



## CHIEF OFFICER IN CONSULTATION WITH COMMITTEE CHAIRMAN DELEGATED POWERS REPORT

<b>Title</b>	North Finchley Site Assembly Agreement and Land Agreement: Exclusivity Period Extension
<b>Report of</b>	Deputy Chief Executive in the consultation with the Chairman of the Housing and Growth Committee
<b>Wards</b>	All
<b>Status</b>	Public
<b>Enclosures</b>	
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### Summary

In accordance with the delegation granted by Council, this report approves an extension to the exclusivity period within the North Finchley Land Assembly and Site Assembly Agreements with Regal JP North Finchley Limited by six months to 30 June 2023.

### Decisions

**To extend the exclusivity period within the North Finchley Land Assembly and Site Assembly Agreements to 30 June 2023.**

## 1. WHY THIS REPORT IS NEEDED

- 1.1 After a referral from Housing and Growth Committee, Full Council on 19 October 2021 resolved to:
1. Delegate authority to the Deputy Chief Executive to enter into the North Finchley Land Agreement and Site Assembly Agreement with Regal JP North Finchley Limited and Regal Holdco Ltd. See appendix 1 for Legal Summary.
  2. Note the above agreements, including the extension of the exclusivity period with Regal JP North Finchley Limited until the 31st December 2022.
  3. Delegate authority to the Deputy Chief Executive in consultation with the Chairman of this committee to continue to extend the exclusivity period if the Council deems necessary.
  4. Delegate authority for the Deputy Chief Executive to authorise the appointment of professional team(s) as necessary to deliver associated projects set out in report at paragraph 1.5 to support placemaking, public realm improvements and the wider comprehensive regeneration of North Finchley Town Centre.
- 1.2 It has been identified by the development partner in consultation with the council that there is a need to allow for an extension of the exclusivity period identified within the North Finchley Land Agreement and Site Assembly Agreement from the previously approved 31 December 2022, by six months, to 30 June 2023. Therefore, this Delegated Powers Report exercises the delegation in resolution 3 above and provides the reasons for the extension of this exclusivity period.
- 1.3 Set out below is the timeline of key actions and events that have taken place to move the scheme forward or which have otherwise impacted proposals:
- April 2017 – Barnet Council and Joseph Partners enter into exclusive two-year Preliminary Agreement, with option to extend by a further one year if needed.
  - February 2018 – adoption of North Finchley Town Centre Framework Supplementary Planning Document following extensive local consultation.
  - September 2018 – Joseph Partners brings on development partner U+I Group to back development, commencing detailed work on scheme viability.
  - March 2019 – Barnet Council, Joseph Partners and U+I Group submit Expression of Interest to UK government's Future High Streets Fund, which was unsuccessful.
  - April 2019 – one-year extension identified within the Preliminary Agreement activated.
  - July 2019 – Site Assembly Agreement and Land Agreement finalised and entered into with Joseph Partners and U+I Group, committing development partners, among other things, to submitting overall masterplan and detailed Phase 1 planning application by 31 December 2020.
  - Summer/Autumn 2019 – continued planning for North Finchley Partnership Board and associated community engagement activities.
  - March 2020 – first UK national lockdown as result of Covid-19 pandemic.
  - April 2020 – expiration of exclusivity clause in Land Agreement.
  - May 2020 – U+I Group steps back from involvement in North Finchley and ends their participation in the Land Agreement and Site Assembly Agreement.

- November 2020 – Joseph Partners agrees Heads of Terms with Regal London to bring forward the redevelopment of North Finchley Town Centre
- July 2021 – Partnership formed between Regal London and Joseph Partners to form Regal JP North Finchley Limited funded by Regal Holdco Ltd
- August 2021 – Final Draft of Land Agreement and Site Assembly Agreement agreed between Barnet Council, Regal JP North Finchley Limited and Regal Holdco Ltd
- Sep 2021 – Paper taken to Housing and Growth Committee to request permission for the council to proceed to enter into Land Assembly and Site Assembly agreements. Decision made at committee to refer to Full Committee to make decision.
- Oct 2021 – Full Council approved paper (as per resolution detailed above).

## **REASONS FOR RECOMMENDATIONS**

- 1.4 As noted, the council and its development partners have been progressing a complex scheme at a time of unprecedented economic uncertainty to deliver the holistic revitalisation of North Finchley and not just individual ‘favourable’ land parcels. To enable this to progress the council and Regal JP North Finchley Limited have used reasonable endeavours to prepare an agreed Site Assembly Agreement and Land Agreement. The request for an extension of the exclusivity period has been identified by the development partner to ensure there is sufficient time to allow them to develop and coordinate proposals for this complex scheme in accordance with original terms agreed within the North Finchley Land Agreement and Site Assembly Agreement.
- 1.5 Furthermore, in alignment with the projects commitment to undertake robust community engagement, it is felt that this extension will allow additional opportunities to enable a more inclusive programme of community engagement can be undertaken to ensure the local voice is heard and informs and shapes the proposals brought forward.

## **2. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 2.1 The council could choose not to extend the exclusivity period within the Site Assembly and Land Assembly agreements. This would not be recommended as this will place programmatic pressure onto the development partner that will impede their capacity to develop a considered and comprehensive regeneration proposal and impact their ability to undertake meaningful stakeholder and community engagement to inform the scheme developed.

## **POST DECISION IMPLEMENTATION**

2.2 Barnet Council will proceed to extend the exclusivity period within the North Finchley Land Assembly and Site Assembly agreement.

2.3 The Deputy Chief Executive will proceed to enter into the North Finchley Land Agreement and Site Assembly Agreement with Regal JP North Finchley Limited.

### **3. IMPLICATIONS OF DECISION**

#### **3.1 Corporate Priorities and Performance**

3.1.0 Supporting thriving town centres and small businesses is a strategic priority of the council and endorsed through the adoption of the Growth Strategy 2020-30 by Housing and Growth Committee.

3.1.1 Within the Growth Strategy, the town centre offer specifically outlines the council's commitment to providing additional support to actively market and promote opportunities to developers when dealing with main town centres.

3.1.2 The Growth Strategy directly supports delivery of the Corporate Plan, Barnet 2024, particularly the goals of promoting responsible growth within the borough, encouraging development and revitalising communities whilst protecting what residents love about the borough.

3.1.3 The Housing Strategy 2015-25 highlights the role of purpose-built private rented sector housing located within or around town centres in addressing housing needs, as well as supporting labour mobility.

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

3.2.0 All costs associated with the council's legal fees in preparing this Land Agreement and Site Assembly Agreement have been covered by the developer Regal London. The adoption of the recommendations will be at no additional cost to the council.

3.2.1 There are no anticipated implications for IT, Procurement, Staffing or Sustainability in relation to the decision.

#### **3.3 Social Value**

3.3.0 The Public Services (Social Value) Act 2012 requires people who commission public services to consider how they can also secure wider social, economic and environmental benefits.

3.3.1 Social benefits will principally be secured through opportunities to increase housing delivery (including affordable housing), widen the range of leisure, cultural and commercial activities and improvements to the public realm. These activities will help to make North Finchley a more attractive and thriving destination.

### **3.4 Legal and Constitutional References**

- 3.4.0 All proposals emerging from this report must be considered in terms of the council's legal powers and obligations, including its overarching statutory duties such as the Public Sector Equality Duty. Legal advice has been taken throughout this project on the agreements and the structure of the project.
- 3.4.1 The council's Constitution, Article 7.5, Responsibility for Functions, states that the Housing and Growth Committee is responsible for asset management, regeneration strategy and overseeing major regeneration schemes and receiving reports on relevant performance information and risk on the services under the remit of the Committee.
- 3.4.2 As outlined in the Referral report from Housing and Growth Committee on the North Finchley Site Assembly and Land Agreement and approved at Council on the 19<sup>th</sup> October 2021, delegation was granted to the Deputy Chief Executive in consultation with the Chairman of the Housing and Growth Committee to extend the exclusivity period if the council deems necessary.
- 3.4.3 The council has obtained legal advice that the Land Agreement and Site Assembly Agreement are legitimately structured as an exempt land transaction and are unlikely to constitute a "public works contract" and therefore would fall outside the Public Contracts Regulations 2015.

### **3.5 Risk**

- 3.5.0 There is a risk that Regal JP North Finchley Limited will not satisfy the other pre-conditions in the Land Agreement to allow the land to be drawn down for development. Even if Regal JP North Finchley Limited satisfies the conditions and acquires the land for development, it may not develop out the site in accordance with the council's timescale aspirations. To mitigate this risk, the Land Agreement contains time limits within which the developer must achieve milestones otherwise the Land Agreement (or appropriate part) may be terminated, or the land could ultimately be re-acquired by the council. Following reviewing the programme with the developer it is felt that the six-month extension is reasonable to achieve the original terms within the North Finchley Land Assembly and Site Assembly Agreement.
- 3.5.1 In not agreeing to extend the exclusivity period there is a risk that the developer will not have sufficient time to consult with the Local Authorities Planning Team throughout the development of the proposals to ensure any proposals they develop is in alignment with council policy; and ultimately obtain planning permission.
- 3.5.2 Underpinning the risk identified above is the risk of resistance to any proposed development by local community members and others. This is an ongoing risk that to date has been mitigated by ensuring that residents and businesses were fully consulted on the SPD and will be a continued priority through the formation of the North Finchley Partnership Board. The extension of the exclusivity period is to assure any proposals developed have sufficient time to ensure time for engagement opportunities for the community to participate and inform the scheme. This is in addition to a planning application required to be made in relation to proposals, which will be subject to statutory public consultation.
- 3.5.3 For all projects we will identify and maintain project-related risks and escalate these as and

when this is appropriate. Town centre projects can be complex as a result of the different uses, landlords and services on our high street. Council officers have recognised the need to have dedicated resource to manage the delivery of projects and will maintain this role as required to assure effective implementation.

### **3.6 Equalities and Diversity**

3.6.0 The Equality Act 2010, section 149, outlines the provisions of the Public Sector Equality Duty which requires Public Bodies to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act.
- advance equality of opportunity between people who share a relevant protected characteristic and people who do not
- foster good relations between people who share a relevant protected characteristic and people who do not

3.6.1 The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

3.6.2 The broad purpose of this duty is to integrate considerations of equality into day to day business and keep them under review in decision making, the design of policies and the delivery of services.

3.6.3 The project will have positive benefits for the community and will give improved access to the facilities in the area. Equality implications have been picked up during the SPD consultation and will continue to be considered and reviewed as all projects develop. It is also hoped that through establishing of the North Finchley Partnership Board will also assist the council and Development Partners to maximise the equality benefits of the scheme.

### **3.7 Corporate Parenting**

3.7.0 There are no direct links between the council's corporate parenting function and this project.

### **3.8 Consultation and Engagement**

3.8.0 As previously noted, extensive community consultation was undertaken in the development of the North Finchley SPD and there will be significant opportunities for residents to engage with the programme going forward. Of note is the establishing of the North Finchley Partnership Board; there will also be opportunities for community engagement at key stages during the development of the regeneration proposals; and the statutory consultation associated with any planning application made. Furthermore, the council in delivering the complementary public realm and placemaking projects as set out in Housing and Growth Committee paper September 2021 (see link in background papers below) there will be further and more diverse opportunities for the community to engage and participate to help shape the regeneration of North Finchley Town Centre.

### 3.9 **Insight**

3.9.0 Not Applicable

## 2. **BACKGROUND PAPERS**

Full Committee October 2021

Agenda Item 11.3: Referral from Housing and Growth Committee –  
North Finchley Site Assembly and Land Agreement

<https://barnet.moderngov.co.uk/documents/s68038/Referral%20from%20Housing%20and%20Growth%20Committee%20-%20North%20Finchley%20Site%20Assembly%20Agreement%20and%20Land%20Agreement.pdf>

Housing and Growth Committee September 2021

Agenda Item 10: North Finchley Site Assembly Agreement and Land Agreement

<https://barnet.moderngov.co.uk/documents/s66473/North%20Finchley%20Land%20Assembly%20and%20Site%20Assembly%20agreements.pdf>

Housing and Growth Committee November 2020

Agenda Item 11: Update on the revitalisation of North Finchley Town Centre

<https://barnet.moderngov.co.uk/documents/s61178/Update%20on%20the%20revitalisation%20of%20North%20Finchley%20Town%20Centre.pdf>

Growth Strategy (draft June 2019):

<https://barnet.moderngov.co.uk/documents/s52934/Growth%20Strategy.pdf>

Assets, Regeneration and Growth Committee November 2018

Agenda item 7: North Finchley Town Centre Development – update

<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=696&MId=9482&Ver=4>

Assets, Regeneration and Growth Committee March 2018

Agenda item 7: North Finchley Town Centre Development

<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=696&MId=9083&Ver=4>

Policy and Resources Committee February 2018

Agenda item 7: North Finchley Town Centre Framework Supplementary Planning Document (SPD)

<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=692&MId=8742&Ver=4>

Policy and Resources Committee December 2016

Agenda item 8: North Finchley Town Centre Area Framework

<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=692&MId=8731&Ver=4>

Policy and Resources Committee, July 2021

Agenda item 10: Strategic Community Infrastructure Levy (CIL) Allocations

<https://barnet.moderngov.co.uk/documents/s65921/Strategic%20CIL%20Allocations%20Final.pdf>

Policy and Resource Committee, Dec 2020

Agenda Item 12: Annual Procurement Forward Plan [APFP] 2021/2022

<https://barnet.moderngov.co.uk/documents/b36692/Item%2012%20-%20Annual%20Procurement%20Forward%20Plan%20APFP%2020212022%2008th-Dec-2020%2018.00%20Policy%20and%20Resource.pdf?T=9>

### **3. DECISION TAKER'S STATEMENT**

- 3.1 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.

Chairman: Cllr. Richard Cornelius  
Has been consulted

Signed

Chairman Housing  
and Growth  
Committee

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Date: 26/10/2021

Chief Officer: Cath Shaw  
Decision maker having taken into account the views of the Chairman

Signed

Deputy Chief  
Executive

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Date: 26/10/2021