now obtained Governor's approval to move forwards and sign the AfL at the current rents proposed. The key terms remain as highlighted in the OBC, but the academic term length has reduced from 42-weeks to 40-weeks, with the cap and collar rate moved to 1%-5% RPI. MDX will take individual leases over each building and the terms of the leases with MDX are between 40-42 years (depending on when each building reaches practical completion) and are co-terminous.
- 1.19 The economic context remains in line with that detailed at OBC, with a strong demand for student accommodation from MDX and the need for improved academic space and teaching facilities. In addition, the introduction of affordable accommodation and independent living into the proposed scheme since OBC fulfils a core strategic priority for the Council. Despite the reduction in student accommodation numbers this is still a viable proposition for MDX.
- 1.20 The reduction in the number of student accommodation units has resulted in a marginal reduction in income from the MDX lease arrangement, but this is replaced by an increased annual income payable to the Council from the proposed affordable accommodation above the new Library and retail units, as well as the young persons' independent living facilities that have now been introduced into the scheme. The Committee will wish to note that it is projected that an income of circa £0.7m per annum will be paid direct to the Council from these additional uses, with circa £0.3m of this being payable to the HRA as residential income.
- 1.21 The OBC detailed the various routes available to fund the scheme, which included:
 - Public Works Loan Board (PWLB)
 - Private financing based on either an income strip or private placement

- Private financing based on MDX covenant
- Private financing based on LBB guaranteeing the MDX lease covenants

The OBC concluded that financing through borrowing from HM Treasury's Public Works Loan Board (PWLB) was suitable as the base case. It was proposed that a final recommendation would be brought forward for decision at FBC stage on the basis of whether the private funding approach could better PWLB borrowing financially, and from a balance of risk perspective, following more analysis and soft market testing.

- 1.22 This FBC consequently confirms that the private funding approach is the best performer. In comparison, the PWLB funding is sub-optimal for the following reasons:
- Relatively low net present value (NPV) financial return compared with even the most prudent private funding solution
 - Additional interest payments to cover the cashflow deficit in the first seven years, due to interest and MRP payments during the construction phase of the programme whilst no income is being generated.
 - Poor affordability implications for the General Fund in the short term, with a loss of circa £4m in the first five years
 - LBB bearing risk across the 40 years post scheme completion, being wholly beholden to the financial performance of MDX as its tenant. The Council is also exposed to this risk under the LBB Guarantee option for private placement, but not the case under MDX covenant private placement scenario (see below)
- 1.23 The PWLB's poorer value for money and affordability implications support this funding route now being dismissed as an option. The recommendation therefore in this FBC is to pursue a private financing route.
- 1.24 Further soft market testing with potential funding partners has confirmed that there continues to be strong interest from the private finance markets to fund the transaction as either an income strip (IS) or private placement (PP), as discussed at OBC, and subject to a 40-year lease with MDX as tenant. In all scenarios, the Council's costs of working up the scheme will be recoverable from the selected funding partner(s) as part of any deal.
- 1.25 An income strip is a funding arrangement where the financier would buy a long leasehold interest in the site, develop the buildings and enter into a long lease to LBB or MDX for a 40-year period. The rent would be fixed and subject to annual increases linked to Retail Price Index (RPI) or Consumer Price Index (CPI) (inflation measures). At the end of the lease term LBB would have the right to acquire the asset for £1. A private placement structure is where unlisted debt securities are offered directly to a limited group of institutional investors rather than through the public markets. In the proposed structure, a special purpose vehicle (SPV) would issue 40-year debt to a financier, use the proceeds to develop the asset and lease the asset to MDX for 40 years, using rents received to repay the debt. Similar to the income strip option, the Council would have reversionary rights to the asset for £1
- 1.26 Two further variations for each private funding route have also been considered:
- 1.26.1 Funding based on the MDX Covenant i.e. LBB would exchange an Agreement for Lease with MDX and sell the right to receive the income over the 40-year lease term to a funding partner. Whilst LBB would provide a guarantee over the period of the

construction, it has the ability to step away from the transaction at practical completion (PC). Any investor(s) would pay a revenue premium to LBB for its interest at PC, which would be drawn down annually over the 40 years. Liability would end at this point, reducing LBB's risk over the term of the lease. At the end of the 40-year lease, LBB would have a right to acquire the asset for a nominal price – usually for £1.

- 1.26.2 An alternative approach would be for LBB to provide a guarantee to MDX's covenant over the term of the 40-year lease. Whilst this deal would attract a better yield in the market (as a local government covenant is considered to be more attractive in the market than a university's) and it would therefore give a higher return, it exposes LBB to significantly more risk should MDX default, because then LBB would be required to step in and pay the rent to any funding institution(s), plus fulfil other lease obligations.
- 1.26.3 At OBC stage, the soft market testing found that funding institutions were nervous about funding universities on the back of their perceived financial strength, driven by fears that Covid-19 would have a serious impact on student numbers and university income. Since the OBC was presented, another round of soft market testing has been undertaken by KPMG on behalf of LBB. This suggests both funding routes are now deliverable, on both an income strip and a private placement basis, with the improving market being driven by the Covid recovery and recovering demand from students to return to university. However, at this stage, no UK funds have expressed an interest in the MDX covenant, but overseas investors were willing to make an indicative offer in principle on this basis. There are signs that UK funds may re-enter the market this year to fund covenants such as MDX's.
- 1.27 Having undertaken detailed financial analysis, in compliance with HM Treasury's Green Book, the value for money and affordability for private placement is better than that of income strips and offers increased flexibility of terms of the deal and timings. Therefore, private placement is recommended as the preferred funding route, and the income strip model is proposed to be disregarded, owing to its more limited economic return and flexibility. At this stage the MDX covenant remains the most preferred funding route as, although it currently yields lower returns to the council in comparison to the LBB guarantee option, the cash receipt is still sizeable, and this route presents significantly lower risk to the council. However, should the MDX covenant not be fundable in the market at the time the LBB guarantee route may still be recommended, with appropriate risk mitigation in place.
- 1.28 As part of the soft market testing exercise undertaken by KPMG, potential investors agreed with the principle that the capitalisation of the MDX rental income in the proposed development will also provide circa 4,770 sqm of new debt free income producing assets and circa 2,032 sqm of new debt free income community assets (including the proposed new library). The construction of the non-MDX accommodation in the development can therefore be funded by the private placement funding solution. All third-party rents have been verified by CBRE.
- 1.29 Structuring advice has been obtained from KPMG on the most tax efficient delivery structure, with a Special Purpose Vehicle (SPV) being recommended due to potential tax advantages.
- 1.30 Another important element of this FBC is the recommendations on contractor procurement and reducing development risk. It is recommended that a contractor in the top 100 be appointed on a Joint Contracts Tribunal (JCT), design and build contract. The

preferred approach for contractor procurement is via the Crown Commercial Service (CCS) Framework, as against the alternative option of conduct of a public procurement tender process, in the light of the factors stated below:

- Procurement value supported through engagement with appropriate contractors qualified on CCS framework
- Framework meets Barnet requirements and provides access to suitable qualified top 100 contractors

- 1.31 An extensive process of soft market testing of those contractors represented on the framework has recently been undertaken in order to ensure that there was top 100 contractor interest, with relevant experience and desire to be involved in a competitive process. It also confirmed that those qualified on the framework have the experience, expertise, capacity, and interest to carry out this contract
- 1.32 Delegation of the procurement strategy was provided at OBC stage, and Members are asked to note and endorse the recommended route set out in the FBC.
- 1.33 Other measures will be implemented, in order to reduce development and construction risk, including large development and construction contingencies and an incentive mechanism linked to timely delivery. The approach to phasing of the planning applications and the programme has changed since the OBC, and it is now proposed that separate planning applications are submitted for each site, post FBC. The OBC programme allowed for 2 phases of planning applications. This has now been revised to a single phased approach to fit with likely funders requirements who need planning certainty before lending together with requirements from the Local Planning Authority who wish to consider the suite of applications as one package, less the provision of new facilities for the Schools Library Resource Service at the old Quinta Club in Chipping Barnet, which will be delivered separately. The planning applications for the primary sites will now be submitted as a suite of applications in the summer of 2021.
- 1.34 A schedule of pre-app meetings have been undertaken and completed with LBB planning department. Historic England have also been consulted and the sites have been discussed with them.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Hendon Hub proposal is intended to achieve:
- A more integrated, customer-focused and unified community offer and a brand-new modern Library
 - Improvements to the public realm, green spaces, and overall connectivity across The Burroughs
 - Middlesex University reinforcing their commitment to engage with residents to share their facilities and properly address concerns raised by the public about student behaviour
 - The Met Police's Safer Neighbourhood Team co-location to a unit adjacent to the proposed new Library, which will help improve safety in the area. This will be amplified by improved lighting and CCTV.
 - Contributions to affordable housing demand in the area, through improved access to student accommodation, affordable housing, and independent living units for young adults, fulfilling the strategic objectives of the council

- New PDSA veterinary facility on Fuller Street, with dedicated car parking on a 125-year lease
- New modern facility for the Meritage Centre community uses, with a prominent community hub on RFC site
- Enhanced access to the current Hendon Library building, including access to the primary listed elements of the building, including the ornate 2nd floor reading rooms
- Reduced negative impact on car parking since OBC, with previously proposed development over two car parks removed from the scheme, and 100% replacement of one car park proposed (Fuller Street relocation)
- Best Value for the Council
- Regeneration in line with LBB and MDX's wider objectives and core strategies in Barnet 2025 including significant contributions to placemaking and providing a potential catalyst for future investment in the area
- Embodiment of the Borough's environmental ambitions to a BREEAM Excellent standard
- Improved university facilities, which is likely to escalate Middlesex University up the Higher Education rankings, enhance the student experience, and stimulate investment into the local economy.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The recommendations in this paper have been determined through rigorously assessing alternative options and financial testing at all three stages of the business case development.
- 3.2 Other funding options for the scheme were also considered at all stages with various options dismissed at each stage.
- 3.3 Cancellation. Further work on the project could be halted but because the scheme is extremely viable and offers many benefits, this option has been disregarded.

4. POST DECISION IMPLEMENTATION

- 4.1 Agree and sign Agreement for Lease with MDX.
- 4.3 Submit a planning application during Q2 of the 2021 financial year.
- 4.3 Procure a construction partner during Q2 and Q3 of the 2021 financial year and implement other risk mitigation measures.
- 4.4 Procure a funding partner post planning and monitor the market on an ongoing basis.
- 4.5 Continue to monitor MDX's financial performance and the appetite from funding partners for their covenant.
- 4.6 Continue to negotiate with third party interests to attempt to purchase them by private treaty.
- 4.7 To consider use of CPO and appropriation powers.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.2 Barnet 2025 Corporate Plan has a strategic objective to encourage a thriving borough, which is a place fit for the future, where all residents, businesses and visitors benefit from improved sustainable infrastructure and opportunity.

5.2 Hendon Hub is part of the Growth Strategy of the borough and is designed to strengthen The Burrough's position as a thriving space within Hendon, creating inspirational public spaces that promote health, happiness, and well-being, and reinvigorate the area, breathing life into assets that are strategic priorities for the Council.

5.4 The project aligns with the objectives in the corporate strategy to help residents and young people into work, by protecting jobs at MDX, providing construction jobs and the introduction of homes for independent living. Further, through its ambition for a BREEAM Excellent rating, it aligns with Barnet's aspirations to be a sustainable borough.

5.5 The Corporate Plan also prioritises a clean, safe and well-run borough to include anti-social behaviour being dealt with so residents feel safe. The recent consultation highlighted some anti-social behaviour locally that is now being addressed immediately and into the longer term through the introduction of the Met Police, buildings which aim to design out crime and CCTV as well as policies being implemented by MDX.

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

5.5.1 Finance and value for money

The willingness of LBB to invest in Hendon Hub is subject to a test of value for money in relation to a preferred option. Accordingly, four streams of options testing were performed at OBC stage, with further options being considered in the FBC, namely the public vs private finance route; income strip vs private placement, and MDX covenant vs LBB guarantee route.

5.5.2 The financial modelling currently shows that the private finance route is the most financially viable to the LBB General Fund over the life of the project. The recommendation to proceed is based on a private placement funding solution with a preference for the MDX covenant due to its reduced risk for the Council. Under the MDX covenant a stand-alone or 'orphan' Special Purpose Vehicle (SPV) could be created for which the Council would have no liability post construction.

5.5.3 In the MDX scenario, stamp duty land tax (SDLT) will be payable whilst in the LBB guarantee route SDLT savings could be made. In an LBB guaranteed deal, an orphan SPV can be set up, or LBB can wholly own the SPV at a reduced risk. However, there is still some risk in this scenario as the financial results would also be incorporated within the Council's group accounts. Also, if MDX were to default the single entity (LBB) would need to make a financial provision for this. Where the SPV is in Council ownership, there is the opportunity for SDLT savings as the land is not being transferred/sold outside of LBB.

- 5.5.4 There will be a loss of income during the construction phase that will be managed through the Medium-Term Financial Strategy.
- 5.5.5 In order to proceed with the scheme an additional capital funding of £4.53m is requested. These are forecast costs to be spent prior to obtaining funding in March 2022. Should the funding date move out, an additional bid for fees may be required. In the FBC, the costs associated with this budget are captured in the modelling and reflected in the General Fund impact statements. The final funding offer presented will take into account the position of the scheme and the offer will be on the latest gross development value (GDV) which will take into account acquisitions and costs incurred. The request is detailed below:

Acquisition costs	
Legal transfer costs	£50,000
Communications, planning & s106 Agreement	£331,042
LBB s106 costs	£82,438
Acquisition costs	£784,000
Development Costs	
Design & Management Fees	£1,532,000
CPO	£247,938
Project Costs	
Third Party Costs	£660,000
Developers Legals, Tax & Deal Structure	<u>£845,082</u>
	£4,532,500

5.6 Staffing

- 5.6.1 This project will be undertaken using the existing project team, with additional project resource bought in, as required, subject to affordability.

5.7 Risk Management

- 5.7.1 An extensive HM Treasury Orange-Book compliant risk register has been produced around the preferred scheme, outlining key risks and mitigating actions to be taken. Regular Gateway reviews are being undertaken in line with the LBB Project Management Toolkit and the risks are also reviewed monthly as part of the internal project board. The option that has been recommended balances risk with return and mitigates risks as far as possible.
- 5.7.2 An abridged risk register is appended to the business case, and the full and comprehensive risk schedule is updated by the project team monthly.

Risk	Mitigant
MDX Financial Risk	General
	Higher Education Institutions' (HEI) performance and reputation in the market have seen an improvement since OBC, with greater confidence in the covenants in the higher education sector as vaccinations are rolled out and in-person lectures begin to resume. Although funding institutions have shown a preference

for the top 15 Universities, including the Russell Group of HEIs, it is considered that the position of others appears to be more secure as the risks from Covid etc, have become known and are mitigated.

At present, no agreement to lease has been signed with MDX. There still remains a risk that this will not be achieved, albeit good progress is being made on agreeing this document and it is anticipated that it will be in a position to be signed shortly. Similarly, this does expose LBB to risk of the rentals not being achieved as predicated in this paper and in the business case. In the case of the deal being aborted it has been agreed that MDX agree to bear half of LBB's costs incurred from March 2020 until the date they withdraw. However, Middlesex University have approval from their Board of Governors to sign an agreement for lease, subject to LBB receiving the same approval.

There is, understandably, concern over the strength of university covenants considering the Covid-19 pandemic. MDX's financial year ends on 31st July and it is understood that that they will report a loss of circa £12m for 2020/21.

However, £9m of that will be attributable to pension deficits and the University has maintained its cash position. Take up of courses for the 2021/22 financial year appears to be strong, and they are forecasting that they will return to making operating surpluses. In addition, MDX have £85m in cash reserves (140 days cash) so there are no insolvency issues, with predicted operations surplus this year expected to be £5m so MDX finance remains strong. This situation will be monitored carefully in conjunction with MDX.

Should MDX default the consequences would depend on the structure of the funding deal that is pursued and the conditions at the time.

Middlesex University (MDX) Covenant

LBB could release its guarantee to the SPV at practical completion (PC) of the development.

LBB Covenant

Should MDX fail at any point over the 40-year term of their leases, and another university did not take over MDX and its assets and liabilities, the flexible nature of the building design could facilitate relatively swift conversion to other use types if necessary. Both circumstances have been modelled and assume a 2-year loss of rental, in addition to 12 months' rent-free allowance as an incentive to achieve maximum occupancy of the new space. These are estimated to continue to return a favorable NPV to the PWLB option and further modelling will take

	place post-FBC if it becomes clear that it is necessary to consider using the LBB covenant.
Programme Delays	<p>Should this occur, necessary adjustments to key workstreams could be made to mitigate any slippages. A workstreams action plan is regularly reviewed in conjunction with the Master programme to ensure all timescales are achievable. The project team provide weekly updates regarding progress. A CPO has been factored into the programme should this be required.</p> <p>There are various conditions that need to be satisfied in order to appoint a funding partner(s) at the desired time, including 3rd party rights or acquisitions, receipt of planning permission and finalization of lease arrangements. These have been identified as key workstreams within the programme. Should delays occur, it has been advised by KPMG that there is likely to be some flexibility in negotiating a restructuring of payments from the fund, with some phasing of funding being introduced.</p>
Construction Risk	<p>Subject to approval, the following are to be implemented post-FBC:</p> <ul style="list-style-type: none"> • Commence procurement of a contractor • 15% contingency on construction cost, 0.5% design reserve contingency maintained • Incentive fee with construction partner and performance bond in place • Recommended early appointment of an Employer’s Agent to oversee the scheme and work with the LBB procurement department to appoint a construction partner to work up the scheme
Public Opinion	<p>Public consultation has been carried out, with changes made to the scheme as a result, and engagement with local stakeholders and residents will continue throughout. Listen to public concerns and continue to work closely with the local community to mitigate any impacts on, and maximise benefits for, local residents. Proposed FBC scheme updates respond to some public concerns and are aimed to increase community benefits. Minimise any negative impacts locally during construction by providing method statements and plans coordinated with the local community</p>

5.7.3 Further there are still large contingencies in the appraisal which are appropriate for this stage of the project.

5.8 Property

5.8.1 The overarching aim of this programme is to achieve the best outcomes in relation the Council's assets.

5.9 Social Value

5.9.1 The main source of job creation with regards to the Hendon Hub Scheme is in construction, where a net equivalent number of full-time employees will be 40. A significant number of the existing MDX workforce will also be safeguarded by the development of the academic facilities and student accommodation. Other than construction, the number of full-time equivalent end-user jobs created by the scheme is 24, with the gross number of jobs safeguarded at 476.

5.9.2 The current community uses and library will be relocated in new modern accommodation, meaning they should be better able to serve the local residents in Hendon.

5.9.3 There will be a Community Infrastructure Levy (CIL) associated with the scheme.

5.10 Legal and Constitutional References

5.10.1 The Council's Constitution, Article 7 sets out the terms of reference of the Policy and Resources Committee including:

To be responsible for: strategic policy, finance and corporate risk management including recommending: Capital and Revenue Budget; Medium Term Financial Strategy and Corporate Plan to Full Council; Strategic Partnerships(2) (2) To be responsible for those matters not specifically allocated to any other committee affecting the affairs of the Council.

5.10.2 Article 7.5 of the Constitution states "If any report appears to come within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy and Resources Committee."

5.10.3 The Constitution- Article 9.1 (b) - Chief Officers – Management Structure- Delegated Authority to Chief Executive and Chief Officers states (i) Chief Officers (Deputy Chief Executive, Executive Directors for Adults, Children and Environment, Director of Resources and Director of Assurance have the delegated powers in respect of all matters which are not key decisions (as defined in Article 2) and not reserved for decision by the Council or by a Committee of the Council as set out therein. Committees may also delegate to these officers.

5.10.4 Post Brexit, the State Aid rules have been replaced by the Subsidy Control Rules 2021. The Procurement of public works and services contracts over the relevant financial thresholds must still observe the requirements of the Public Contracts Regulations 2015, and Subsidy Control Rules 2021 where applicable. There is a new process for advertising the tender in the Contracts Finder. The Public Services (Social Value) Act 2012 requires the Council to consider whether it can achieve an improvement to the economic, social and environmental wellbeing 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 through contract delivery.

- 5.10.5 The Council will need to consider, comply with and obtain any statutory and legal requirements /consents to give effect to the preferred option. Unless there is a general consent available which dispenses with the need to obtain express consent from the Secretary of State, the disposal and/or appropriation of the Sites may require ministerial consent under Section 123(2) of the Local Government Act 1972, section 233 of the Town & Country Planning Act 1990 or by virtue of sections 19 and/or 32 of the Housing Act 1985.
- 5.10.6 The Council has a range of powers 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.
- 5.10.7 The Localism Act 2011 goes on to say at section 4, that if a local authority is carrying out activities "for a commercial purpose" then it must do so through a company (meaning a company limited by shares). Therefore, the objectives underpinning the Hendon Hub project must be reviewed to ascertain whether the project is to be carried out "for a commercial purpose".
- 5.10.8 Caselaw provides that where there is more than one purpose for an activity, the local authority must identify its "dominant purpose". The FBC makes it clear that the dominant objectives for the project fall within the categories of place-making, socio-economic improvements and local economic growth and wellbeing. As such it is not considered that the Council will be required to deliver the project through a company (although it may do so, using the SPV route referred to in this report, if it wishes).
- 5.11 In relation to the specific activities that are likely to form part of the project, the following powers are noted:-
- 5.11.1 The Council may prudently borrow and invest for any purpose relevant to its functions under any enactment or for the purposes of the prudent management of its financial affairs. "Investment" also covers loans made by a local authority to one of its wholly-owned companies or associates, to a joint venture or to a third party (sections 1 and 12 of the Local Government Act 2003);
- 5.11.2 The Council may acquire and dispose of land to place-shape an area (sections 120 and 123 of the Local Government Act 1972);
- 5.11.3 The Council has wide-ranging powers to buy, sell and develop land, set out in various statutes including:-
- Local Government Act 1972;
 - Housing Act 1985;
 - Town and Country Planning Acts;

- Local Authorities (Land) Act 1963.
- Housing and Planning Act 2016
- Highways Acts

5.11.4 Section 227 of the Town and Country Planning Act 1990 provides that a Council may acquire by agreement any land which they require for any purpose for which a local authority may be authorised to acquire land compulsorily under section 226. Officers consider that any land within the area edged red on the plan at Appendix 2 that may be acquired by negotiation from now on should be held by the Council for planning purposes, consistent with the purposes for which that land would be held by the Council were the land to be acquired compulsorily pursuant to section 226.

5.11.5 Once acquired for planning purposes, these areas of land will benefit from the operation of Section 203 of the Housing and Planning Act 2016, which (subject to the payment of compensation) extinguishes all existing third party rights that could prevent the development or use of the land from proceeding. The costs of compensation will be limited to the statutory basis as provided by section 204 of the 2016 Act.”

5.12 Procurement

5.12.1 The Council has developed its procurement strategy for the scheme to ensure delivery of the scheme is compliant within the meaning of the Public Contracts Regulations 2015 (PCRs), with support from HB Public Law and external legal advisers Pinsent Masons LLP.

5.12.2 The Council’s financial and tax advisers, KPMG, have led on the structuring of the finance arrangements and in preparing for the prospective funding competition. This competition is for funding/loans and therefore Regulation 10 (f), which is an exemption from the requirement to run a compliant procedure pursuant to the Public Contracts Regulations (PCRs), would apply. The Council will separately require to satisfy any internal governance requirements relating to the raising of funds and its best value obligations.

5.12.3 With respect to the agreement being entered into with MDX, MDX is a contracting authority and the Agreement for Lease is a public works contract within the meaning of the PCRs 2015. MDX therefore requires to have a legal basis in procurement law to make a direct award to the Council to develop the scheme i.e. in the absence of a competition. MDX has sought its own legal advice from external legal advisers who have confirmed there is a reasonable basis on which it can be argued that the Agreement for Lease will be exempt from a competition under Regulations 32 (2) (b) i.e. on the basis of exclusive rights. MDX has been directed to substantiate this argument via an options analysis of the non-suitability of alternative sites, and this activity is ongoing. Whilst the risk of a procurement challenge to this approach cannot be fully discounted, it is mitigated by:

5.12.3.1 Ensuring the works are tendered compliantly to mitigate the risk of an economic operator being in a position to argue they have lost an opportunity to deliver the works by virtue of MDX’s direct award. The Council intends to utilise a compliant CCS Framework to procure its contractor(s); and

5.12.3.2 Issuing a Voluntary Ex-Ante Transparency Notice (“VEAT notice”) to the market in advance of entry into the Agreement for Lease to discharge the time period for any remedy of ineffectiveness i.e. where the contract is set aside, which risk will be discharged after 10 days of the VEAT (assuming the VEAT is effective). MDX’s lawyers will draft the VEAT notice and the Council’s legal advisers Pinsent Masons will be instructed to review and approve on the Council’s behalf. On the basis that MDX will be the entity claimed against it would potentially stand for damages, which limitation period would be discharged within 30 days of the VEAT notice.

5.13 KPMG have been advising on the transaction to date, specifically on the structuring, and seeking indicative funding offers through the two soft market testing processes that have been undertaken. In order to seek final funding offers, and final structuring advice, a procurement of an advisor will be required to be undertaken under an approved framework due to the size of the potential fee in this regard. This fee will be netted off the final financial settlement from a fund(s). The Committee is requested to approve this procurement. The development of the procurement process, including the negotiation and completion of legal agreements is requested to be delegated to the S151 Officer, in consultation with the Chairman of P&R.

5.13 Consultation

5.13.1 As a matter of public law the duty to consult with regards to proposals to vary, reduce or withdraw services will arise in four circumstances:

- Where there is a statutory requirement in the relevant legislative framework;
- Where the practice has been to consult or where a policy document states the council will consult then the council must comply with its own practice or policy;
- Exceptionally, where the matter is so important that there is a legitimate expectation of consultation and
- Where consultation is required to complete an equalities impact assessment.

5.13.2 Regardless of whether the council has a duty to consult, if it chooses to consult, such consultation must be carried out fairly. In general, a consultation can only be considered as proper consultation if:

- Comments are genuinely invited at the formative stage;
- The consultation documents include sufficient reasons for the proposal to allow those being consulted to be properly informed and to give an informed response;
- There is adequate time given to the consultees to consider the proposals;
- There is a mechanism for feeding back the comments and those comments are conscientiously taken into account by the decision maker / decision making body when making a final decision.
- The degree of specificity with which, in fairness, the public authority should conduct its consultation exercise may be influenced by the identity of those whom it is consulting and;
- The consultation is clear on the reasons and extent to which alternatives and discarded options have been discarded.

5.13.3 Ward councillors, residents, communities and other key stakeholders local to each site have been consulted as part of a public consultation process. The consultation started on Friday 26 February 2021 and concluded on Monday 7 June 2021, lasting over 14 weeks. The full consultation report is appended to this paper.

5.13.4 A project website was set-up (www.hendonhub.co.uk) to allow people to find out more about the consultation and feedback via the online survey. A total of eight online presentations were held via Zoom and an additional four in-person events were held at the Scholars Courtyard at Middlesex University during the week commencing Monday 17 May.

5.13.5 The project team has sought to consult and engage with neighbours and local community groups prior to the finalisation of the project and the submission of planning applications. As well as meetings held with Council planning officers, extensive stakeholder and public consultation has been undertaken through several virtual and in-person consultation events, the use of a dedicated virtual consultation platform, regular briefings for local councillors and other stakeholders, and meetings with members of the public. In total, 341 feedback forms were completed with feedback also received via phone and email.

5.13.6 The major themes that were raised during the consultation and how they have been addressed are as follows:

Consultation Objection	How Addressed in FBC Scheme Changes
Loss of parking due to development proposals on car parks where no alternative parking provision was to be made	Osidge Lane Car Park and The Burroughs car park removed from scheme; all Fuller Street parking spaces replaced; proposed CPZ; MDX to control the use of cars by students.
The scale of proposed student accommodation with the concern this might lead to a rise in an increase in anti social behaviour locally	26% reduction in the number of student accommodation units; Proposed Met Police Safer Neighbourhood base adjacent to new Library; increase in CCTV on MDX grounds and locally; Improved lighting; Proposed development has been configured to design out crime in conjunction with the relevant teams at LBB and Met Police
The scale and mass of the development	Reductions in height to the rear of the RFC site; separation of RFC into 3 buildings to reduce the mass of the development; reduction in student numbers; Meritage Centre building height adjacent to Church End Road to be reduced;
Comments that the scheme has many benefits for Middlesex University (MDX) but few community benefits; concerns that MXU are 'taking over the local area'.	26% reduction in student accommodation numbers since OBC; inclusion of affordable housing; inclusion of prominent community hub; more green spaces and public realm improvements proposed; some public access to be maintained to the current Hendon library building, to include access to listed features not currently accessible to the public; new modern library building; continued and access to MDX facilities by the local community where possible; introduction of a health and wellbeing centre / GP surgery; PDSA now retained locally.
Library services moving from the existing listed library building to a new modern building located on the opposite side of The Burroughs; a petition has been submitted in this regard.	The objections have been carefully considered; LBB Library Service officers believe that there is strong rationale to move the library to allow improved service provision. Public access will be maintained to the current Hendon library building, to include some access to the second floor, containing listed features not currently accessible to the public

5.13.6 After carefully listening to the consultation feedback, LBB Officers have presented a number of proposed changes to the scheme, as detailed above, which are recommended for approval.

5.13.7 The Committee will wish to note that Officers do realise that for some residents the proposed changes won't sufficiently address concerns raised. All objections have been carefully considered and discussed. In some cases, however, it has been considered that there are strong community benefits and business rationale for maintaining aspects of the original proposals. Where scheme changes have not accommodated stakeholder concerns, Officers have attempted to mitigate concerns where possible - for example maintaining public access to the listed library building.

5.13.8 In conjunction with the main consultation, library users were encouraged to complete a short survey (online and paper) which asked residents how a new library could look and for their opinions on a variety of additional services that might be provided from a new building. This survey was conducted between 3 March and 4 June 2021 and, in total, 112 responses were received.

5.13.10 The survey was split into three sections as outlined below:

- **Section 1:** The first section of the questionnaire looked at the services currently provided from Hendon Library and how to balance the requirements and wishes of different library customers within the proposed new building.
- **Section 2:** The second section looked at how the Library Service could improve the different sections of the library in the proposed new building.
- **Section 3:** The third section considered what **new** services could be provided.

5.13.10 The results of the survey are detailed in the consultation report appended to this paper. Several respondents voiced their opposition to the library moving from its current location, and the survey also provided feedback as the type of current and future services valued by current and prospective users. The Libraries Service will use this feedback, as well as their continued engagement with library users, to shape the nature of the future library service in Hendon.

5.13.11 Should approval be given for the submission of planning, interested local residents and stakeholders will have a further opportunity to provide comments and feedback through the Council's public access system as part of the statutory consultation that is undertaken on all applications.

5.13.12 An Environmental Impact Assessment Scoping Opinion Request for the Hendon Hub project consisting of the Ravensfield & Fenella, Meritage Centre and Building 9 was submitted on 21st May 2021. To date a scoping opinion has yet to be adopted by LBB planners, although this is expected shortly. Any further actions arising from this are requested to be delegated to the Deputy Chief Executive, in consultation with the Chairman of Policy & Resources Committee.

5.14 Equalities and Diversity

5.14.1 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 Assessment takes into account the consultation that has taken place but it will be revisited on each of the proposals as they are developed, as required. Consideration of the duties should precede the decision. It is

important that the Committee 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 and are as follows:

- 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;
 - c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.14.2 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;
- 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.

5.13.3 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.

5.14.4 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.

5.14.5 Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

5.14.6 The relevant protected characteristics are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex:
- Sexual orientation
- Marriage and Civil partnership

5.14.7 Two equalities impact assessments took place at previous stages. The link is attached here.

<https://barnet.moderngov.co.uk/documents/g10199/Public%20reports%20pack%2008th->

- 5.14.8 A full equalities impact assessment has been collated and appended to this report, which has been prepared based on feedback received during the recent consultation, and which details how any negative impacts will be mitigated across the project's lifetime.
- 5.14.9 The approach to equalities was a collaborative effort between key stakeholders, LBB, MDX, and external contractors (such as GL Hearn and Capita) through online events (which were necessitated due to COVID restrictions in operation at the time), in person consultation events and from feedback obtained via the scheme website www.hendonhub.co.uk. A series of workshops have also taken place. Anonymised feedback forms were provided so that people with protected characteristics could feedback on the ways that the scheme may affect them.
- 5.14.10 At this stage, the Hendon Hub development is not seen to have a significant impact on the protected characteristics identified. It is important that this status is consistently monitored across the course of the project and, if need arise, mitigations and changes are made to ensure no group is negatively impacted. The adjustments proposed within the Hendon FBC improve the equalities position since OBC, with inclusions such as a potential GP Surgery, local relocations, zero loss in parking provision, and gender-neutral bathrooms providing benefits to service users that were not previously available. An Improvement Plan has been put together to mitigate any further impacts. The main equalities concern raised in public consultation is that of the increase in student population in the area, which will need to be carefully monitored going forward to ensure anti-social behaviour and hot spots are properly addressed.
- 5.14.11 Significant attention is being paid to the impact on equalities and vulnerable people, especially concerning the community uses within the scheme, which will be relocated to new, modern accommodation. The impact on equalities in regard to other residential tenants and / or leaseholders affected has been reviewed and will be monitored regularly.
- 5.14.12 The council recognises that equality will require regular review to ensure that citizens are treated equally, with understanding and respect, and have equal access to quality services which provide value to the taxpayer. MDX will also act as a responsible body in complying with equalities.
- 5.14.13 From the total of 341 feedback forms which were received during the 14-week consultation period, 58 feedback forms were completed with those responded completing the equalities questions. Once the equalities questions were added to the feedback form questionnaire a further 283 feedback forms were completed.
- 5.14.14 6% of respondents who completed the consultation questionnaire chose not to disclose whether they considered themselves as having a disability, 89% stated that they did not, and 5% reported that they did. Of those that answered that they had a disability, the majority said that they objected to the proposals when asked to what extent did they support or oppose the Hendon Hub proposals overall. However, due to the limited sample size it is considered that this data does not allow for a direct conclusion to be drawn between disabled individuals objecting to the scheme.
- 5.14.15 There were concerns raised over a potential net loss of parking from the development impacting accessibility to key services for disabled residents, however the scheme has

now changed to accommodate this so that there no net loss of parking. There is a provision made for of disabled individuals and blue badge holders across all parking areas.

- 5.14.16 There is a small negative impact on faith groups in Hendon, with a slight disruption in parking for church goers during the construction period due to the need to access St Mary's Church as it is adjacent to the Meritage Centre. However, this disruption is only temporary, with construction method statements issued to ensure site safety. Churchgoers, some of whom are elderly, attend services at the two churches close by and use the town hall car park for services. Disruption to key church services and dates are intended to be minimised, with few or no works to take place on a Sunday. Alternative parking arrangements will be discussed with the relevant groups.
- 5.14.17 The change in premises and potential temporary relocation of community assets could cause a temporary service disruption, impacting the provision and services delivered by organisations including, Meridian, Mencap, Citizen Advice Bureau (CAB) and African Cultural Association (ACA). It is recommended that LBB support these services with a coordinated and assisted transition into new premises and where needed support with community and user engagement. Any temporary relocation and/or permanent provision of services will be configured to best support their needs. All service hours of the proposed facilities will remain consistent with that provided currently. In addition to this, most of these facilities will also be permanently relocated locally, within a short walk from where they are currently situated, as discussed earlier. The impact of the above will be regularly reviewed.
- 5.14.18 A number of local residents will need to be rehoused, of which some may be vulnerable or disabled or with mobility issues. The residential occupiers will have an equalities impact assessment going forward and this will also include leaseholders and secure or flexible tenants or indeed owners or tenants where we are seeking to acquire the property. For all residents a thorough needs assessments will be undertaken to fully understand these resident's requirements especially those that are disabled/vulnerable prior to any move and in accordance with the London Borough of Barnet allocations policy and procedures, ensuring they are rehoused into suitable accommodation. If any issues are raised where extra support is required Barnet Homes will liaise with any supporting services such as Occupational Health, Mental Health etc. Any equalities impacts from purchasing residential premises will also be mitigated or alleviated.
- 5.14.19 The consultation feedback highlighted that local residents have concerns around students and the potential strain on the local infrastructure. Residents were keen to see more community facilities such as a community hall, more green spaces, and a GP surgery. The project team are currently in discussions with the Clinical Commissioning Group (CCG) to introduce a healthcare service on the MC Site to help mitigate this strain and improve local support for age-related health issues. A relocated community hall is included in the proposals as are green spaces improvements.
- 5.14.20 The LGBTQ+ society at Middlesex University commented that unisex bathrooms would be appreciated to accommodate the non-binary and transgender student community. This facility is being proposed in some new facilities. In relation to welfare facilities, the overall impact of the scheme on pregnant individuals is considered to be negligible but positive. Lift provisions where required to ease strain on pregnant individuals. Further to this, access to toilet facilities in public spaces will be part of the design. The new library is

designed to be a more flexible and accessible space, reducing the strain on any pregnant staff.

5.15 Corporate Parenting

5.15.1 The 33 Homes for Independent Living will be focused towards young people who are at the end of their supported housing journey, have made the transition into employment or training, and require that final step of an affordable home in order to become truly independent.

5.15.2 As Corporate Parents our ambitions for young people are to enable them to live independently, be able to access learning or employment confidently, be successful in what they do and have dreams and ambitions for their future. Care leavers have additional vulnerabilities and often need additional support to be confident, effective adults and this project will support young people on their road to independence with the necessary guidance, and support.

5.15.3 We can create opportunities for our young people and an environment that is conducive to education, training and employment so that we can fulfil our ambitions for our care leavers

5.15.4 The corporate parenting principles that local authorities must have regard to when exercising their functions in relation to looked after children and young people, as follows:

1. to act in the best interests, and promote the physical and mental health and well-being, of those children and young people;
2. to encourage those children and young people to express their views, wishes and feelings;
3. to take into account the views, wishes and feelings of those children and young people;
4. to help those children and young people gain access to, and make the best use of, services provided by the local authority and its relevant partners;
5. to promote high aspirations, and seek to secure the best outcomes, for those children and young people;
6. for those children and young people to be safe, and for stability in their home lives, relationships and education or work; and;
7. to prepare those children and young people for adulthood and independent living.

5.16 Insight

5.16.1 None in the context of this report.

6. BACKGROUND PAPERS

6.1 The link to the SOC decision can be found here:

<https://barnet.moderngov.co.uk/documents/g9928/Printed%20minutes%2013th-Jun-2019%2019.00%20Housing%20and%20Growth%20Committee.pdf?T=1>

6.2 The link to the OBC decision can be found here:

<https://barnet.moderngov.co.uk/documents/g10199/Printed%20minutes%2008th-Dec-2020%2018.00%20Policy%20and%20Resources%20Committee.pdf?T=1>