



Executive

Tuesday 22 April 2014 at 7.00 pm

Boardroom - Brent Civic Centre, Engineers Way,
Wembley, HA9 0FJ

Membership:

Lead Member Councillors:

Portfolio

Butt (Chair)	Leader/Lead Member for Corporate Strategy & Policy Co-ordination
R Moher (Vice-Chair)	Deputy Leader/Lead Member for Finance and Corporate Resources
A Choudry	Lead Member for Crime Prevention and Public Safety
Crane	Lead Member for Regeneration and Major Projects
Denselow	Lead Member for Customers and Citizens
Hirani	Lead Member for Adults and Health
Mashari	Lead Member for Environment and Neighbourhoods
McLennan	Lead Member for Housing
J Moher	Lead Member for Highways and Transportation
Pavey	Lead Member for Children and Families

For further information contact: Anne Reid, Principal Democratic Services Officer
020 8937 1359, anne.reid@brent.gov.uk

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democracy.brent.gov.uk

The press and public are welcome to attend this meeting

Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members.

Item	Page
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1	Declarations of personal and prejudicial interests	
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Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.

2	Minutes of the previous meeting	1 - 10
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3	Matters arising	
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Environment and Neighbourhood Services reports		
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4	Event Day parking and vehicle removals	11 - 22
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This report responds to concerns that the Council's practice in respect of the removal to the car pound of illegally parked vehicles results in the unnecessary removal of a number of vehicles for which a Penalty Charge Notice (PCN) would be sufficient and appropriate. It proposes a pilot in which removals would not take place for less serious parking offences whilst impacts on compliance are monitored to inform a longer term policy on removals

Concerns have also been expressed that the Council's existing enforcement of the controls within the Wembley Stadium Protective Parking Zone (Event Day Zone) starts too early in the day which unnecessarily inconveniences residents. A trial of later start times to enforcement is proposed.

Ward Affected:
All Wards

Lead Member: Councillor J Moher
Contact Officer: Michael Read, Operational
Director (Environment and Protection)
Tel: 020 8937 5302 michael.read@brent.gov.uk

5	Authority to tender for Independent Domestic Violence Advocacy Services	23 - 34
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This report concerns the procurement of a domestic violence advocacy (IDVA service), family support and a multi-agency risk assessment conference (MARAC) coordination service. It seeks authority from the Executive to invite tenders for the IDVA and MARAC services as required by Contract Standing Orders 88 and 89.

Ward Affected:
All Wards

Lead Member: Councillors Mashari and Pavey
Contact Officer: Clare Brighton, Community
Safety
Tel: 020 8937 1699 clare.brighton@brent.gov.uk

Children and Families reports

6 Child and Adolescent Mental Health Service - approval to tender 35 - 42

This report is an update to the Executive report of 9 December 2013 and concerns the procurement of the revised Child and Adolescent mental health services (CAMHS). This report requests approval to invite tenders in respect of Child and Adolescent Mental Health services as required by Contract Standing Orders 88 and 89 and requests authority to delegate authority to the Acting Director of Children and Families in consultation with the Director of Legal and Procurement and the Chief Finance Officer to award the contract.

(appendix circulated separately)

Ward Affected:
All Wards

Lead Member: Councillor Pavey
Contact Officer: Sara Williams, Acting Director,
Children and Families
Tel: 020 8937 3510 sara.williams@brent.gov.uk

Regeneration and Growth reports

7 Private Rented Sector - Licensing 43 - 72

This report seeks approval for the introduction of an Additional Licensing scheme in the whole area of Brent and to defer a decision on introducing Selective Licensing in Brent to the next available meeting following a further two month consultation on which wards should be covered. Drawing on a range of evidence and the outcomes of an extensive consultation exercise it explains the basis and rationale for the schemes.

(appendix circulated separately)

Ward Affected:
All Wards

Lead Member: Councillor McLennan
Contact Officer: Jon Lloyd-Owen, Operational
Director, Housing and Employment
Tel: 020 8937 5199 jon.lloyd-
owen@brent.gov.uk

8 Community Infrastructure Levy (CIL) Regulation 123 List 73 - 78

The council has adopted a Community Infrastructure Levy (CIL) Charging Schedule that applies a charge to most new development in the borough. The purpose of the CIL charge is to fund new infrastructure such as schools, parks, roads and public transport improvements required to support development and growth. The council is advised to produce a list of priorities (a Regulation 123 list) itemising those types of infrastructure it

wishes to spend CIL on. This report sets out a proposed CIL Regulation 123 List for the council to adopt.

Ward Affected:
All Wards

Lead Member: Councillor Crane
Contact Officer: Dave Carroll, Planning and Development
Tel: 020 8937 5202 dave.carroll@brent.gov.uk

9 Copland Community School and adjacent lands - proposed land rationalisation and update on Academy conversion and Priority Schools Building Programme 79 - 134

In order to facilitate the best possible solution for the new build Copland Community School, this report proposes arrangements to rationalise land ownership, ensure an optimum footprint for the new school buildings, and support the wider regeneration of the area in line with the Wembley Area Action Plan.

(appendices referred to below)

Ward Affected:
Wembley Central

Lead Member: Councillor Crane
Contact Officer: Fred Eastman, Property and Projects
Tel: 020 8937 4220 fred.eastman@brent.gov.uk

10 Disposal of open parking land at Drury Way, St Raphael's, Neasden 135 - 152

This report sets out proposals for the disposal of the freehold of land within the Council's ownership at Drury Way, Neasden, NW10 0TZ.
(appendix referred to below)

Ward Affected:
Stonebridge

Lead Member: Councillor Crane
Contact Officer: James Young, Property and Asset Management
Tel: 020 8937 1398 james.young@brent.gov.uk

11 South Kilburn Regeneration Programme 153 - 156

This report seeks the Executive's approval to delegate authority to the Operational Director of Property and Projects to grant a Lease for land anticipated to comprise the transformer chamber at Bronte House & Fielding House, Cambridge Road, Kilburn, London NW6 5BG to UK Power Networks Plc.

Ward Affected:
Kilburn

Lead Member: Councillor Crane
Contact Officer: Abigail Stratford, Regeneration Officer - Major Projects
Tel: 020 8937 1026
abigail.stratford@brent.gov.uk

12 161 High Street (Job Centre Plus) Harlesden 157 - 160

This report sets out proposals for the taking of a lease at 161 High Street, Harlesden for a period up to 31 August 2015 in order to allow for the continued operation of the Brent Customer Services Centre that is currently in occupation.

Ward Affected:
Harlesden

Lead Member: Councillor Crane
Contact Officer: James Young, Property and Asset Management
Tel: 020 8937 1398 james.young@brent.gov.uk

13 NNDR Applications for Discretionary Rate Relief 161 - 170

The Council has the discretion to award rate relief to charities or non-profit making bodies. It also has the discretion to remit an individual National Non-Domestic Rate (NNDR) liability in whole or in part on the grounds of hardship. The award of relief is based on policy and criteria agreed by the Executive in September 2013. New applications for relief have to be approved by the Executive. The report details new applications for relief received since the Executive last considered such applications on 14 January 2014.

Ward Affected:
All Wards

Lead Member: Councillor R Moher
Contact Officer: Richard Vallis, Revenue and Benefits
Tel: 020 8937 1503 richard.vallis@brent.gov.uk

Central Reports

14 Renewal of Microsoft Licensing Agreement 171 - 178

This report requests authority to award contracts as required by Contract Standing Order No 88. This report summarises the process undertaken in selecting a supplier and, following the completion of the evaluation of the bids, recommends to whom the contract should be awarded.
(appendix referred to below)

Ward Affected:
All Wards

Lead Member: Councillor R Moher
Contact Officer: Prod Sarigianis, IT Services
Tel: 020 8937 6080
prod.sarigianis@brent.gov.uk

Adult and Social Care reports – none

15 Reference of item considered by Call in Overview and Scrutiny Committee - none

16 Any other urgent business

Notice of items to be raised under this heading must be given in writing to the Democratic Services Manager or his representative before the meeting in accordance with Standing Order 64.

17 Exclusion of Press and Public

The following items are not for publication as they relate to the following category of exempt information as specified in the Local Government Act 1972 namely:

APPENDICES:

- Copland Community School and adjacent lands - proposed land rationalisation and update on Academy conversion and Priority Schools Building Programme

Information in respect of which a claim for legal professional privilege could be maintained in legal proceedings.

APPENDICES:

- Disposal of open parking land at Drury Way, St Raphael's, Neasden
- Renewal of Microsoft Licensing Agreement

Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Date of the next meeting: Monday 16 June 2014 (provisional, to be confirmed at the Annual Meeting in June 2014).



Please remember to ***SWITCH OFF*** your mobile phone during the meeting.

- The meeting room is accessible by lift and seats will be provided for members of the public on a first come, first served basis.



LONDON BOROUGH OF BRENT

MINUTES OF THE EXECUTIVE Monday 24 March 2014 at 7.00 pm

PRESENT: Councillor Butt (Chair), Councillor R Moher (Vice-Chair) and Councillors A Choudry, Crane, Hirani, Mashari, J Moher and Pavey

Also present: Councillors Chohan, Hashmi, Hunter, John and Kabir

Apologies for absence were received from: Councillors Denselow and McLennan

1. **Declarations of personal and prejudicial interests**

None made.

2. **Minutes of the previous meeting**

RESOLVED:-

that the minutes of the previous meeting held on 17 February 2014 be approved as an accurate record of the meeting.

3. **Matters arising**

None.

4. **Report on the progress of the administration of the Green Charter**

The adopted Green Charter (2012) policy set out the council's wide-ranging areas of influence under the sustainability programme, the council's contribution to increasing the sustainability performance of the organisation and detailed the support the Council would provide to encourage those who live, work or study in the Borough to contribute to this agenda.

Councillor Mashari (Lead Member, Environment and Neighbourhoods) drew attention to progress made against objectives since the last report in 2013 in particular residents recycling 43% of their waste placing the borough among the top performers in London. She was also pleased to report on the continued success of the Welsh Harp Centre in promoting sustainability with children and that Fair Trade status had been retained.

RESOLVED:

that the contents of the Green Charter monitoring report attached as Appendix A to the report from the Strategic Director of Environment and Neighbourhoods and that the achievements listed in section 3.5 of the report be noted.

5. Brent Local Plan – Development Management Policies

Councillor Crane (Lead Member, Regeneration and Major Projects) presented the draft Development Management Policies document, a proposed set of Minor Alterations to the Core Strategy and proposed changes to the Proposals Map of Brent's Local Plan. Councillor Crane advised that the plan had been endorsed by the Planning Committee on 19 February 2014 and drew attention to the main changes which related to town centres and policies to prevent the over-concentration of betting, shops pawn brokers and money lenders. Additionally, there were policies to support health and well-being, to restrict fast food outlets and Shisha cafes and also to support Meanwhile, bringing properties back into use.

Councillor Hirani (Lead Member, Adults and Health) welcomed the public health aspects of the report including the wider areas which would promote positive health outcomes which were now the council's responsibility. Councillor J Moher (Lead Member, Highways and Transportation) added that the report demonstrated the extent of problems faced by the council and Councillor Mashari welcomed the policies designed to address poor diet and gambling particularly associated with poverty. She felt the council should take action to proactively promote healthy fast foods.

Councillor Crane recommended that the Executive agree the documents for public consultation starting on 26 May 2014.

RESOLVED:

- (i) that agreement be given to the draft Development Management Policies document, and the proposed alterations to the Core Strategy, for public consultation starting on 26 May 2014 for six weeks;
- (ii) that the Strategic Director, Regeneration and Growth be authorised to make further editorial changes to the document prior to finally issuing it for public consultation;
- (iii) that agreement be given to the revised timetable for the preparation and review of Brent's Local Plan as set out in paragraph 3.25 of the Director's report.

6. School Expansion Programme – revised School Expansion Strategy

The report from the Acting Director of Children and Families and Strategic Director of Regeneration and Growth reminded the Executive of the council's statutory duty to ensure it could offer a school place to every child that applied for one. The draft revised School Expansion Strategy for 2014-2018 that had been prepared for consultation identified the projected shortfall of primary, secondary and SEN places over the coming years and outlined key principles that could be used to address the shortfall as part of a coherent education strategy for Brent. Councillor Pavey (Lead Member, Children and Families) stated that the policy was designed to encourage schools to work with the council and to compromise over expansions. He hoped they would contribute to the report and encouraged the community to engage. Councillor Pavey pointed to proposals for a local authority schools board, a

commitment to have more schools open for public use and to work with the community. However, he also acknowledged that the fundamental position remained unchanged – the borough faced a shortage of available land and was underfunded.

Councillor Crane (Lead Member, Regeneration and Major Projects) welcomed the report and set out the context including a rising population, shortage of land, small school sites and traffic congestion. Councillor Crane outlined the council's responsibilities to provide school places but acknowledged that schools were autonomous. He referred to the principles in the strategy which included the promotion of federations between primary schools and not seeking to develop more all-through schools. He also stated that the decision making on expansions needed to be more robust.

Councillor J Moher (Lead Member, Highways and Transportation) referred to the need for officers to have a close working relationship with schools and to be aware of local developments. The strategy needed to be active and not passive. Councillor Choudry (Lead Member, Crime Prevention and Public Safety) referred to the need to engage with the Black Minority Ethnic community, and together with Councillor Pavey, felt that school governors needed to be more representative of the community.

RESOLVED:

- (i) that approval be given to the draft School Expansion Strategy 2014-2018 for consultation purposes in line with the consultation plan set out in paragraph 3.6 of the report from the Director of Regeneration and Growth;
- (ii) that authority be delegated to the Strategic Director of Regeneration and Growth in consultation with the Director of Legal and Procurement and the Lead Member for Regeneration and Growth to approve the pre-tender considerations for the Temporary School Expansion Programme 2014-15.

7. Universal Infant Free School Meals - allocation and use of capital grant funding

On 23 January 2014, the Minister of State for Schools outlined the basis of how local authorities and head-teachers were to be supported in enabling schools to comply with government requirements in offering universal free school meals to all children in Key Stage 1 from September 2014 and announced that £150 million capital funding would be available to local authorities, dioceses and trustees of voluntary aided schools to support schools in providing free school meals. In order to enable schools to meet the minimum requirements by September 2014, the report from the Director of Children and Families sought approval for the development of a costed programme of works to schools to enable the delivery of Universal Infant Free School Meals. The report also requested delegated authority to agree the pre-tender considerations and the award of a work contract or contracts to deliver prioritised schemes arising from the programme of works.

Councillor Crane (Lead Member, Regeneration and Major Projects) in introducing the report, referred to the tight timescales involved to have provision in place by

September 2014 and Councillor Pavey (Lead Member, Children and Families) regretted the lack of time and funding.

RESOLVED:

- (i) that be noted that the Operational Director for Regeneration and Growth (Property and Projects) would develop a costed programme of works at schools as described in the report from the Strategic Director of Regeneration and Growth for the delivery of Universal Infants Free School Meals for agreement by the officer-level Major Projects Review Panel;
- (ii) that approval be given to the use of capital from the sources described in the report to deliver the programme of works once agreed;
- (iii) that authority be delegated to the Strategic Director of Regeneration and Growth to agree the pre-tender considerations (including evaluation criteria) for the procurement of a works contractor or contractors for the delivery of the programme, and for the procurement of design services if not delivered in-house;
- (iv) that authority be delegated to the Strategic Director of Regeneration and Growth in consultation with the Chief Finance Officer to award the contract(s) referred to above.

8. Green Deal and Energy Company Obligation - Delivery Partner Contract Award

The report from the Strategic Director of Regeneration and Growth followed the decision in September 2013 to invite tenders for a single partner to deliver an energy efficiency programme under the Government's Green Deal scheme, with a specific focus on the Energy Company Obligation (ECO), which was designed to tackle fuel poverty, provide affordable warmth and reduce carbon emissions. The report described the tender process, the bids received and made a recommendation for award. Councillor Crane (Lead Member, Regeneration and Major Projects) advised that Lakehouse Contracts Ltd was recommended to be the single delivery partner.

The Executive also had before them an appendix to the report which was not for publication as it contained the following category of exempt information as specified in Schedule 12A of the Local Government Act 1972, namely:

"Information relating to the financial or business affairs of any particular person (including the authority holding that information)."

RESOLVED:

- (i) that agreement be given to the award of a contract for a single delivery partner for Green Deal and ECO works in Brent to Lakehouse Contracts Ltd;
- (ii) that it be noted that the award was subject to the agreement of Brent Housing Partnership, as they were joint client for the contract with the Council.

9. Cable easement and lease for the construction of an Electricity Sub Station - rear of Tenterden Sports Ground off Preston Road, Harrow

Councillor Crane (Lead Member, Regeneration and Major Projects) introduced the report which sought approval to the grant of a lease and cable easement for land with an area of approximately 10 sq metres located to the rear of Tenterden Sports Ground located off Preston Road, Harrow HA3 0OQ to UK Power Networks (UKPN), for a term of 40 years for the construction of an electricity sub station. Councillor Pavey (Lead Member, Children and Families) as ward councillor for an affected neighbouring ward, reported that residents welcomed the proposals.

RESOLVED:

that approval be to the granting of the lease and the cable easement, on the terms set out in Appendix 1 of the report from the Strategic Director of Regeneration and Growth.

10. Disposal of 10 Coverdale Road, Cricklewood NW2

The report, introduced by Councillor Crane (Lead Member, Regeneration and Major Projects) sought approval to proceed with the disposal of the council's freehold interest in the large vacant residential Housing Revenue Account (HRA) dwelling at 10 Coverdale Road, Cricklewood NW2 4BU for a capital receipt, which was to be reinvested into the acquisition of additional medium-sized family homes to improve the alignment between housing need and housing supply.

The Executive also had before them an appendix to the report which was not for publication as it contained the following category of exempt information as specified in Schedule 12A of the Local Government Act 1972, namely:

"Information relating to the financial or business affairs of any particular person (including the authority holding that information)."

RESOLVED:

- (i) that approval be given to the disposal of the council's freehold interest in the subject property on the open market for a capital receipt, which was forecast to be significant given the location and size of the property;
- (ii) that the Operational Director of Property and Projects, Regeneration and Growth be authorised to agree the terms of the disposal and the most appropriate disposal route;
- (iii) that subject to approval of the overall capital programme funding position in the Budget Setting Report to be submitted to members in March 2014, agreement be given to ring-fence the net capital receipt for the acquisition of additional medium-sized family homes for which there is an acute shortage.

11. National Non-Domestic Rates – Autumn Statement – Business Rates Relief

Councillor R Moher (Lead Member, Resources) highlighted the main elements of the government's Autumn Statement of 5 December 2013 which announced a measure of reliefs for business ratepayers. These included giving up to £1,000 relief to all occupied retail properties with a rateable value of £50,000 or less for both 2014/15 and 2015/16, and also giving 50% relief for 18 months to businesses that move into retail premises that have been empty for a year or more. The government expected authorities to use their local discount powers to award these reliefs. The government had also announced a proposal to exempt all newly built commercial property completed between 1 October 2013 and 30 September 2016 from empty property rates for the first 18 months, up to the state aids limits. The report from the Strategic Director of Regeneration and Growth advised that the council was expected to use its local discount powers for implementation. Under the provisions of section 47 of the Local Government Finance 1988 the report sought ratification of the implementation of the government's announcements and in view of the numbers of ratepayers who will be entitled to relief, sought to authorise the Chief Finance Officer to implement these three schemes so that officers could award these discretionary reliefs which satisfy the criteria set by the Department of Communities and Local Government (DCLG) for these schemes.

RESOLVED:

- (i) that the scheme awarding up to £1,000 discount in business rates in 2014/15 and 2015/16 to occupied retail shops with a rateable value of £50,000 or less as detailed in paragraphs 3.1 to 3.5 of the report from the Director of Regeneration and Growth pursuant to the council's powers under section 47 of the Local Government Finance Act 1988 be approved;
- (ii) that the scheme awarding 50% relief in business rates for 18 months to businesses who move into and occupy retail premises between 1 April 2014 and 31 March 2016 that have been empty for a year or more as detailed in paragraphs 3.10 and 3.11 of the report and which satisfied the criteria to be confirmed in guidance to be issued by the DCLG be agreed pursuant to the Council's powers under section 47 of the Local Government Finance Act 1988;
- (iii) that the scheme to exempt newly built commercial properties completed between 1 October 2013 and 30 September 2016 from empty property rates for up to 18 months as detailed in paragraphs 3.12 and 3.13 of the report and which satisfied the criteria confirmed in guidance issued by the DCLG in September 2013 be agreed pursuant to the Council's powers under section 47 of the Local Government Finance Act 1988;
- (iv) that the Chief Finance Officer be authorised to implement the schemes referred to in paragraphs (i) (ii) and (iii) above so that the agreed discretionary discounts and reliefs in business rates could be awarded in compliance with the criteria set out by the Department for Communities and Local Government.

12. Authority to invite tenders for advice and guidance services for older people and people with disabilities

Councillor Butt (Chair, Leader of the Council) introduced the report from the Assistant Chief Executive which followed agreement in July 2013 to proposals for the various advice and guidance arrangements which formed part of the Voluntary Sector Initiative Fund. The report requested approval to invite tenders in respect of Advice and Guidance for people with disabilities and older people as required by Contract Standing Orders 88 and 89.

RESOLVED:

- (i) that approval be given to the invite of tenders for Advice and Guidance Service for people with disabilities and older people on the basis of the pre-tender considerations set out in paragraph 3.10 of the report from the Assistant Chief Executive;
- (ii) that approval be given to the evaluation of the tenders referred to in (i) above on the basis of the evaluation criteria set out in paragraph 3.10 of the report;
- (iii) that authority be delegated to the Assistant Chief Executive to agree the award of the contract to the successful bidder, in liaison with the portfolio holder for Corporate Strategy and Policy Coordination, for the reasons set out in paragraph 3.11 of the report;
- (iv) that agreement be given to an extension to the interim contract for advice for people with disabilities provided by Brent Mencap, until the start of the new contract being tendered as referred to in paragraph (i);
- (v) that the extension of the grant funded agreements with Age UK for provision of advice to older people and with Brent Mencap for provision of advice to people with learning disabilities until the start of the new contract being tendered as referred to in paragraphs 3.6 and 3.8 of the report be noted.

13. Performance and Finance Review - quarter 3, 2013/14

The purpose of the report from the Assistant Chief Executive and Chief Finance Officer was to provide members with a corporate overview of finance and performance information, to support informed decision-making, and to manage performance effectively. Councillor Butt (Chair, Leader of the Council) reported that consideration was being given to changing the way in which data was reported starting from April 2014 to give more information on the key performance indicators. Additionally, the Borough Plan would highlight work that had yet to be completed.

RESOLVED:

- (i) that the finance and performance information contained in the report be noted and agreement given to the remedial actions as necessary;
- (ii) that the current and future strategic risks associated with the information provided be noted and agreement given to remedial actions as appropriate;
- (iii) that it be noted that responsible officers would be challenged over progress as necessary;

- (iv) that agreement be given to the budget virements as set out within the appendix to the report.

14. Report from Task Group Tackling Violence against Women and Girls

The Health Partnership Overview and Scrutiny Committee had expressed an interest in forming a task group to tackle violence against women and girls in Brent; focusing on Female Genital Mutilation, Honour Based Violence and Forced Marriages. The task group was agreed in March 2013 and conducted an in-depth review into harmful practices. The task group report was attached as appendix A to the report from the Assistant Chief Executive. The findings of the task group's review were wide reaching, had an effect on many public services and had a direct impact on the lives of women, children and young people.

Councillors John, Kabir and Hunter, members of the Task Group were at the meeting for the presentation of the report. Councillor John (Task Group Chair) thanked her fellow members, officers and partner agencies for their contribution and support and was pleased to report that the Assistant Chief Executive had been nominated to monitor the implementation of the recommendations. The publication was timely in the light of the announcement by the Crown Prosecution Service of the first UK prosecutions over female genital mutilation and she welcomed the change in approach to the topic which was now one of human rights and violence. Councillor John summarised the findings of the report which included that while violence against women and girls was considered to be a global epidemic, there was little data on the prevalence in Brent. There was a need to target communities, share data and make information available in public places and she cited examples of women and girls who had been victims, had survived and were now free. Councillor John was pleased that the Brent Youth Parliament had been very supportive of the report.

Members of the Executive expressed support for the Task Group report. Councillor Pavey promised that his service area, Children and Families, would take the recommendations seriously. Councillor Mashari emphasised the need for an action plan with implementation timeframes, for awareness to be raised among school governing bodies and the need for a Lead Member for women's issues. Councillor Choudry paid tribute to the work of the task group, acknowledged that many communities found the subject uncomfortable but that efforts were being made to encourage debate and raise awareness. He welcomed the imposition of fines imposed on parents taking their children out of school during term time which he hoped would hinder the taking of young girls abroad for violent procedures. Councillor R Moher welcomed the report as an extensive, solid piece of work which was timely. She felt the council needed to show violent acts against women and girls was unacceptable, welcomed the work with schools and urged the council to raise community awareness.

On behalf of the Executive, Councillor Butt thanked the task group members and noted that a further report would be submitted in June.

- (i) that the contents of the report be noted;
- (ii) that officers consider the individual findings of this important report and bring forward appropriate recommendations on their implementation by the end of

June 2014. Responsibility for co-ordinating and monitoring the council's response to the task group's findings would be with the Assistant Chief Executive's Service.

15. **Any other urgent business**

None.

The meeting ended at 8.00 pm

M BUTT
Chair

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Executive
22 April 2014

**Report from the
Strategic Director of Environment and
Neighbourhoods**

For Action

Wards Affected: ALL

Event Day Parking and Vehicle Removals

1.0 SUMMARY

- 1.1 This report responds to concerns that the Council's practice in respect of the removal to the car pound of illegally parked vehicles results in the unnecessary removal of a number of vehicles for which a Penalty Charge Notice (PCN) would be sufficient and appropriate. It proposes a pilot in which removals would not take place for less serious parking offences whilst impacts on compliance are monitored to inform a longer term policy on removals
- 1.2 Concerns have also been expressed that the Council's existing enforcement of the controls within the Wembley Stadium Protective Parking Zone (Event Day Zone) starts too early in the day which unnecessarily inconveniences residents. A trial of later start times to enforcement is proposed.

2.0 RECOMMENDATIONS

- 2.1 That the Executive notes the analysis of vehicle removals in Brent in comparison to other London Boroughs set out in paragraphs 3.5 to 3.10 and the financial implications in paragraphs 4.1 to 4.8.
- 2.2 That the Executive agrees to a pilot of an alternative policy regarding the removal of illegally parked vehicles for a period from 1 May 2014 up to the end of October 2014 as described in paragraphs 3.12 to 3.16 and Appendix A to this report.
- 2.3 That the Executive delegates to the Operational Director, Environment & Protection authority to amend the policy and arrangements being piloted through the life of the pilot in consultation with the Lead Member for Highways and Transportation.

- 2.4 That the Executive instructs officers to bring a report on the conclusions reached from the pilot regarding the removals of illegally parked vehicles to a future Highways Committee and Executive meeting.
- 2.5 That the Executive agrees to a trial of the revised arrangements for the start and finish times of Event Day enforcement described in paragraph 3.20 for the remainder of 2014 and that a further report be brought to the Highways Committee and Executive on the conclusions of the trial before the first Stadium Event of 2015.

3.0 DETAILS

Vehicle Removals

- 3.1 Vehicles which are illegally parked can be issued with a PCN. In addition to this penalty the Council has the power to remove such vehicles to a car pound. Drivers recovering such vehicles pay the Penalty Charge and a further charge of £200 (set by statute) before their vehicle is returned to them. A further charge of £40 (also set by statute) is made for storage of the vehicle for each day after the first.
- 3.2 Brent's approach to vehicle removals has been broadly unchanged since the introduction of the Traffic Management Act in 2004. The level of deployment of removal vehicles is set by the Council. Usual levels are described in the next paragraph. Discretion to authorise the removal of individual vehicles rests with the Civil Enforcement Officer (CEO) on the removal vehicle. Whilst it is widely accepted that removal is appropriate for inconsiderate, obstructive and dangerous parking, removal can legally take place for a much wider range of offences. The Council has no formal policy in place to guide CEOs as to the use of the power to remove vehicles. The current minimum criteria for removal are set out for each offence in Appendix A.
- 3.3 The council operates a removal arrangement seven days a week between 8am and 8pm, typically using two removal trucks six days a week, and just one truck on Sunday and Bank Holidays. No removals take place on Christmas Day. Officers use discretion to deploy at different levels as events demand. This typically involves three removal vehicles on event days and Notting Hill Carnival, which both have high levels of inconsiderate parking
- 3.4 The service operates from a base provided by the parking contractor in Park Royal. This facility is shared by Brent and Hounslow. The removal vehicles and drivers are hired on an hourly rate by the parking contractor from a sub-contractor.
- 3.5 The number of removals has been broadly consistent at around 4,000 removals per year over recent years. Around 15-20% of removals take place on Wembley Stadium Event Days. Event Days constitute around 10% of days in the year so between 50% and 100% more vehicles are removed on an average Event Day than on a non-Event Day. This reflects both the higher levels of non-compliance and the higher deployment of removal vehicles on Event Days.

Year	Vehicles removed
2010/2011	3,889
2011/2012	4,272
2012/2013	4,084
July 13 to Feb 14	1885

3.6 Vehicles must be in receipt of a PCN before they can be removed. PCNs are categorised into to broad groups. The 'High' category of PCNs are more serious offences and attract a higher financial penalty. Concerns were expressed last year when Which Magazine published a survey which was reported more widely which concluded that Brent removed a disproportionately large number of vehicles for less serious offences compared to other authorities.

3.7 Analysis of the vehicles that have been removed since the commencement of the new parking contract in July 2013 has not substantiated this conclusion. It shows that removal is overwhelmingly focussed on more serious offences. The results of this analysis are shown in the table below.

Category	% PCNs	% Removals
High	54.1	94.4
Low	45.9	5.6%

3.8 Furthermore, the small number of removals in the lower category is very likely to represent persistent evaders, namely vehicles that are parked illegally, that have three or more previously issued and unpaid or unchallenged PCNs. Persistent evaders are removed in circumstances that would not warrant removal for other drivers.

3.9 2012-13 is the most recent year for which comparative data is available. In that year, of the 33 London Boroughs, 18 had a removal arrangement in place, with the other 15 having no removals. Of the 18 boroughs undertaking removals, Brent removes more vehicles than all except Kensington and Chelsea, Lambeth and Newham. The average number of vehicles removed each year for the 18 boroughs was just over 2,500 compared to Brent's 4,000.

3.10 It is not unreasonable for Brent to be more active in removing vehicles than other London Boroughs by virtue of our role as host for the National Stadium. However, the higher level of activity on Event Days only accounts for at most 400 of the excess. Other factors must account for the rest of the higher level of activity than the average of other London Boroughs with a removal service

3.11 The aim of vehicle removals must be to tackle dangerous parking which puts the safety of other road or footway users at risk, obstructive parking which prevents the free flow of traffic or people or impedes buses, and inconsiderate parking which prevents access to dropped kerbs at junctions, authorised driveways, disabled parking bays, dedicated bays for other classes of vehicles or obstructs footways. In addition, removals have a role to play in tackling repeat offenders who do not pay their PCNs. Removals are also necessary to ensure that suspended parking bays are available to those that have asked and paid for the suspension.

- 3.12 Officers consider it appropriate to undertake a pilot in which removals are concentrated on the categories of offences set out in Appendix A to this report. The pilot will be to establish the impact of a more focused approach to the use of vehicle removals on compliance, volumes of removals and the impact on residents and other road users and, following evaluation of the pilot a policy on future use of the removal power will be developed and brought to the Highways Committee and the Executive.
- 3.13 Officers have undertaken a review of our approach to each specific type of parking offence. In this regard, we have used the categories of offence determined by London Councils and used by all London Boroughs.
- 3.14 Appendix A sets out each contravention type, our longstanding approach and the approach proposed to be taken during the forthcoming pilot. It can be seen that the pilot seeks to take a stronger approach in respect of persistent parking offenders and against those offences that are the most dangerous or inconsiderate. It does this by relaxing removal criteria, initially in 13 of the contravention types.
- 3.15 The impact of these changes is uncertain, hence the need to pilot them. We do not know whether the present levels of enforcement in the serious categories represents the full extent of non compliance or whether the removal of vehicles for less serious offences is using capacity which could be tackling the serious cases. We cannot be clear about the impact of more enforcement against the serious cases and whether it will reduce levels of non-compliance.
- 3.16 It is proposed that the pilot runs for up to six months from 1 May 2014 up to the end of October 2014 and it is recommended that officers be allowed to vary the criteria initially proposed for the pilot. This may be necessary for a number of reasons: to allow unanticipated problems to be dealt with in a flexible way; to take account of learning as the pilot progresses; or to seek efficiencies in the contractor's operation through, for example, harmonising removals practices with Ealing and Hounslow, our partners in the contract.. For example, should the impact on available residents' parking near the stadium on Event Days cause significant problems it may be appropriate to amend the criteria during the pilot. Following the pilot a report will be brought to a future Highways Committee and Executive recommending consultation over a formal policy.

Removal customer experience

- 3.17 Vehicle removals are potentially stressful, worrying and confusing for drivers. It is intended that the pilot seeks to explore options for making arrangements more straightforward. Improvements are planned in three areas:
- ◆ providing clearer information for drivers on how to get to the pound;
 - ◆ explore whether information held on file for some vehicles could be used to inform vehicle keepers by text message or email that the vehicle has been removed;
 - ◆ reducing where possible the longstanding requirement that three forms of identification are required before vehicle release especially for drivers that live some way away. The longstanding requirement is a driving licence, vehicle registration document and a utility bill.

Event Day Parking

- 3.18 Event day enforcement operates from 8am until midnight. This has recently been raised as an issue for local people as the profile of events has changed. Traditionally sporting events commenced at 3pm and finished at 5 or 6 pm with the area clear within a couple of hours. Recently start times for some sporting events have been moved to later in the day at 4 or 5pm with some as late as 7.45pm. Many Stadium concerts have late starts. It is likely that with the transition of Wembley Park from a venue location to a more mixed venue, retail and entertainment destination that visitor behaviour will change further.
- 3.19 In this environment event day enforcement starting at 8am for events that start in the early evening can be unnecessarily disruptive for local people. However, it is not practical to change the framework of approved event day enforcement times on an event to event basis. To do so would mean changing the signs and Traffic Management Orders, which would entail a statutory public consultation for each event. This would be both expensive to the Council, and inconvenient for residents.
- 3.20 It is therefore proposed to run a trial of a different approach. We would retain the event day controls from 8am and midnight, but would adjust the time at which we deploy enforcement resources according to the start and finish time of events and Police and public transport provider advice. Our initial plan is to not start enforcement until 3 hours before the event start and to end it 3 hours after the event. We would publicise this on the website, social media, Variable Message Signs and local press. It is possible that this approach will be adjusted as experience from the trial is accumulated.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The removals service is provided by the parking contractor using a variable cost based on deployed hours. The contractor receives no payment variable upon PCNs issued or vehicles removed. All income goes directly to the Council.
- 4.2 The Council has budgeted for 7,524 deployed truck hours per annum. Based upon existing removal criteria, and deployment volumes, the Council has a budgeted revenue expectation of £839,000 p.a. (made up of removal and storage charges). The statutory fee for removals is set for the whole of London at £200 and this income expectation is largely driven by the numbers of removals multiplied by that fee.
- 4.3 The costs of the service comprise the costs for a vehicle, driver and 'on-board' Civil Enforcement Officer: built into an hourly rate, the costs of provision of the vehicle pound and its staffing, management costs and overheads. Together these amount to approximately £600k per annum of which around a third are fixed costs.
- 4.4 More than 90% of removals at present fall within offence codes where some relaxation is proposed. The reduction in removals under the proposed criteria is impossible to predict. Even where criteria are relaxed there will continue to be removals for these offence codes. An important element of the proposed pilot will be to understand the extent to which serious offences are presently not being enforced against because of the use of the removal vehicles in dealing with less serious offences.

- 4.5 Loss of revenue could be significant. If the number of removals reduces to the London average (2,600) the loss would be £320k. If the number halves to 2,100 the loss would be £420k in a full year.
- 4.6 The reduction in income will require discussions with the Council's Contractor, Serco, on how levels of expenditure may be reduced. Assuming productivity levels can be maintained, reducing the deployed hours could mitigate a little less than half this loss. So if the number of removals halved the net cost could be £240k in a full year or £120k during the life of the pilot. These costs will need to be contained within the parking account cash limit. This is only illustrative. The actual reduction in removals could be less than half or substantially more so these losses can be expected to vary from this figure.
- 4.7 Reducing the fixed costs of the operation is not likely to be possible in the short term, but if the pilot concludes that these relaxations should be made permanent, discussions over reductions in these costs will be needed.
- 4.8 The pilot will give us important data about the levels of serious non-compliance and the long term need for vehicle removals. This will allow evaluation of the effectiveness of removals in securing compliance, and allow the development of a cost effective model for ensuring compliance in future.

5.0 LEGAL IMPLICATIONS

- 5.1 The details of a local authority's power to remove illegally parked vehicles is set out in the following legislation:

The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (SI 2007/3483);
The Civil Enforcement of Parking Contraventions (Representations and Appeals) (England) Regulations 2007 (SI 2007/3482);
The Removal and Disposal of Vehicles (Amendment) (England) Regulations 2007 (SI 2007/3484);
The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 (SI 2007/3487);
Traffic Management Act 2004.

- 5.2 Consideration also needs to be given to the Statutory Guidance from the Department for Transport which addresses the issue of the removal of vehicles by local authorities to enhance and improve the enforcement of parking regulations and the Penalty Charge Notice system, to assist payment of Penalty Charge Notices and to reinforce existing transport policies (for example, by targeting vehicle removal operations in bus lanes).

6.0 DIVERSITY IMPLICATIONS

- 6.1 The pilot in relation to the removal of illegally parked vehicles makes no change in respect of parking contraventions that adversely impact disabled people, or people whose health is partially dependant upon parking by Doctors and other health professionals.

- 6.2 The pilot in relation to Event Day parking widens the range of occasions for which residents may have a concession to park a larger number of visiting vehicles. This could be expected to better meet the needs of a wider section of the community, but may adversely impact on other residents.
- 6.3 The period of both pilots will be used to gather data about the impact of these changes and a full Equality Analysis will accompany further reports to the Executive recommending any permanent change in policy.

7.0 STAFFING / ACCOMMODATION IMPLICATIONS (IF APPROPRIATE)

- 7.1 None

BACKGROUND PAPERS

None

CONTACT OFFICERS

Michael Read, Operational Director, Environment & Protection
020 8937 5302, michael.read@brent.gov.uk

Sue Harper
Strategic Director of Environment and Neighbourhoods

Appendix A - Longstanding approach for each contravention type

Code	Description	Higher / lower penalty	PCN observation period (minutes)	Long-standing approach	Removals since July 2013	Pilot approach	Change?
1	Parked in a restricted street during prescribed hours (single/double yellow lines)	Higher	0	Remove instantly	499	Do not remove until a minimum of 15 minutes has expired for double yellow lines, or 60 minutes has expired for single yellow lines. Instant removal for persistent offender.	Relaxation
2	Parked in a restricted street where waiting/loading restrictions are in force (single / double yellow lines)	Higher	0	Remove instantly	76	Remove instantly	-
Page 18	(P&D Bay) Parked after expiry of paid for time	Lower	5 (after expiry of paid-for time)	Do not remove until a minimum period of 30 minutes has expired and if: 2 or less spaces are available in the street; more than 1 PCN has been issued; or after 1 hour of illegal parking	4	No removal, unless persistent offender. Instant removal for persistent offender.	Relaxation
	(P/D Bay) Parked without clearly displaying a valid P&D ticket	Lower	0	Do not remove until a minimum period of 30 minutes has expired and if: 2 or less spaces are available in the street; more than 1 PCN has been issued; or after 1 hour of illegal parking	6	No removal, unless persistent offender. Instant removal for persistent offender.	Relaxation
12	Parked in a residents or dual use parking place without displaying permit or voucher or P&D ticket	Higher	0	Do not remove until a minimum period of 30 minutes has expired and if: 2 or less spaces are available in the street; more than 1 PCN has been issued; or after 1 hour of illegal parking	629	No removal, unless persistent offender. Instant removal for persistent offender.	Relaxation
14	Parked in electric vehicles' charging place during restricted hours without charging	Lower	30			Remove after 30 minutes. Instant removal for persistent offender.	-

Code	Description	Higher / lower penalty	PCN observation period (minutes)	Long-standing approach	Removals since July 2013	Pilot approach	Change?
16	Parked in a permit space without displaying a valid permit (Doctors' and business permit bays)	Higher	0	Do not remove until a minimum of 30 minutes has expired, or Remove instantly if the vehicle is parked in a disabled bay	11	Do not remove until a minimum of 30 minutes has expired, or Remove instantly if the vehicle is parked in a disabled bay. Instant removal for persistent offender.	-
19	Parked in a residents or dual use parking place displaying an invalid permit, voucher or P&D ticket	Lower	0	Do not remove until a minimum period of 30 minutes has expired and if: 2 or less spaces are available in the street; more than 1 PCN has been issued; or after 1 hour of illegal parking	102	No removal, unless persistent offender. Instant removal for persistent offender.	Relaxation
21	Parked in a suspended bay	Lower	0	Remove instantly when required, but do not remove if no work is taking place or has ceased before 18:30	31	Instantly upon request of the suspension applicant relocate Brent permit holders, remove others. Instant removal for persistent offender.	Relaxation
22	Re-parked in the same place or zone within one hour after leaving	Lower	0	-	0	No removal, unless persistent offender. Instant removal for persistent offender.	-
23	Parked in a parking place not designated for that class of vehicle (Applies to motorcycle & coach bays only)	Higher	0	Remove instantly	0	Remove instantly	-
25	Parked in a loading space during restricted hours without loading (loading bay)	Higher	5	Remove instantly	3	Remove instantly	-
26	Vehicle parked more than 50cm from the edge of the carriage way (double parked)	Higher	0	Remove instantly	4	Remove instantly	-
27	Parked in front of a dropped kerb obstructing access	Higher	0	Remove instantly where the kerb has been dropped for pedestrian access, or remove when requested on access to private driveways	301	Remove instantly where the kerb has been dropped for pedestrian access. For authorised cross-overs remove instantly if blocking a vehicle in (but not if blocking a vehicle out). No removal for unauthorised cross-overs.	Relaxation

Code	Description	Higher / lower penalty	PCN observation period (minutes)	Long-standing approach	Removals since July 2013	Pilot approach	Change?
28	Parked in a special enforcement area on part of the carriageway raised to meet the level of a footway, cycle track or verge	Higher	0	Remove instantly	0	Remove instantly	-
30	Parked for longer than permitted	Lower	0	Do not remove until a minimum period of 30 minutes has expired or Remove instantly where there is free parking	1	No removal, unless persistent offender. Instant removal for persistent offender.	Relaxation
40	Parked in a designated disabled person's bay without displaying a valid disabled person's badge	Higher	0	Remove instantly	49	Remove instantly	-
43	Stopped on a cycle docking station parking place	Lower	0	Remove instantly	0	Remove instantly	-
44	Parked on a taxi rank	Lower	0	Remove instantly	0	Remove instantly	-
47	Stopped on a restricted bus stop/stand	Higher	0	Remove instantly	6	Remove instantly	-
48	Stopped in a restricted area outside of a school, hospital, fire, police or ambulance station	Higher	0	Remove instantly	0	Remove instantly	-
55	A commercial vehicle parked in a restricted street in contravention of the overnight waiting ban	Lower	0	Remove instantly	0	Remove instantly	-
61	A heavy commercial vehicle wholly or partly parked on a footway, verge or land between two carriageways	Lower	0	Remove instantly	0	Remove instantly	-

Code	Description	Higher / lower penalty	PCN observation period (minutes)	Long-standing approach	Removals since July 2013	Pilot approach	Change?
62	Parked with one or more wheels on any part of an urban road other than a carriage way (footway parking)	Higher	0	Remove instantly	97	Do not remove unless,; large vehicles such as vans, lorries, buses, coaches and minibuses; car leaving less than 1.2m footway clearance for wheelchair or buggy users; footway subject to high pedestrian flow such as Wembley Event Days or at busy retail location.	Relaxation
82	(Off-Street) parked after expiry of paid for time	Lower	5 (after expiry of paid-for time)	Do not remove until a minimum period of 30 minutes has expired and if: 2 or less spaces are available in the street; more than 1 PCN has been issued; or after 1 hour of illegal parking	0	No removal, unless persistent offender. Instant removal for persistent offender.	Relaxation
83	(Off-Street) Parked without clearly displaying a valid P&D ticket	Lower	0	Do not remove until a minimum period of 30 minutes has expired and if: 2 or less spaces are available in the street; more than 1 PCN has been issued; or after 1 hour of illegal parking	2	No removal, unless persistent offender. Instant removal for persistent offender.	Relaxation
81	(Off-street) Parked in a permit space without displaying a valid permit	Lower	0	Do not remove until a minimum period of 30 minutes has expired and if: 2 or less spaces are available in the street; more than 1 PCN has been issued; or after 1 hour of illegal parking	0	No removal, unless persistent offender. Instant removal for persistent offender.	Relaxation
86	(Off-Street) Parked beyond the bay markings	Lower	0	Do not remove until a minimum period of 30 minutes and only if vehicle straddles two bays	0	No removal, unless persistent offender. Instant removal for persistent offender.	Relaxation
87	(Off-Street) Parked in a designated disabled person's bay without displaying a valid disabled person's badge	Lower	0	Remove instantly	0	Remove instantly	-
99	Stopped on a pedestrian crossing and/or crossing area marked by zig-zags	Higher	0	Remove instantly	5	Remove instantly	-

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Executive
22 April 2014

**Report from the Strategic Director of
Environment and Neighbourhoods and the
Director of Children and Families**

For Action

Wards Affected: ALL

**Authority to tender a domestic violence advocacy, family support
and MARAC coordination service**

1.0 SUMMARY

- 1.1. This report concerns the procurement of a domestic violence advocacy (IDVA service), family support and a multi-agency risk assessment conference (MARAC) coordination service. It seeks authority from the Executive to invite tenders for the IDVA and MARAC services as required by Contract Standing Orders 88 and 89.

2.0 RECOMMENDATIONS

- 2.1 That the Executive gives approval to officers to invite tenders to provide a domestic violence advocacy for women 16 years old and over and MARAC coordination service for all high risk victims.
- 2.2 That the Executive approves the pre-tender considerations and the proposed evaluation criteria set out in paragraph 5.1 of this report.

3.0 BACKGROUND

- 3.1 A domestic violence advocacy service consists of Independent Domestic Violence Advisors (IDVAs) whose main purpose is to address the safety of survivors at high risk of harm (as defined by CAADA – Coordinated Action Against Domestic Abuse) from intimate partners, ex-partners or family members to secure their safety and the safety of their children. The staff delivering these services are experienced and qualified staff able to assess risk and support women with safety planning, risk management and practical support, either before, during or after separation from the perpetrator of the violence.
- 3.2 They provide a range of interventions including: practical and emotional support; advice and information; referrals to other specialist services such as mental health, and drug and alcohol agencies; access to refuge, emergency and supported housing; support to attend

court; legal appointments and help with DIY injunctions; support in understanding the Criminal and Civil Justice Systems; and representing victims at the MARAC.

- 3.3 Serving as a survivor's primary point of contact, IDVAs normally work with their client from the point of crisis to assess the level of risk, discuss the range of suitable options and develop safety plans. They work over the short to medium term to put their clients 'on the path' to long-term safety.
- 3.4 MARAC is a meeting where information is shared on the highest risk domestic abuse cases between representatives of local police, health, child protection, housing practitioners, IDVAs and other specialists from the statutory and voluntary sectors. After sharing all relevant information they have about a victim/survivor, the representatives discuss options for increasing the safety of the victim/survivor and turn these into a co-ordinated action plan.
- 3.5 The main focus of the MARAC is on managing the risk to the adult victim/survivor but in doing this it will also consider other family members including any children involved and managing the behaviour of the perpetrator. Information shared at the MARAC is confidential and is only used for the purpose of reducing the risk of harm to those at risk.
- 3.6 In Brent, ADVANCE has been delivering the IDVA services under contract since April 2009, subcontracting the MARAC coordination part of the contract to Standing Together since February 2012. Prior to this date the MARAC coordination was delivered in-house through Community Safety Team staff. The initial contract with Advance ended in March 2012. At the February 2012 Executive approval was given to agree an exemption to invite tenders as set out by Contract Standing Order 88 and to award a further contract to Advance for an initial twelve month period with an option to extend for two further twelve months periods. This approach was recommended as market testing at the time suggested a lack of viable alternative providers and Advance was considered a high performing contractor. Since this time, the market has changed and there is now increased interest in this work and type of contract.
- 3.7 The February 2012 report stated the ADVANCE contract would cost the Council £70,000 per annum with the remainder of the £295,800 budget being raised through 'a variety of charitable means' each financial year. Although ADVANCE has brought in additional funding to Brent, the current contract cost to the Council is significantly larger than £70,000 per annum and the shortfall has been covered by one-off underspends in the Community Safety budget.
- 3.8 Brent Community Safety has funded ADVANCE for differing amounts over the last two years including the contract extension. In 2012/13, the invoices paid by the Council totalled £360,000 but in 2013/14, the Council paid £200,000. The main difference in the contract value is due to Community Safety underspend in 2012/13 funding children's service IDVAs in 2013/14.
- 3.9 ADVANCE's current Brent advocacy service consists of three staff and a manager based in Wembley Police Station and two IDVAs co-located in Brent's Children and Families' Department working in Early Years and Brent's Family Solutions Team. ADVANCE also provides two family support workers based in the Family Solutions Team and Early Years.

There are no plans to continue with the Early Years' family support worker due to funding pressures, and this member of staff is on a fixed term contract until August.

- 3.10 The proposal is to alter the current specification and procure a service consisting of a manager and 3 IDVAs based in Wembley Police Station, along with 2 IDVAs and a family support worker based in Early Years and The Family Solutions team. The family support worker offers an intervention model that provides direct support for children and their non-abusive mothers, preventing the long-term trauma, and providing a range of positive outcomes for children. It supports children's school attendance, promotes their mental well-being, and their physical and other aspects of safety, helping to reduce and prevent future domestic violence.
- 3.11 Through working with the family support worker, children increase their understanding of the nature of domestic violence, learn that it is not their fault and that they are not the only ones experiencing this, improve their ability to communicate in general and about their experiences in particular, and learn how to deal with their feelings.
- 3.12 The total funding available from Community Safety is £190,000 per annum which covers three IDVAs, the MARAC coordination and part of the manager's salary (£35,000) Brent's Children and Families department are providing £150,000 which covers the 2 IDVAs, a family support worker and additional contribution to the manager's salary.
- 3.13 Although Community Safety does not have the same level of funding as previous years, there are some potentially creative ways of increasing capacity whilst keeping the cost down. Funding has been identified from underspend in 2013/14 for two existing substance misuse staff to attend CAADA's accredited IDVA training course. This will increase Brent's IDVA capacity to work with complex need clients at a minimal cost of £5,600. It will also support substance misuse staff in developing better domestic violence screening and safety planning skills through seminars, training and advice offered by the IDVA trained substance misuse worker. The service specification for this contract will include a clause building in specialist domestic violence case work supervision for these two staff.

4.0 CONTRACT REQUIREMENTS

- 4.1 It is proposed to re-tender the service for a two-year period using a new service specification, with the option to extend for a further one year period if funding is available.
- 4.2 The intention is to ensure we select a service provider who will deliver high quality interventions to Brent's diverse community. They will demonstrate their ability to forge effective partnerships with other local services to deliver high quality holistic care to vulnerable victims/survivors and their families.
- 4.3 Subject to appropriate agreement with the Clinical Commissioning Group (CCG), the intention would be to include within the contract the option for certain training services. The CCG is preparing a business case for their board, recommending the purchase of a domestic violence training, support and referral programme for primary care. ISIS (Identification and Referral to Improve Safety) is a model founded on partnership work between primary care and specialist domestic violence agencies aimed at increasing GPs and other primary care staff's confidence in asking their patients about domestic violence with onward referral into specialist support and interventions at the practice provided by the

domestic violence agency. This commissioning intention will be mentioned within the contract so any future training requirements in primary care can be accessed.

- 4.4 The service will collect data to support future Brent domestic violence needs assessments including demographics, referral sources, and comply with CAADA's reporting requirements for a local MARAC. This includes recording the number of cases discussed, and monitoring repeat referrals to the MARAC, referral sources, and equalities data including the number of male victims, victims with a disability, victims aged 16-17, BME and LGBT referrals.
- 4.5 The contractor will be carefully monitored to evaluate value for money and levels of customer service, with regular reports to demonstrate the key advocacy outcomes. There will be a full equalities' breakdown across all these outcomes:

Outcomes	Indicator	Outcome Measures
Increased Safety	<p>Cessation of abuse (physical, sexual, harassment / stalking and jealous/ controlling behaviours)</p> <p>Risk of further harm.</p> <p>Sustainability of the reduction in risk.</p> <p>Changes to feelings of safety.</p> <p>Changes to feeling afraid.</p> <p>The creation of a safety plan and impact of this support</p>	<p>% of women whose risk is reduced after using the service</p> <p>% of women who report feeling safer after using the service</p> <p>% of women reporting a cessation of physical abuse, emotional abuse, harassment and controlling behaviours</p>
Improved Health & Wellbeing	<p>Improvements to quality of life.</p> <p>Client outcomes achieved and their impact measured across a series of domains:</p> <ol style="list-style-type: none"> Health & Wellbeing: improved coping strategies; engagement with mental health, substance misuse & other health services; client accessing specialist counselling or IAPT Accommodation: secure and safe housing Support networks – positive change in client's support networks; reduction in isolation Legal issues Financial – improvement in 	<p>% of women reporting an improved quality of life after using the service</p> <p>% of survivors reporting a positive change in their support needs as a result of support from the IDVA service compared with intake</p>

	<p>financial independence and situation</p> <p>6. Children – positive outcomes recorded in relationship with their children and for the children</p> <p>7. Education, training & employment – positive outcomes in learning and work</p> <p>8. Empowerment and self-esteem – positive changes in self-esteem and feelings of self-efficacy. Patterns of behaviour changing.</p>	
Increased confidence to access interventions and support	<p>Confidence knowing how to access help and support.</p> <p>Has 'improved access to help and support' been achieved and what impact has this had? Evidenced through questionnaire and self-report</p>	% of survivors who feel confident in knowing how and where to access help and support compared to intake

4.6 Brent Children and Families Department will be monitoring the following outcomes:

Outcomes	Indicator	Outcome Measures
Improved access to specialist support services for survivors of domestic violence who have used children and family services	% of women who engaged with services after being referred by children and family services	At least 75% - 80% should be engaged with services on an on-going basis.
Increased knowledge by survivors of how and where to access support	% of survivors who feel confident in knowing how to access help and support compared to intake	At least 99% report of feeling confident in knowing how to access help and support in the future.
Improved feeling of being supported by survivors as a result of using services	% of survivors reporting a positive change in their support needs as a result of support from the IDVA service compared with intake	At least 85% of women reporting feeling supported following engagement.
Increased physical and emotional safety for survivors of domestic violence after receiving support services	<p>% of survivors who report feeling safer at the point of exiting services compared with intake</p> <p>% of survivors for whom their</p>	<p>At least a 90% report of feeling safer after using services.</p> <p>At least a 75% reduction in physical abuse</p>

	risk has been reduced since using services	83% reduction in sexual abuse experience 62% reduction in harassment and stalking 69% reduction in jealous and controlling behaviours
Improved quality of life experienced by survivors as a result of using services	% of survivors who report an improved quality of life compared with intake	At least 85% of women felt their quality of life had improved after using services.
Children and Young People feeling more supported in relation to their experiences of domestic abuse	% of children and young people reporting a positive change since engagement with the family support worker	At least 85% of identified young people are safer, more settled, have better relationships with parents/carers and have better routines arising from the involvement of IDVA support.
Improvement in the knowledge and expertise of locality social workers including children with disability team social worker around domestic abuse and the impact on children and young people	% of social workers who attended training identified that their understanding has improved and that they could apply what was learned to their practice	At least 80% of social workers should have attended training At least 100% of Managers reporting improvement in staff recognising domestic abuse, being able to apply relevant theories and research within assessment and reflecting on these issues in supervision

5.0 PRE-TENDER CONSIDERATIONS

5.1 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of the Executive.

Ref.	Requirement	Response
(i)	The nature of the service.	Independent Domestic Violence Advocacy, family support and MARAC coordination service
(ii)	The future estimated value of the contract	The future estimated value of the contract is £1,020,000 over the maximum 3 year term of the contract, including the possible extension period of 1 year. This consists of an estimated potential spend of up to £340,000 per annum.
(iii)	The contract term.	The contract will be for a fixed period of 2 years with an optional 1 year extension (subject to funding) maximum 3

Ref.	Requirement	Response	
		year contract term.	
(iv)	The tender procedure to be adopted.	<p>Due to the constricted marketplace an Open, one stage, tender process will be used in accordance with the Council's Standing Orders.</p> <p>As the services are classed as Part B Services under the Public Contract Regulations 2006 ("the Regulations") the Regulations apply only in part to the tender (adoption of technical specification and forwarding of Contract Award notice etc.)</p>	
(v)	The procurement timetable.	Indicative dates are: Invite to tender Deadline for tender submissions Panel evaluation Report to Executive for approval to award Mobilisation date Contract start date	14 May 2014 30 Jun 2014 30 Jun – 30 Jul 2014 15 Sept 2014 Oct 2014 1 Nov 2014
(vi)	The evaluation criteria and process.	<p>1) Although this is an open or one stage tender process a pre-qualification questionnaire ("PQQ") will be issued with the tender documents and potential suppliers will be required to complete the PQQ as part of their tender offer in order to ensure any potential suppliers meet the Council's financial standing requirements, health, safety and environmental standards, technical capacity and technical expertise. Only after assessment of their PQQ responses will their tender move forward to be evaluated by the evaluation panel.</p> <p>2) The panel will evaluate the tenders to establish the Most Economically Advantageous tender offer having regard to price and quality elements.</p> <p>Price will consist of 40% of the evaluation weightings.</p> <p>Quality will consist of 60% of the evaluation weightings and the quality assessment will be evaluated using the following criteria:</p>	

Ref.	Requirement	Response
		<ul style="list-style-type: none"> • Quality – 60% <ul style="list-style-type: none"> ○ Demonstration of technical compliance for the delivery of the service specification ○ Delivery Programme / Methodology as demonstrated by the method statements offered by the tenderer ○ Application of project resources to the delivery of service requirements ○ Application of previous experience to delivery of service requirements ○ Application of innovation to the delivery of the service requirements ○ Proposals for partnership working with the Council and other agencies ○ How the provider will manage child protection and safeguarding concerns within the service ○ Added Value the provider brings to the contract ○ How equality considerations will be delivered by the service ○ How the provider will apply user involvement to improve the quality of service delivery ○ How the provider will deliver an effective service to complex need clients (offender, substance misuse, mental health backgrounds)
(vii)	Any business risks associated with entering the contract.	Central government currently contributes £35k to Brent's IDVA service and MARAC provision, but this could be reduced during the length of this contract. Violence Against Women and Girls (VAWG) is currently a central government and Mayoral priority, and locally a Safer Brent Partnership priority.
(viii)	The Council's Best Value duties.	The Council has a duty under Best Value to secure cost-effective and efficient services that meet the needs of the Borough's customers.
(ix)	Any staffing implications, including TUPE and pensions.	TBC – The Council is awaiting information back from incumbent supplier. See sections 7.4 and 9.0 below.

5.2 The Executive is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 89.

6.0 FINANCIAL IMPLICATIONS

- 6.1 The estimated contract price is £340,000 per annum. £190,000 will be funded from the Community Safety budget and £150,000 will be funded from the Children's & Young People budget.
- 6.2 The contract is for an initial two years because the Community Safety Team and Children and Families Department have identified funding to cover this period. The financial picture is less certain after this, which is why the contract will have an option to extend for a further year subject to funding availability.
- 6.3 Contract management and monitoring will be undertaken through existing Community Safety and Children and Families Department staff. Consequently, there are no additional revenue implications resulting from this contract re-tender.

7.0 LEGAL IMPLICATIONS

- 7.1 The contract for a domestic violence advocacy, family support and MARAC coordination provider is a Part B (residual) service under the Public Contracts Regulations 2006 ("EU Regulations") and thus only subject to partial application of the EU Regulations when tendering to include technical specifications and the need to publish a Contract Award Notice in the OJEU within 48 days of contract award. Where such services are of interest to providers located in other EU Member States, they must be procured in line with the Treaty on the Functioning of the European Union in respect of non-discrimination, equal treatment, fairness and transparency in the award process.
- 7.2 The estimated value of the contract proposed to be tendered in this report over its term (including possible extensions) is in excess of £250,000. As such the contract, once let, will be deemed a High Value contract for the purposes of the Council's Contract Standing Orders and Financial Regulations and thus Executive approval is required to invite and evaluate tenders for the contract.
- 7.3 Once the tendering process is undertaken Officers will report back to the Executive in accordance with Contract Standing Orders explaining the process undertaken in tendering the contracts and recommending award.
- 7.4 In the present case, there is an incumbent provider currently providing the service being procured. As a result, the Transfer of Employment (Protection of Employment) Regulations 2006 ("TUPE") is likely to apply so as to transfer from the current contractor to the new contractor those employees of the current contractor who spend all or most of their working time on the activities taken over by the new contractor. Subject to the right of the transferring employee to object to transferring, the employee's contract of employment would transfer to the new contractor by virtue of operation of TUPE. Further information concerning the staffing issues is detailed in paragraph 9 of this report.

8.0 DIVERSITY IMPLICATIONS

- 8.1 The public sector duty is set out at Section 149 of the Equality Act 2010. It requires the Council, when exercising its functions, to have due regard to the need to eliminate discrimination, harassment and victimisation and other conduct under the Act, and to

advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not share that protected characteristic.

8.2. A protected characteristic is defined in the Act as:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race (including ethnic or national origins, colour or nationality)
- Religion or belief
- Sex
- Sexual orientation

8.3 Marriage and civil partnership are also a protected characteristic for the purposes of the duty to eliminate discrimination. The previous public sector equalities duties only covered race, disability and gender.

8.4 The proposals in this report have been subject to screening and there are considered to be no negative equalities implications.

8.5 The advocacy service will work with women aged 16+. This is because evidence from crime statistics, research and practice demonstrates that domestic violence impacts disproportionately on women, and the vast majority of those who use violence and other abusive behaviours to control and dominate in relationships are heterosexual men. The gender of both victim and perpetrator influences behaviour and the severity of risk and harm caused. 54% of female murder victims aged 16 or over were killed by their partner, ex-partner or lover; in contrast, 5% of male victims aged 16 or over were murdered by their partner, ex-partner or lover (Smith K. Homicide, fire arm offences and intimate violence 2009/10. Home Office 2011)

8.6 Whilst men and women can both be perpetrators, there are significant differences in the way men and women use violence and abuse against their partners or family members. A 6 year longitudinal study in the UK found men inflict more violence than women and are significantly more likely than women to use physical violence, threats, harassment and to damage property. Men tend to be perpetrators of repeat and escalating violence. 89% of victims of the most severe ongoing violence (i.e. four incidents or more) are women (Walby S, Allen J. Home Office Research Study 2004)

8.7 The successful provider will be expected to signpost male victims to either Victim Support or Broken Rainbow, an LGBT domestic violence charity, and develop effective referral pathways. The MARAC hears cases concerning both high risk female and male victims, and the coordinator will collate equalities' data as part of the contract including gender, disability, sexuality, ethnicity, and age (with particular interest in young victims and perpetrators).

8.8 The advocacy service will be monitored on their ability to deliver effective services to BME women, and to link in with other local partners to facilitate this including the Asian Women's Resource Centre and EACH's London Council's funded part-time Ascent domestic violence counsellor.

9.0 STAFFING / ACCOMMODATION IMPLICATIONS (IF APPROPRIATE)

- 9.1 The current provision of domestic violence advocacy, family support and MARAC coordination to the Council is delivered by ADVANCE subcontracting the MARAC coordination component to Standing Together and as such there are no implications for Council staff, or accommodation arising from the tendering of these services.
- 9.2 The Police provide accommodation for the 3 community safety funded IDVAs and manager based within the police station. Brent Children and Families department's staff will be accommodated within Brent Civic Centre and will continue to be located within Wembley Locality Team, although working across all the locality teams. The cost of this accommodation will be covered by the Council and not passed onto the provider. Work will be monitored by the Advanced Practitioner.
- 9.3 Following re-tender of the services, if a contractor other than the incumbent is successful, the Transfer of Employment (Protection of Employment) Regulations 2006, ("TUPE") is likely to apply to existing ADVANCE staff so as to transfer from the current to the new contractor those employees of the current contractor who spend all or most of their working time on the activities taken over by the new contractor. The TUPE implications will be considered by Officers as part of the procurement exercise and TUPE information will be made available to bidders if appropriate to enable tender process to be compiled.
- 9.4 These TUPE arrangements would have no implications for Council staff or accommodation requirements for the Council.

10.0 PUBLIC SERVICES SOCIAL VALUE ACT 2012

- 10.1 Since 31st January 2013, the Council, in common with all public authorities subject to the Regulations, has been under a duty pursuant to the Public Services (Social Value) Act 2012 to consider how the services being procured might improve the economic, social and environmental well-being of its area; and how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. This duty applies to this procurement of the proposed contract as a Part B service contract over the threshold for application of the EU Regulations and as such is subject to the requirements of the Public Services (Social Value) Act 2012.
- 10.2 The services being procured promote social and environmental well being by safeguarding vulnerable victims/survivors and children, and the wider community from the harmful impact of domestic violence. They also increase the economic well-being of those affected by domestic violence by increasing their financial independence away from the control of their abusers.
- 10.3 The tender will ask providers a specific question about the Social Value Act and how they propose to deliver additional economic, social and environmental benefits through this contract.

BACKGROUND PAPERS

13th February 2012 Executive Report: Exemption from approval to invite tenders for Independent Domestic Violence Advisor Service

CONTACT OFFICERS

Clare Brighton, Deputy Head of Community Safety, Community Safety

Chris Williams, Head of Service, Community Safety


Neil McDonald, Head of Localities & CWD, Children and Families

Sue Harper

Strategic Director of Environment and
Neighbourhoods

Sara Williams

Acting Director of Children and Families

 Brent	<p>Executive</p> <p>22 April 2014</p> <p>Report from the Acting Director of Children and Families</p>
<p>Wards Affected: [ALL]</p>	
<p>Authority to tender a contract for Child and Adolescent Mental Health Services (CAMHS)</p>	

1.0 Summary

- 1.1 This report is an update to the report to the Executive of 9th December 2013 and concerns the procurement of the revised Child and Adolescent Mental Health services (CAMHS). This report requests approval to invite tenders in respect of Child and Adolescent Mental Health services as required by Contract Standing Orders 88 and 89 and requests authority to delegate award of the contract to the Acting Director of Children and Families in consultation with the Director of Legal and Procurement and the Chief Finance Officer.

2.0 Recommendations

- 2.1 The Executive to approve inviting tenders for a Child and Adolescent Mental Health Service on the basis of those pre - tender considerations set out in paragraph 3.4 of the report criteria.
- 2.2 The Executive to give approval to officers to evaluate the tenders referred to in paragraph 2.1 above on the basis of the evaluation criteria set out in paragraph 3.4 (vi) of the report.
- 2.3 The Executive note the intention to tender for a contract for a term of two years with the option for the Council to extend for an additional year
- 2.4 The Executive to delegate authority to award the contract for a Child and Adolescent Mental Health Service to the Acting Director of Children and Families in consultation with the Director of Legal and Procurement and Chief Finance Officer for the reasons detailed in paragraph 3.3.

3.0 Detail

- 3.1 The report to the Executive of 9th December 2013 sets out the full background to the procurement of a Child and Adolescent Mental Health Service ("CAMHS"). In the report Officers indicated an intention to submit a further report setting out the pre-tender considerations detailed in Contract Standing Order 89 and these considerations are now detailed at paragraph 3.4 below. Since the Executive on 9th December, Officers have carried out additional research with the market and other authorities in order to confirm the best way to procure the revised CAMHS services. This work has identified that rather than procuring a contract for one year to be followed by a subsequent procurement of a longer term contract as set out in the previous report to the Executive, it is more beneficial to procure a longer term contract at the outset. For this reason Officers are now recommending that a two year contract with the option to extend for up to a further year is procured.
- 3.2 The estimated value of the new revised contract is £253,000 per annum and thus under the Council's Standing Orders would be classed as a High Value contract which requires a tender exercise to be conducted. A tendering timetable is included at paragraph 3.4 (v) below. Members will note that the mobilisation period prior to contract commencement is shorter than normal and there may be a possibility that the service is not fully operational until mid July 2014. Officers are aware of this possibility and will develop measures with the new supplier to minimise disruption to service users and the Council.
- 3.3 The current extended contract arrangements between the Council and the current service provider, Central and Northwest London NHS Foundation Trust (CNWL), for CAMHS services in Brent expires on 30th June 2014. In order to enable Officers to meet the accelerated tendering timetable detailed at paragraph 3.4(v) below, Officers are seeking approval for delegated authority to be given to the Acting Director of Children's service in consultation with the Director of Legal and Procurement and the Chief Finance Officer to award the contract. An accelerated tender process has been necessitated as the current supplier has indicated that it is unable to continue to deliver the service beyond June 30th despite Officer's request to consider a further extension.

3.4 Pre-Tender Considerations

In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of the Executive.

Ref.	Requirement	Response	
(i)	The nature of the service.	The provision of Child and Adolescent Mental Health services on behalf of the Council in relation to children with mental health and learning disabilities, their families and a support consultation service for social workers working with the families.	
(ii)	The estimated value.	The future estimated value of the contract is £253K per annum, with a total value of £759k over the maximum three year term (including optional extension period of one year)	
(iii)	The contract term.	Two years plus an extension of a further 12 months at the option of the Council	
(iv)	The tender procedure to be adopted.	As this is a Part B service under the Public Contract Regulations 2006 ("the Regulations"), the Regulations apply only in part to the tender. An open or one stage tender procedure will be followed in procuring the contract.	
v)	The procurement timetable.	Indicative dates are:	
		Adverts placed and Invitation to Tender issued	29 April 2014
		Deadline for tender submissions	23 May 2014
		Panel evaluation	23 May -10 June 2014
		Contract Award decision	13 June 2014
		Contract Mobilisation	June 2014 – 30 June 2014
		Contract start date	1 July 14

Ref.	Requirement	Response
(vi)	The evaluation criteria and process.	<ol style="list-style-type: none"> 1. Although this is a one stage tender, bidders will be required to complete as part of the Invitation to Tender documentation a qualification questionnaire in order to demonstrate they can meet the Council's financial standing requirements, technical capacity and technical expertise. Tenders meeting the Council's relevant standards will then be fully evaluated by the evaluation panel. 2. At the tender evaluation stage, tenders will be evaluated to identify the most economically advantageous tender having regard to price and quality elements. The price/quality ratio will be a 60/40 split. Price will consist of 60 % of the evaluation weightings. 3. Quality will consist of 40% of the evaluation weightings. The quality assessment will be evaluated using the following criteria : <ol style="list-style-type: none"> (i) Tenderer's proposals for meeting the requirements of the Specification as set out in method statements. (ii) Tenderer's proposed business model. (iii) Tenderer's proposals for ensuring effective quality management of the service and maintenance of the quality standard including self monitoring and evaluation. (iv) Tenderer's proposed approach to working in partnership with all key stakeholders including the Council, CCG Tier three CAMH service multidisciplinary PR actioners, foster carers children /young people and parents. (v) Tenderer's proposals for adhering to child protection and safeguarding requirements. (vi) Tenderers proposals for compliance with specific health and safety matters relevant to the contract.
(vii)	Any business risks associated with entering the contract.	There is no specific business risks associated with this tender.
(viii)	The Council's Best Value duties.	The procurement process and on going contractual requirement will ensure the Council's Best Value obligations are met.
(ix)	Consideration of	See Section 8 below..

Ref.	Requirement	Response
	Public Services (Social Value) Act 2012	
(x)	Any staffing implications, including TUPE and pensions.	See section 7 below.
(xi)	The relevant financial, legal and other considerations.	See sections 4, 5 and 6 below.

- 3.5 The Executive is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 89.

4.0 Financial Implications

- 4.1 In setting the budget for 2014/15 the council assumed that a saving of £280,000 could be achieved against this contract and designed the specification accordingly. The report shows that the pre-tender estimate for the contract is an annual cost of £253,000. As reported to the Executive in December 2013 the previous contract cost £533,000 per annum. Provided that the tender returns are consistent with the pre-tender estimate the proposals in this report are therefore consistent with the budget strategy.

5.0 Legal Implications

- 5.1 As detailed in the report to the Executive of 9th December 2013, the procurement of CAMHS is intended to supplement the main CCG commissioned healthcare contract for CAMHS services. CAMHS is a social care related service and is a Part B service under the Public Contract Regulations 2006 and therefore not subject to the full application of the Regulations (save that there must be a technical specification contained in the contract documents and a contract award notice must be published in the OJEU within 48 days after a decision to award a contract is made). The procurement of CAMHS is however subject to the overriding EU Treaty principles of equality of treatment, fairness and transparency in the award of contracts.
- 5.2 As the total estimated value of the contract is £759,000 (including potential extension period) it is classed as a High Value Contract and the Executive must approve the pre-tender considerations set out in paragraph 3.4 above (Standing Order 89) and the inviting of tenders (Standing Order 88).

- 5.3 Once the tendering process is undertaken Officers ordinarily report back to the Executive explaining the process in tendering the contract and recommending award as required by Contract Standing Orders for High Value contracts. However, for the reasons detailed in paragraph 3.3, this report seeks authority to delegate authority to award the contract to the Acting Director of Children and Families in consultation with the Director of Legal and Procurement and Chief Finance Officer. Members are able to agree such delegation if they consider this is justified.
- 5.4.1 The Children's Act 1989 places duties on the Council to ensure that there are services in place for children to safeguard and promote the welfare of children within their area who are in need. The proposed contract is intended to supplement the main or core CAMHS service contract commissioned by the CCG for children in the local area. The proposed contract will make available a support service in respect of children presenting as Tier 1 and 2 levels of needs as assessed by the CAMHS service provider; with the requirement for children presenting as Tier 3 level of need to receive GP referral for CAMHS service to be accessed via the CCG contract with service provider assistance as specified in the draft contract specification.
- 5.5 The current service has developed to cover a CAMHS service for children presenting as Tier 1, 2 and 3 and it will be necessary for consultation to take place with the existing cohort of service users, children and their families regarding cessation of part of the current service and the need for Tier 3 level cases to access the main CAMHS service via the CCG and GP referral.
- 5.6 In the present case if the contract is awarded to a new contractor, the Transfer of Undertaking (Protection of Employment) Regulations 2006 ("TUPE") is likely to apply in relation to that part of the Service which transfers to a new contractor as a minimum. Employees of the current contractor who spend all or most of their time on activities taken over by the new contractor would be transferred by operation of TUPE. Further information regarding the staffing is contained in section 6.2 below.

6.0 Diversity Implications

- 6.1 An Equalities Impact Assessment (EIA) is attached which sets out the diversity implications.

7.0 Staffing and Accommodation Issues

- 7.1 This service is currently provided by an external contractor (CNWL) and there are no implications for Council staff arising from re-tendering the contract. Where the award of the contract is made to a new provider other than the incumbent contractor, TUPE is likely to apply so as to transfer from the current provider to the new provider the employees of the incumbent working

wholly or mainly in the provision of services let under the new contract. TUPE implications will be considered by the Council Officers as part of the procurement exercise and TUPE information will be made available to bidders if appropriate to enable tender prices to be compiled.

8.0 Public Services (Social Value) Act 2012

- 8.1 Since 31 January 2013, the council, in common with all public authorities subject to the EU Regulations, has been under duty pursuant to the Public Services (Social Value) Act 2012 to consider how the services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the council might act with a view to securing that improvement; and whether the council should undertake consultation. This duty applies to the procurement of the proposed contract as Part B Services over the threshold for application of the EU Regulations are subject to the requirements of the Public Services (Social Value) Act 2012.
- 8.2 The services being procured have as their primary aim improving the social and economic well being of one of the most vulnerable groups in Brent. Regard will be had to the views of users of CAMHS and their families in procuring services.
- 8.3 There is a limited market for the delivery of these services; however, officers will endeavour to describe the scope of service in such a way as to further meet the requirements of the Act during the procurement process.

9.0 Background Papers


- 9.1 A copy of the report to the Executive of 9th December 2013.

Contact Officer(s)

Tony Jain
Interim Senior Category Manager
Email: tony.jain@brent.gov.uk
Tel: 0208 937 1631

SARA WILLIAMS
Acting Director of Children and Families

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 <p>Brent</p>	<p>Executive 22 April 2014</p> <p>Report from the Director of Regeneration and Growth</p>
<p>Wards affected</p> <p>all</p>	
<p>Licensing in the Private Rented Sector</p>	

1. Summary

- 1.1 This report seeks approval for the introduction of an Additional Licensing scheme in the whole area of Brent and to defer a decision on introducing Selective Licensing in Brent to the next available meeting following a further two month consultation on which wards should be covered. Drawing on a range of evidence and the outcomes of an extensive consultation exercise it explains the basis and rationale for the schemes.
- 1.2 The Private Rented Sector now constitutes a third of the housing in Brent and plays a very important role in meeting the housing requirements of residents. Much of the sector provides decent accommodation and is reasonably well-managed but there are problems associated with parts of the sector arising from poor management and property conditions, and related problems of anti-social behaviour.
- 1.3 To address these, extensive public consultation was undertaken from December 2013 to early March 2014 on proposals to extend licensing from larger HMOs, which are subject to Mandatory Licensing, to all HMOs in the borough (Additional Licensing). In addition consultation was conducted on the proposal to licence all private rented properties in selected areas of the borough with three wards initially identified (Selective Licensing).
- 1.4 A significant number of consultation responses were received from private landlords, private tenants, other residents and businesses. Following consideration of these it is proposed to proceed with the introduction of Additional Licensing, which will cover all HMOs in the borough. It is also proposed to defer a decision regarding introducing Selective Licensing of private rented properties so as to allow time for further consultation in two additional wards. Thereafter, the Executive will be invited to make

a decision on introducing Selective Licensing and how widely within the borough this should be introduced.

2. Recommendations

2.1 That the Executive:

- 2.1.1 Considers the evidence and the responses to consultation on Additional and Selective Licensing set out in this report and determines whether the proposed schemes should be introduced.
- 2.1.2 Subject to 2.1.1 above, agrees that the legal requirements for introducing additional licensing for the whole area of the borough of Brent as set out in paragraphs 11.1 to 11.6 of this report have been met.
- 2.1.3 Subject to 2.1.1 and 2.2.2 above, agrees to authorise the designation of an Additional Licensing area to cover the whole borough of Brent, as delineated and edged red on the map at Appendix 3, to take effect from 1 January 2015 and to last for five years from that date.
- 2.1.4 Agrees that the council will begin to accept applications for Additional Licensing from 1st November 2014, in anticipation of the scheme coming into effect on 1st January 2015.
- 2.1.5 Agrees that authority to issue the required statutory notifications in relation to the Additional Licensing Scheme designation is delegated to the Director of Regeneration and Growth
- 2.1.6 Defers the decision to proceed with Selective Licensing in Wembley Central, Harlesden and Willesden Green to a future Executive meeting and before then, proceeds with:
 - i. Further consultation over a two month period on whether other wards, namely Dudden Hill and Mapesbury, should be included in addition to Harlesden, Wembley Central and Willesden Green in the areas to be subject to a Selective Licensing scheme.
 - ii. Further analysis and consideration of the evidence relating to additional wards.
- 2.1.7 Agrees that the fees for Additional Licensing will be set at £550 for the five-year licensing period.
- 2.1.8 Agrees that, subject to further consultation, authority should be delegated to the Director of Regeneration and Growth to agree the basis for and level of any discounts to be applied to these fees.
- 2.1.9 The Executive is asked to note that the Additional Licensing scheme will be kept under review annually. Any significant changes, including the withdrawal of a licensing designation, will be subject to further consultation and a decision by the Executive.

3. Background

- 3.1 Under the Housing Act 2004, there are three forms of licensing relating to private rented housing available to local authorities:

(a) Mandatory Licensing

All local authorities are obliged to run a licensing scheme covering Houses in Multiple Occupation (HMOs) that have three or more storeys and are occupied by five or more people. A scheme has been in operation in Brent since 2006.

(b) Additional Licensing

Section 56 of the Housing Act 2004 provides a power to licence HMOs not covered by mandatory licensing; defined as properties containing 3 or more separate households in a property of no more than 2 floors. Under Additional Licensing, local authorities can designate an area for an initial 5 years but must be satisfied that a significant proportion of the HMOs in the area are being managed sufficiently ineffectively as to give rise to one or more particular problems, either for those occupying the HMOs or for members of the public.

(c) Selective Licensing

Under Part III of the Act, local authorities can introduce Selective Licensing schemes that focus on improving the management of privately rented properties accommodating single households as well as HMOs. Areas designated for Selective Licensing must demonstrate low housing demand or be experiencing 'significant and persistent' problems with anti-social behaviour.

The requirements for Additional and Selective Licensing are considered further below.

- 3.2 The private rented sector has grown across London in the ten years between the 2001 and 2011 Census exercises and growth in Brent has been particularly pronounced. In 2001, the private rented sector represented almost 18% of the stock and by 2011 had grown to over 28%. Latest estimates indicate that the sector comprises around 35,000 properties - over 31% of the stock, making it bigger than the social rented sector in Brent.
- 3.3 The sector is therefore a vital resource that has grown in response to demand, particularly as house purchase has moved increasingly out of reach for Brent residents and access to social housing is restricted by short supply. Much of the sector in Brent offers good accommodation but there is also evidence of poor management and the quality of some rented accommodation is low and, in some cases, unsafe.
- 3.4 There is also evidence that poorly-managed privately rented properties have a negative impact on some neighbourhoods. Anti-social behaviour, nuisance neighbours, accumulations of rubbish and other problems can be linked to the failure of private landlords to manage their properties and tenancies effectively. Overcrowding, sub letting and illegal conversions are also features of the private rented sector in Brent on the back of huge demand for housing in the borough and all contribute to neighbourhood problems.
- 3.5 In response to the rapid growth of the sector and concern about standards of management and maintenance, Housing Quality Network were commissioned in May 2013 to undertake a study to explore the nature and extent of the sector, problems

related to it and possible solutions; in particular, the brief called for consideration of the current and possible future use of the authority's licensing powers.

- 3.6 The findings of the study indicated a correlation between poorly managed private rented housing and the incidence of anti-social behaviour in some areas, suggesting that there was a case for consideration of Selective Licensing. Evidence of poor standards of management and maintenance in HMOs in all parts of the borough suggested that there was also a case for Additional Licensing of HMOs. On the basis of these findings, it was agreed that the council should consult on proposals to extend licensing and, concurrently, gather further evidence that would indicate the most appropriate course of action, including in particular further analysis of the evidence of the connection between private renting and anti-social behaviour. Mayhew Harper Associates were commissioned to carry out this analysis, which confirmed the connection. More detail on the work carried out by HQN and Mayhew Harper Associates, together with other evidence, is set out below and in Appendix 1, while the consultation exercise is also summarised below, with further detail in Appendix 2.
- 3.7 In line with the powers outlined above, this report is concerned with two distinct schemes that will, if introduced, operate in parallel and as part of wider strategies for housing and related issues.

4. Private Renting in Brent and the Role of Licensing

- 4.1 The Housing Act 2004 sets out specific requirements for the introduction of Additional or Selective Licensing. These differ, reflecting the different purposes of each approach and are considered in detail in the legal implications of this report. Evidence gathering and consultation have sought to establish the position in relation to the requirements for each scheme, which are summarised below.

4.2 Additional Licensing

- 4.2.1 Before implementing an Additional Licensing scheme, the authority must "consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public" (s.56 (2) HA 2004).
- 4.2.2 Before making a designation, the authority must:
- (a) Take reasonable steps to consult persons who are likely to be affected by the designation; and
 - (b) Consider any representations made in accordance with the consultation and not withdrawn.
- 4.2.3 It is also a requirement (as it is with Selective Licensing) that any exercise of the power is consistent with the council's overall Housing Strategy and that a co-ordinated approach is taken in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector. The authority must also consider whether any other course of action – for example the use of other enforcement powers – would be effective and whether the designation of Additional Licensing will assist in dealing with identified problems. Also, the authority must have regard to any information regarding the extent to which any codes of practice

approved under section 233 of the HA 2004 have been complied with by persons managing the HMOs in the area in question. The legal requirements which the Executive has to consider before authorising the introduction of an additional licensing scheme are set out in paragraphs 11.1 to 11.6 of this report.

4.3 Selective Licensing

4.3.1 Selective Licensing is intended to assist in dealing with one or both of two problems: low demand and anti-social behaviour. Clearly, the former is not relevant in Brent and the focus has therefore been on anti-social behaviour. The relevant set of general conditions is:

- a. that the area is experiencing a significant and persistent problem caused by anti-social behaviour;
- b. that some or all of the private sector landlords who have let premises in the area (whether under leases or licences) are failing to take action to combat the problem that it would be appropriate for them to take, and;
- c. that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, lead to a reduction in, or the elimination of, the problem (s.80(6) HA 2004)

4.3.2 As with Additional Licensing, the requirements summarised in 4.2.3 above apply. The legal requirements which the Executive has to consider before authorising the introduction of a selective licensing scheme are set out in paragraphs 11.11 to 11.17 of this report.

4.4 The Private Sector in Brent

4.4.1 With support from HQN and Mayhew Harper Associates, data provided mainly from council sources and the Metropolitan Police has been used to map the extent of the private rented sector, identify problems attributable to it and assess the link between the sector and a range of anti-social and criminal activity. Analysis also draws on responses to consultation set out in section 5 and Appendices 1 and 2.

4.4.2 As noted above, the sector has grown significantly. Wards with over 2,000 properties are Willesden Green and Harlesden, while wards with the highest percentage of private renting are Mapesbury (44%), Willesden Green (42%) and Kensal Green (35%). The largest increases in private renting between 2001 and 2011 occurred in Harlesden and Kensal Green. The south and south-east of the borough have the largest concentrations of private renting, with the nature of the stock and historic tenure patterns contributing to this imbalance. However, the sector has also grown in the north of the borough, where owner occupation has been the primary tenure in the past. Appendix 1 maps the distribution of the sector.

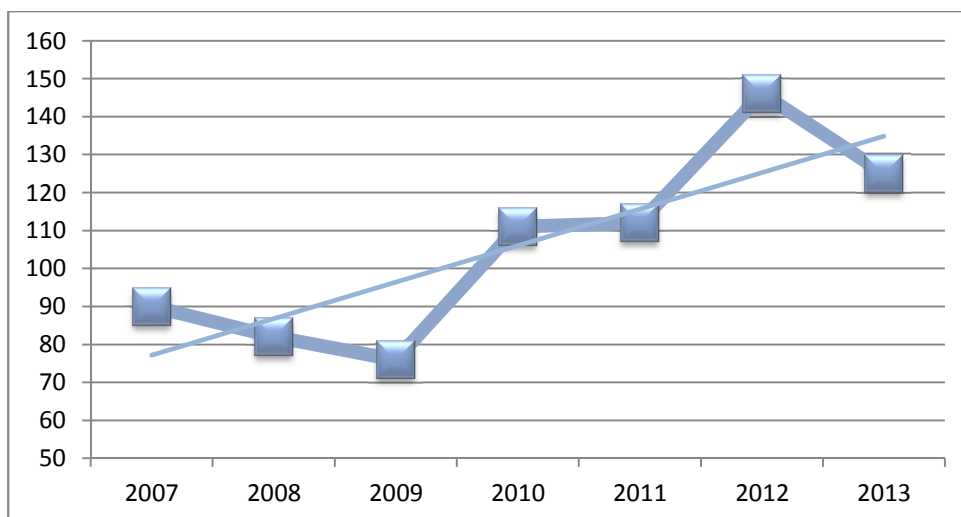
4.4.3 The precise extent of private renting and the number of HMOS within the total is difficult to ascertain; there is no requirement for landlords or tenants to inform the council or others of their status in most cases and there is a constant flow of properties into and out of the sector. The HQN study used data from the 2011

Census, which although reliable contains some under-reporting and only provides the picture for a particular point in time. Mayhew Harper Associates' analysis uses a predictive model, based on council data – for example Housing Benefit claims and other engagement with landlords and tenants - which arrives at a higher total. Both methods demonstrate the growth in the sector and the number of both HMOs and single household lets.

4.5 Additional Licensing

- 4.5.1 With regard to Additional Licensing, evidence focusses on the distribution of HMOs within the sector and quality of management. Since 2006, the council has granted over 300 HMO licences under the mandatory scheme imposed by the Housing Act 2004. However, these larger properties represent only a small proportion of the total. While it is not possible to give a precise figure for the number of HMOs, analysis indicates that the total of HMOs that would require a licence is likely to be at least 6,000 and may be as high as 16,000. One indicator of the increase in private renting overall is that the Census showed an increase of 10,484 properties in Brent since 2001, while only 6,475 new homes were built. It is likely that the remaining 4,000 units have been created by sub-division and conversion of property in the rental market. While some of these conversions may have created new single-family dwellings - for example by conversion of a house into self-contained flats - it is clear that many have involved the conversion of single-family dwellings to multi-occupancy use. Planning Enforcement Officers believe that many of these conversions may be illegal and potentially hazardous. In addition, experience in other boroughs suggests a significant increase in sub-letting – either with or without the knowledge of the landlord – driven in the main by tenants sub-letting rooms to help in paying high rents.
- 4.5.2 Mapping of the sector indicates that, in line with the overall distribution of private rented housing, there are particular concentrations of HMOs in the wards south of the North Circular Road but that there are properties in all other wards. Mapping of enforcement action in relation to HMOs indicates that this is also spread across the borough but with higher numbers in the southern areas. Appendix 1 provides further detail while Figure 1 shows enforcement action taken since 2007 against properties, borough wide, that are multi-occupied.

Figure 1: Enforcement Action in Multi-Occupied Properties



4.5.3 Enforcement activity in response to complaints is carried out under the Housing Health and Safety Rating System (HHSRS) and gives an indication of the problems associated with poor management and maintenance of HMOs in Brent. The HHSRS identifies a range of potential hazards and ranks them by categories, the highest risk being classed as Category 1. Of the category 1 hazards identified in HMOs since 2007, the most common are crowding and space, fire, damp and mould growth and excess cold. It should be noted that the chart above shows only those properties where formal enforcement action has been taken. Overall activity in response to complaints is much higher: for example, in 2013/14, 942 cases involving 1590 tenancies were dealt with, the majority of these being resolved by negotiation.

4.5.4 Focus groups run by HQN gave further indications of the range of problems encountered by tenants, residents and agencies working in the sector. Concerns about management included:

- Owner-occupier complaints about run down properties, noise and pests.
- Disrepair.
- Rapid turnover of tenants.
- LIFT, a voluntary sector agency working with single homeless people, reported that 28 of 80 properties recently viewed for clients had been rejected due to poor conditions.

4.5.5 Evidence of these concerns was reinforced in consultation responses from tenants and other residents. These (not including landlord responses) identified widespread problems in relation to the sector of:

- Illegal extensions and conversions, reported by 47%
- Unkempt external appearance and poor maintenance reported by 65%
- Excess refuse and fly-tipping reported by 72.3%
- Other anti-social behaviour reported by 51.3%
- Noise and disturbance from HMO residents reported by 55%
- Poorly maintained properties contributing to the decline of the area, reported by 80%

- Poorly managed properties contributing to the decline of the area, reported by 79.5%

4.5.6 Tenants reported a range of problems, including:

- Poor amenities – 55.5%
- Poor fire safety – 53.4%
- Disrepair – 59.9%
- Poor management of common parts – 53.8%
- Damp and mould – 65.1%

4.5.7 These results, and the other evidence examined, demonstrate that a range of problems in relation to anti-social behaviour and poor maintenance and condition are widespread and relate to inadequate management of HMO properties in the borough. In summary, the evidence supports the view that there is a strong case for the introduction of Additional Licensing. This would apply to all HMOs in Brent.

4.6 Selective Licensing

4.6.1 There is some overlap between the requirements for Additional and Selective Licensing in terms of relevant evidence; for example, poor management leading to problems for other residents in the vicinity of private rented homes is a factor in both. However, the purposes of each scheme differ and Selective Licensing is concerned in particular with the impact of anti-social behaviour.

4.6.2 It should be stressed that the research does not set out to prove a causal link between incidents of ASB and any *particular* property, landlord or tenant. Nor is it implied that all landlords or tenants are responsible for ASB in an area or that licensing alone is the solution to these problems. The focus has been on collecting evidence that would demonstrate whether or not there is a correlation between levels of ASB and related criminal activity and the scale of private renting in wards in Brent, within the meaning set out in the legislation and, in particular, whether there is a significant and persistent problem.

4.6.3 Focus groups and other evidence, particularly from consultation responses, noted concerns relating to overcrowding and poor management in the sector and its contribution to:

- Refuse and fly tipping.
- Noise in converted properties, although often at a level too low for enforcement action.
- Parking problems, particularly in the south of the borough where off-street parking is not generally available. Although parking issues are not a direct indicator of anti-social behaviour, they provide an indication of local occupancy levels and possible overcrowding, which is a factor underlying anti-social behaviour, particularly in relation to noise and waste issues.
- Increased street drinking in some areas.
- Use of rented properties to run unlicensed businesses or criminal activity such as drug dealing.

- 4.6.4 Examination of data from the Community Safety Team, the Police and other services indicates that the wards with the highest incidence of anti-social behaviour are concentrated in the south and east of the Borough. These wards have relatively high levels of private rented sector stock, apart from Stonebridge which has a high concentration of social housing (although it should be noted that a significant number of homes bought under Right to Buy are now let privately). The only ward in the south of the Borough that does not feature in this list is Brondesbury Park (ranked only seventh highest in the Borough for relevant anti-social behaviour).
- 4.6.5 Criminal activity with anti-social behaviour undertones as recorded by the Metropolitan Police is distributed more widely across the borough than the anti-social behaviour recorded by the Council's Environmental Service. Nonetheless, the data indicates that many of these crimes occur in the south of the borough, with Harlesden particularly affected by high rates of certain types of criminal activity. Wembley Central also features prominently in these statistics. Wembley's status as the Borough's principal shopping area, where disproportionately high levels of crime are often found, together with the proximity of Wembley Stadium in an adjoining ward may influence Wembley's high ranking. However, it is worth noting that reports of anti-social behaviour emanate from residential streets rather than the High Road.
- 4.6.6 The Community Safety team collects data on anti-social behaviour by ward and by tenure. This shows that in the three years to 2012/13, 96 anti-social behaviour incidents were associated with premises in the private rented sector throughout the Borough. The six wards where the most anti-social behaviour was recorded were, in order, Willesden Green, Mapesbury, Wembley Central, Alperton, Northwick Park and Harlesden. It needs to be noted here that the number of incidents was small – less than 35 a year – although it should also be stressed that this represents only a proportion of all anti-social behaviour incidents, not all of which are reported to the Community Safety Team, either because they are reported to the police, because they are examples of other kinds of anti-social behaviour such as fly-tipping or because they are reported by social housing tenants, who are likely to inform their landlord rather than another service. Also there are some wards in this list that are unexpected (e.g., Northwick Park), perhaps reflecting reporting patterns rather than levels of anti-social behaviour experienced on the ground.
- 4.6.7 Consultation responses provided many examples of serious and persistent anti-social behaviour connected to private rented housing and these are covered in Appendices 1 and 2.
- 65.4% of residents and businesses and 72.3% of tenants reported problems with rubbish dumping and refuse
 - 53.3% reported problems with nuisance neighbours
 - 57.3% reported problems with noise nuisance
- 4.6.9 Consultation responses on a ward basis were also analysed. Although a relatively small number of respondents provided the information necessary to identify the ward they lived in, responses indicated particular concerns about the three wards identified in the proposal as well as other wards.
- 4.6.10 Mayhew Harper Associates analysis correlated the concentration of private renting with ASB, fly tipping and graffiti at ward level. This found that there was:

- A 56% correlation between properties likely to be HMOs and ASB/noise intensity
- A 73% correlation between properties likely to be single family rented households and fly tipping intensity by ward
- A 42% correlation between properties likely to be single family rented households and graffiti intensity at ward level.

4.6.11 More detail on the methodology and findings is set out in Appendix 2 but an important finding from this analysis is that there is evidence that a strong link between significant and persistent anti-social behaviour exists in wards beyond the three identified in the early stages of research. In particular, Dudden Hill, Mapesbury and Welsh Harp show a correlation between private renting and anti-social behaviour that equals or exceeds levels in Willesden Green, Harlesden and Wembley Central.

4.6.12 The evidence supports the view initially taken following the HQN study that some landlords are failing to take appropriate action to address anti-social behaviour that is impacting on their tenants and neighbouring homes and businesses. Direct evidence from anti-social behaviour and crime-related complaints and interventions, together with the views and examples provided by consultation, demonstrate that problems persist and are not being addressed effectively.

4.6.13 As noted earlier, licensing is not proposed as the sole solution to problems of anti-social behaviour, but as part of a range of strategies and actions. Licensing is intended to assist as far as these problems occur in and affect the private rented sector in the wards where particular problems have been identified. It will assist in tackling problems of overcrowding and poor management and maintenance, which in turn lead to issues related to noise nuisance, waste and dumping problems and other matters. It will operate in conjunction with, for example, the council's work with the Safer Brent Partnership and the council's waste management and street care strategies, as well as providing landlords and tenants with clear guidance on rights and duties.

4.6.14 The evidence supports the implementation of Selective Licensing in the three wards of Harlesden, Wembley Central and Willesden Green. However, the consultation process and further research provisionally support the case for implementation in wards beyond those identified in the original study and the implications of this are discussed further in section 6 below.

5. Consultation

5.1 Consultation aimed to test the initial analysis of issues in the sector and seek views on and perceptions of problems associated with it and the potential of licensing to address them, in line with the requirements of the Act. Views were sought from landlords and tenants, other Brent residents and local businesses, recognising that issues impact on the whole community. Questionnaires and other exercises focussed on:

- Views on local problems to gauge perceptions and experience of a range of matters either directly or indirectly associated with private renting. This element of the exercise supported the development of the evidence base.
 - Views on licensing proposals, including perceptions of its potential efficacy and on the extent and coverage of any scheme.
- 5.2 In general, consultation showed strong support from tenants and residents for both Additional and Selective Licensing and, in the case of the latter, for a borough-wide scheme rather than one covering only certain wards. Landlords took the opposite view, although a significant minority supported Additional Licensing and there were indications that landlords share concerns about problems caused by poor management and anti-social behaviour. Full details of the consultation process and an analysis of responses are given in Appendix 2, while the following paragraphs highlight some key elements.
- 5.3 Initial consultation was carried out by HQN as part of their commission from May 2013. This included:
- Focus groups with voluntary sector agencies and council staff
 - Interviews with staff from the council, Registered Providers and other organisations
 - An online survey of private tenants
 - A workshop with members, council officers, police and voluntary sector
- 5.4 In light of the findings of the HQN report a formal consultation exercise was carried out. This covered two main proposals:
- A proposal to introduce an Additional Licensing scheme to cover the whole borough
 - A proposal to introduce a Selective Licensing scheme for the wards of Harlesden, Wembley Central and Willesden Green.
- Any change to these proposals would be identified based on the outcome of the consultation exercise and further evidence gathering.
- 5.5 The main elements of the consultation exercise included:
- On-line surveys accessible through the Consultation Portal: one targeted at landlords and one for tenants, residents and businesses
 - Direct mail out of questionnaire to Brent landlords and letting agents
 - Direct mail out to residents and businesses in the Harlesden, Willesden Green and Wembley Central wards
 - Direct mail out to residents in receipt of Housing Benefit
 - Presentation and discussion at a Private Housing Forum meeting
 - Presentation and discussions at the Landlord Fair, attended by 100 private landlords
 - Presentations to all Brent Connects Forums during January and February 2014:
 - Brent Connects Kilburn & Kensal, 8th January
 - Brent Connects Wembley, 14th January
 - Brent Connects Harlesden, 15th January

- Brent Connects Willesden, 22nd January
- Brent Connects Kingsbury & Kenton, 4th February

5.6 The exercise was promoted in a variety of ways to encourage responses, including:

- Adverts that ran for 4 weeks in the Brent and Kilburn Times
- A radio advertising campaign supported by an interview and phone-in with the Lead Member for Housing
- Alert on the Brent website
- Poster campaign on 80 JC Decaux hoardings across the borough
- Adverts on local buses
- Use of the information screens in the Civic Centre
- Facebook advert that took readers to the consultation portal
- Twitter feed
- Adverts and article in the Brent Magazine, delivered to all Brent residents
- Article in Partnership News, the BHP tenant newsletter
- Press release featured in the local and housing press.

5.7 736 responses to the questionnaire were received: 149 from landlords and agents and 587 from tenants, other residents and businesses. In addition direct contact was made through the various meetings and forums with over 350 Brent residents including a large number of private rented landlords operating in the borough.

5.8 Problems in the Private Rented Sector

5.8.1 Responses to the questionnaire provided clear indications of the views of tenants, residents, businesses and landlords. A full analysis is provided in Appendix 2, but some significant findings are highlighted here.

5.8.2 In terms of overall perceptions of their neighbourhood among tenants, residents and businesses:

- 62.6% felt that poorly maintained properties were a problem
- 65% felt that poorly managed properties were a problem
- 90.3% agreed that landlords have a responsibility to manage effectively

5.8.3 Asked to identify the main problems experienced in their homes, tenants cited:

- Poor amenities – 55.5%
- Disrepair – 59.9%
- Damp and mould – 65.1%

5.8.4 Asked about problems in the vicinity, Brent businesses cited:

- Poor external appearance of properties – 65.1%
- Refuse, fly-tipping etc. – 65.4%
- Noise from neighbouring properties – 55.1%

5.8.5 Asked about the significance of poorly maintained or poorly managed properties, landlords responded as follows:

- 45.8% said poor maintenance is a problem (43.% said there was no problem)
- 58.4% said poor management is a problem (28.9% said there was no problem)

It is striking that only a minority of landlords appear to feel that there are no problems relating to the sector.

5.8.6 Responses to the impact of anti-social behaviour by tenants showed a similar pattern:

- 43.7% felt there was some problem with their own tenants
- 58.4% felt there was a problem with tenants of other landlords (with over 30% identifying problems as serious or very serious).

5.8.7 In summary, the results of the exercise show:

- Evidence of problems with the management of HMOs relevant to Additional Licensing.
- Evidence of problems with anti-social behaviour relevant to Selective +Licensing

5.9 Views on Additional Licensing

5.9.1 Tenants, residents and businesses showed strong support for Additional Licensing, with 77.1% supporting introduction and, of those who supported the proposal, 76.6% agreeing that it should be borough-wide.

5.9.2 Among landlords, 55.7% did not agree that Additional Licensing would improve the management and maintenance of properties but a significant minority of 23.5% took the opposite view. While 57.7% opposed the introduction of Additional Licensing, an even larger minority of 35.6% supported the proposal.

5.9.3 Across all respondents, including landlords, 56.9% supported the introduction of Additional Licensing.

5.10 Views on Selective Licensing

5.10.1 A large majority (75.6%) of tenants, residents and businesses agreed that Selective Licensing would assist in reducing anti-social behaviour. 65.5% agreed with the introduction of a scheme and in terms of the area to be covered:

- 70.6% supported introduction in Willesden Green
- 71.7% supported introduction in Harlesden
- 68.6% supported introduction in Wembley Central
- 51.8% supported a borough-wide scheme

5.10.2 Landlords were sceptical about the impact of licensing on anti-social behaviour, with 57.7% saying that it would not assist, although 23.5% agreed that it would. Asked about the impact of Selective Licensing on the quality of management and

maintenance, a smaller majority of 51% felt that Selective Licensing would not lead to improvement, while 30.1% agreed that the impact might be positive.

5.10.3 67.1% of landlords opposed the introduction of Selective Licensing, with only 17.4% in favour. However, views on specific wards differed, with support for Selective Licensing at the following levels:

- Willesden Green – 22.8%
- Harlesden – 26.2%
- Wembley Central – 21.5%

5.10.4 Across all respondents, including landlords, 30% supported the introduction of Selective Licensing.

5.11 Other Points from Consultation

5.11.1 In general, responses from individual landlords, both to the questionnaires and in discussion at public meetings, concentrated on a fairly narrow range of objections: that licensing is primarily a revenue-raising exercise for the council, effectively imposing a “tax” on landlords; that licensing obliges the majority of good landlords to pay for the actions of a minority; that licensing introduces an unnecessary layer of bureaucracy and that charging fees will lead to increased rents. More detailed collective responses were submitted by the National Landlords Association (NLA) and the Residential Landlords Association (RLA). These and other comments are addressed in Appendix 2.

5.11.2 Each of the Brent Connects Forums was attended by around fifty residents. It is not advisable to draw firm conclusions from what were, inevitably, short discussions with groups that are not necessarily representative and which were made up mainly of local residents who were neither landlords nor tenants. However, officers also spoke to residents individually and there was, with some exceptions, strong support for licensing proposals. The main feedback included concerns as to whether licence fee costs would be passed on to tenants and whether income from licensing would be used to fund other council activity; it was explained that landlords may be able to pass on fees but that levels would be proportionate and should not have a significant impact on rents, while strict rules prevent use of fee income for other purposes. There were also concerns about the council’s willingness to take robust enforcement action.

5.11.3 The Private Housing Forum and the Landlord Fair also heard presentations on the proposals and comments were invited. Both these events were attended primarily by landlords, although a small number of tenants were present at the Forum and agents and landlord organisations were represented at the Fair. The main concerns expressed mirrored the questionnaire responses summarised in paragraph 5.11.1 above.

5.8 More detail on comments received and the council’s response is set out in Appendix 2.

6. Conclusions from the Evidence and Consultation

- 6.1 The evidence required by the legislation to support each of the proposals differs and ultimately it is this that should govern the decision in principle as to whether the implementation of either or both schemes is justified. Outcomes from consultation indicate the level of support for or opposition to the proposals, as well as providing further evidence and an indication of areas of concern.
- 6.2 The outcomes of consultation are positive and provide additional evidence in support of the case for the extension of licensing. While a numerical majority of all responses supported both proposals there were, perhaps inevitably, differences of view between different interest groups. While it may have been anticipated that landlords and landlord groups would oppose licensing in principle, as they have done elsewhere, the objections put forward raise genuine concerns that have helped to shape the detail of the proposals and will be given due weight in finalising operational arrangements.
- 6.3 Given the size of the sector and the extensive publicity devoted to the exercise, the number of responses was not high (particularly from landlords, given that the size of the stock and experience in other authorities suggests that the number of landlords operating in Brent is likely to be well over 15,000), although it was broadly comparable to the levels achieved by other boroughs that have undertaken similar projects. Levels of support and opposition to the proposals also reflected experience in other authorities. Responses supported the original proposition that there are significant concerns about both standards of management and maintenance in relation to Additional Licensing and neighbourhood issues in relation to Selective Licensing. There was also strong acknowledgement of the importance of good management by landlords and of the need for the council to intervene appropriately.
- 6.4 From the start, a number of options have been open, with each intended to be tested by consultation and evidence gathering. These are summarised below.

6.5 Mandatory Licensing Only

- 6.5.1 Landlords, in particular through representations from the NLA and RLA, have argued that the council has sufficient enforcement powers at its disposal so that, coupled with existing licensing arrangements, there is no need for any further scheme. In part, this is an argument against the principle of licensing, which is not accepted; the licensing powers in the 2004 Act are in themselves recognition that other powers alone may not always be sufficient. However, it is accepted that the adoption of additional mechanisms must be justified in law and in practice and that maintaining existing arrangements is an option to be considered.
- 6.5.2 In making the recommendations in this report, officers have considered the use of existing powers. The Mandatory Licensing Scheme covers only a very small proportion of all HMOs in the borough but has proved effective in delivering improvement in management and maintenance and it can be expected that extension of similar arrangements to other HMOs can deliver similar outcomes. Some of the limitations of existing enforcement powers have been referred to earlier and there are concerns about the time-consuming, complex and expensive characteristics of the regime. The regime is by its nature largely reactive, with officers responding to

tenant complaints, which may be discouraged by lack of security of tenure and fear of retaliatory eviction. Both landlords and tenants find the enforcement regime impenetrable and difficult to understand and there is clearly a need for better information, which is considered further below.

- 6.5.3 Analysis of enforcement activity which applies across the private rented sector since 2007 (see Appendix 1) shows a steady increase over the period, but this is coupled with an increase in complaints for all property types. It can be inferred that the current approach being taken to deal with private rented sector properties has not led to a reduction in complaints/requests for services being made. While enforcement activity has remedied problems in individual dwellings it is not, by its nature, able to raise standards generally.

6.6 Designation of Additional Licensing

- 6.6.1 The conclusion of this report is that there is clear evidence to show that the number of HMOs in Brent is much larger than the number covered by Mandatory Licensing and that there is evidence of poor management within the meaning of S56, Part II, Housing Act 2004 that justifies the designation of an Additional Licensing scheme for the whole borough. The spread of HMOs and the spread of enforcement activity and requests for assistance demonstrate that problems are not confined to any one neighbourhood or group of neighbourhoods.
- 6.6.2 Additional Licensing will provide greater clarity for both landlords and tenants over their respective rights and responsibilities and means of redress. It should be stressed that licensing does not replace or override other paths to enforcement, which will continue to operate in tandem with it. Rather, it provides a clear framework within which enforcement powers can be used and targeted most effectively.
- 6.6.3 When making a decision to authorise the designation for an Additional Licensing scheme, the Executive needs to be satisfied that the statutory requirements set out in paragraphs 11.1 to 11.6 below are met.
- 6.6.4 Under section 56(2) of the Housing Act 2004 ("HA 2004"), before making a designation regarding additional licensing, the Council must consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public. The evidence and outcomes from consultation demonstrate that poor management of HMOs is widespread, affecting all wards in Brent. Further, tenants, residents, businesses and, albeit to a lesser extent, landlords have all expressed concern and/or have cited specific problems in relation to HMOs.
- 6.6.5 Under section 56(3) of the HA 2004, before making a designation regarding additional licensing, the Council must:
- (a) Take reasonable steps to consult persons who are likely to be affected by the designation; and
 - (b) Consider any representations made in accordance with the consultation and not withdrawn.

- 6.6.6 The consultation process has been comprehensive and widely promoted and, as noted elsewhere in this report and in Appendix 2, views expressed have assisted in shaping the proposals.
- 6.6.7 Under section 56(5) of the HA 2004, in forming an opinion as to the matter mentioned in section 56(2) of HA 2004, the Council must have regard to any information regarding the extent to which any codes of practice approved under section 233 of the HA 2004 have been complied with by persons managing the HMOs in the area in question. The relevant codes of practice are: The Housing (Approval of Codes of Management Practice) (Student Accommodation) (England) Order 2006 (2006/646) and The Housing (Approval of Codes of Management Practice) (Student Accommodation) (England) Order 2008 (2008/2345). These orders were revoked by The Housing (Codes of Management Practice) (Student Accommodation) (England) Order 2010 (2010/2615) which came into force on 25 November 2010. The majority of student accommodation in Brent is exempt under the terms of the Act and any relevant accommodation will be addressed in accordance with the code of practice..
- 6.6.8 Under section 57(2) of the HA 2004, the Council must ensure that any exercise of the power (additional licensing designation) is consistent with the Council's overall housing strategy. The proposals set out in this report arose from consultation on the council's draft Housing Strategy, which will be submitted to the Executive for approval in June 2014. In particular, priorities identified include the need to respond to the rapid growth of the sector and concerns over conditions and standards of management and the rise in homeless applications from the sector. The council's priority is to support an effective, accessible and high quality private rented sector that will meet a range of needs for Brent residents.
- 6.6.9 Under section 57(3) of the HA 2004, the Council must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector, both:
- (a) As regards combining licensing (under Part 2 of the HA 2004 – additional licensing) with other courses available to them, and
 - (b) As regards combining licensing with measures taken by other persons.
- 6.6.10 Homelessness and empty property are priorities the council's Housing Strategy and the current Homelessness Strategy. Action to improve the condition and management of private sector housing is an identified priority, as is action to ensure that best use is made of the housing stock across all tenures, including bringing empty property back into use. The council's approach to anti-social behaviour is set out in the Safer Brent Partnership Strategic Statement and relevant strategies are considered further below. Licensing will assist, when co-ordinated with the other actions identified in these documents, in delivering the council's strategic objectives.
- 6.6.11 Under section 57(4) of the Housing Act 2004, the Council must not make a particular designation under section 56 of the HA 2004 unless-
- (a) They have considered whether there are any other course of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question, and
 - (b) They consider that making the designation will significantly assist them to deal with the problem or problems (whether or not they take any other course of action).
- 6.6.12 The role of licensing together with other courses of action, in particular the council's enforcement powers, is considered at 6.5.2 above. The evidence and responses

from consultation indicate the limitations of existing approaches, which have failed to deliver the scale of improvement required.

6.7 Designation of Selective Licensing in Three Wards

- 6.7.1 The conclusion of this report is that there is clear evidence to support a Selective Licensing designation in the three wards of Harlesden, Wembley Central and Willesden Green (but see 6.8 below). The purpose of Selective Licensing is to address anti-social behaviour and, as with Additional Licensing, the designation does not replace other powers or actions that the council and its partners may take. Rather, the intention is that Selective Licensing will act as one of a range of tools and provide a framework within which these can work most effectively.

6.8 Designation of Selective Licensing Borough-wide or in Additional Wards

- 6.8.1 The conclusion of this report is that there is not sufficient evidence to support a borough-wide Selective Licensing designation, despite significant support for this option from tenants and other residents. Although ASB occurs in all wards, levels vary, as does the extent of private renting. Although other boroughs have elected or are proposing to introduce selective licensing on a borough-wide basis, any decision must be based on conditions in Brent.
- 6.8.2 However, research and evidence gathering since publication of the original proposals also indicate that there are other wards with similar or higher levels of problems relating to anti-social behaviour linked to high concentrations of private rented housing and accordingly that further investigation and consultation is warranted to consider the possible extension of Selective Licensing beyond the three wards originally identified.
- 6.8.3 In particular, the work undertaken by Mayhew Harper Associates suggests an alternative approach. Their analysis confirms the status of Harlesden, Wembley Central and Willesden Green among the wards experiencing significant and persistent anti-social behaviour linked to the private rented sector. However, it also identifies some neighbouring wards such as Dudden Hill and Mapesbury as exhibiting similar problems.
- 6.8.4 Mayhew Harper's research, based on a mix of indicators, found that Wembley Central and Willesden Green were in the top five wards for anti-social behaviour, whilst Harlesden was in sixth place. The top five also included Dudden Hill (in first position), Welsh Harp in third position and Mapesbury in fifth. Welsh Harp may be anomalous as it contains open space and may therefore owe its higher position to fly tipping and graffiti, in which case Harlesden moves into fifth place. While this confirms that the three wards originally identified experience significant problems, Dudden Hill shows an even higher correlation and Mapesbury a comparable one to the three wards initially identified.
- 6.8.5 The consultation that has been undertaken was borough-wide but a more intensive approach was used in the three wards originally proposed for Selective Licensing,

including a postal survey of all residential properties in each ward. In view of the evidence of comparable problems in Dudden Hill and Mapesbury it is proposed to undertake a further period of consultation through a comprehensive survey in these wards.

- 6.8.6 Following this additional consultation and consideration of the responses a further report will be made to the Executive for decision on the extent of the area to be designated for Selective Licensing.
- 6.8.7 In light of the elevated levels of ASB and high levels of private renting in Wembley Central there is a strong case to introduce selective licensing in this ward. However, the research has found a particular concentration of HMOs in this ward, which would in any case be covered by the proposed borough-wide Additional Licensing scheme, and further consideration will be given to whether this measure could be adequate in this context. The results of that examination will be reported further to the Executive together with the results of the additional consultation in Dudden Hill and Mapesbury wards.

6.9 Other Issues Arising from Consultation

- 6.9.1 Landlords and landlord groups presented a number of points and suggestions that have been taken into account in developing final proposals. These are covered in more detail in Appendix 2 but some are worth highlighting here.
- 6.9.2 Responses stressed the need for better information, training and advice for both landlords and tenants, either as an alternative or an adjunct to licensing proposals. The consultation paper made it clear that it is the council's intention to provide and support such services, including voluntary accreditation schemes such as the London Landlord Accreditation Scheme (LLAS) and those run by the national landlord organisations. Brent Housing Partnership is in the process of establishing a lettings agency service that will be available to landlords and tenants in the borough, providing a full range of services.
- 6.9.3 There was particular concern over fees. Officers believe that the fees proposed in the consultation documents are proportionate and reasonable and that, even if landlords choose to take account of them in rental charges, the impact on rents and affordability will be minimal. Experience in other authorities where licensing has been introduced does not indicate any noticeable effect on the market, wither in terms of rent levels or the willingness of landlords to let. The period between the decision to proceed and the implementation of both schemes, including the further consultation required to consider additional wards for Selective Licensing, provides an opportunity for further consideration of fees, with particular regard to the options for discounted fees, in discussion with landlords and landlord representatives. As noted earlier, fees should be set in relation to the costs of administration and it is not permissible for the council to either make a surplus or use fees for other purposes. Also, licence fees cannot be used to fund the costs of enforcement against landlords who have not obtained a licence from the Council.

6.10 Objectives and Anticipated Outcomes

- 6.10.1 Additional and Selective Licensing are separate schemes with distinct but related aims. The former focusses on HMOs and is intended to provide clarity about standards and conditions and to facilitate intervention where problems occur. The latter is aimed primarily at tackling anti-social behaviour related to private renting but, in doing this, aims to deliver similar clarity for all rented homes.
- 6.10.2 Neither scheme will operate in isolation and both are part of wider strategies to improve standards and conditions and tackle neighbourhood problems. The Housing Strategy is currently in draft form, has been subject to extensive public consultation and will be presented to the Executive for approval in June 2014. It identifies addressing the growth of the private rented sector and associated problems as a high priority, recognising that a quality, well-managed rental market is an essential resource.
- 6.10.3 The Borough Plan 2013-14 notes that rapid population growth has increased the pressure on available housing, and that the huge increase in the private rented sector is a major concern, especially in relation to standards, overcrowding and illegal lettings such as 'beds in sheds'. Although the level of crime in the borough has fallen significantly over the past few years, fear of crime and antisocial behaviour remain an issue for many Brent residents, such that preventing and reducing it are key tasks. Making sure that the borough is clean and attractive and feels safe and secure by maintaining streets and neighbourhoods to a high standard is also an identified priority. The plan sets targets for reducing the number of graffiti incidents alongside a 10% reduction in the incidence of fly-tipping and dumped waste and improving waste arrangements and tidiness in HMOs through partnership work with landlords and tenants, as well as raising living standards in the private rented sector by working more closely with landlords to improve the quality and overall management of their properties. Licensing is identified as a potentially valuable element in securing these improvements.
- 6.10.4 The Safer Brent Partnership Strategic Statement identifies priorities for the period to December 2014. A focus on reducing the number of incidents in crime hotspots like Harlesden, Wembley Central and Kilburn is identified, while reducing anti-social behaviour – tackling ways of behaving that make people feel uncomfortable or unsafe in our shared public spaces – is a high priority. This includes tackling hate crime and an approach to safer neighbourhoods that encompasses environmental crime such as fly-tipping. Within the overall aim of increasing confidence and satisfaction, fire safety and awareness is a priority. Each priority will have a lead officer and appropriate partnership support to drive progress, bringing together the partners required to develop a work programme for the actions in the plan and using an optimum number of performance indicators to assess progress. Priorities and objectives for licensing will be incorporated into the work programme. There will be engagement with private landlords and their representatives and tenants and theirs in the development of operational arrangements for the schemes following implementation.
- 6.10.5 In addition, improving physical standards and the quality of management in the sector will deliver wider social and health benefits. The links between poor housing and poor health – for example the impact of damp and mould growth on respiratory

conditions and the impact of poor housing on mental health – are well-established. Improved quality in all sectors can therefore have a positive effect on demand for health services and individual health and well-being. Similarly, it is well-understood that poor housing conditions and overcrowding in particular have a negative impact on educational attainment. While the primary aims of licensing are distinct, it is expected that it will assist the council and partners to achieve objectives in these and other areas.

6.10.6 Overall, the intention is that licensing should assist the local rental market through provision of clear standards through which landlords will operate on a level playing field and tenants will know what they should expect. While licensing will impose significant penalties on rogue landlords and parallel enforcement activity will be targeted at the worst properties and landlords who breach licensing conditions and HHSRS standards, a primary intention of the scheme is to support and encourage landlords who provide a good service and develop effective partnerships with the sector. Over sixty landlords who responded to the questionnaire indicated that they would be interested in regular meetings with the council to this end.

6.10.7 Both schemes will include a range of incentives, details of which will be subject to further discussion with landlords and landlords' representatives. At this stage, it is envisaged that incentives may include:

- Discounts for landlords with multiple properties
- Discounts for landlords who are already members of or agree to become members of a recognised accreditation scheme
- Support and advice on achieving accreditation
- Provision of lettings agency services through BHP
- Access to accredited training provision
- Access to advice and support over tenancy and property issues
- Access to information for landlords and tenants
- Enhanced access to Green Deal and ECO funding through the council's recently appointed ECO Delivery Partner
- Access to other grant funding – for example Empty Property Grants.

6.10.8 The original proposal highlighted the possibility of a discount for landlords who enter the scheme in its early stages – a so-called “early bird” discount of the kind that has been made available by other authorities such as Newham. However, it has been argued by the RLA that such discounts are contrary to the European Directive (European Union Directive 2006/123/EC, Services in the Internal Market) which was discussed in the recent *Hemming v Westminster* case. This question is considered further in the legal implications for this report but, at this stage, it is proposed that no early-bird discount should be offered pending clarification of the legal position.

6.10.9 In the long term, licensing will contribute to improved conditions in the sector and a more stable and accessible rental market. In particular, licensing is expected to assist in encouraging stable, long-term tenancies to the benefit of landlords and tenants. It is worth noting that evidence nationally indicates that the gains from investment in private renting are realised through the ultimate sale of the property rather than rental income, where returns generally cover costs but deliver only limited

revenue gains, especially for landlords owning a small number of properties. In that context, it is in a landlord's interest to invest in the maintenance of the property to maintain or increase its eventual sale value. Licensing and the benefits associated with licensing, such as the opportunity to invest in energy efficiency improvements, will benefit landlords in this regard.

6.10.10 Improved stability in the market will also have a positive impact on the overall accessibility of rented housing and will assist in reducing homelessness and Housing Register applications from the sector, a central aim for the council's overall housing strategy.

6.10.11 In the short term, it is recognised that the implementation of licensing may impact on the willingness of some landlords to let, although as noted above, experience elsewhere suggests that this impact will not be large. To some extent, it is desirable that the very worst landlords, who operate outside the law, should be discouraged and they will be a priority for action within both schemes. It is acknowledged that this may impact on their tenants, including a risk of eviction, although it should also be stressed that tackling "beds in sheds" – the most extreme examples of rogue landlord activity – has not resulted in any rise in homeless applications. Such landlords are a minority and many issues are the results of ignorance or inexperience rather than criminality. Provision of incentives, advice and support is intended to encourage landlords to remain in the sector but, from the perspectives of the council's wider housing and related strategies, the welfare of tenants and the overall stability and efficiency of the market, a slightly smaller but better quality sector is a desirable outcome.

7. Licensing Proposals

7.1 The proposed draft conditions for Additional and Selective Licensing are set out in Appendix 4. Some of these are mandatory requirements under the Housing Act 2004 and therefore must be included in any scheme. Others are discretionary and these conditions and the way in which they will operate in practice will be subject to further discussion in the period leading up to commencement of the schemes. The intention is that any additional burden on landlords should be minimised and that the council's administrative requirements, and by extension the costs of the schemes, should be proportionate.

7.2 As noted above, the council is entitled to cover the costs associated with the scheme through a fee (subject to the provisos set out in 11.26 below) but is not allowed to make a surplus or to use the fee income for purposes unrelated to licensing. To meet these conditions, fees will need to be set at:

- £550 for five years for Additional Licensing
- £350 for five years for Selective Licensing (if introduced)

7.3 It is proposed that discounts to these fees should be applicable, as noted at 6.10.5 above. The nature and application of discounts will be considered further in consultation with Brent landlords and their representatives.

8. Next Steps

- 8.1 A decision to proceed with licensing proposals triggers a formal notification by way of a designation notice, which must be followed by a period of at least three months before any scheme comes into effect. In the case of Additional Licensing it is proposed that this period should be extended to allow sufficient time to make operational and administrative arrangements and to hold further discussions with landlords and other interested parties on the detail of the scheme, in particular to finalise the licence conditions and discounts to be applied. Following this, licensing applications will be invited and processed, and it is expected that this will commence no later than 1 November 2014. This will precede the formal commencement of the Additional Licensing scheme and it is proposed that designation of the scheme should commence from 1st January 2015.
- 8.2 In the case of Selective Licensing, as noted above, there is a need to give further consideration to the scope of the scheme. It is therefore proposed that further consultation should take place over the next two month period following which a further report will be made to the Executive at the earliest opportunity. Subject to the outcome of further consultation and the decision of the Executive it is anticipated that designation of Selective Licensing would similarly take effect from 1st January 2015. However, the Executive will not make a final decision until it considers at a future meeting whether to introduce selective licensing in Brent and for which wards.

9. Equalities Implications

- 9.1 An initial impact assessment is attached at Appendix 5. In general, it is anticipated that licensing proposals will have a positive impact for all protected groups.
- 9.2 It should be stressed that data relating to the protected groups among both tenants and landlords is limited, partly due to the unregulated nature of the sector. Although Census data provides a breakdown of tenure by ethnicity and age, analysis relevant to other issues such as disability has not yet been completed by ONS. Overall, the size of the sector and the estimated number of landlords suggests that there will be members of all protected groups among both tenants and landlords. The sector also contains a mix of household and income types that ranges across the spectrum.
- 9.3 It is likely that tenants most impacted by these proposals will be among the lower income groups in the sector, living on the poorest quality housing and, similarly, that the landlords of these properties will experience the greatest impact from their perspective. In particular, there may be issues relating to people under 35 who are affected by the single room rate for Housing Benefit and are therefore more likely to be living in HMOs. In addition, the most striking finding from the initial analysis is the over-representation of the Other White ethnic group among private tenants. Although further research is required, it may be that this is due to the presence of high numbers of European migrants in the sector. Again, it is likely that many of these are living in HMOs or property in the cheaper end of the market.
- 9.4 The main identified risk of negative impact at this stage is the possibility that the introduction of licensing may lead some landlords – particularly those likely to struggle to comply with licensing conditions – to withdraw from the market and evict their tenants. It is not possible to assess the scale of this risk accurately, although

experience elsewhere has not demonstrated any significant withdrawal from the market. Any impact, in this or other areas, will be monitored closely and will inform regular reviews of the operation of licensing.

- 9.5 In the longer term, licensing will, among its other benefits, provide an opportunity to obtain a more complete picture of the sector and its operation that will assist in identifying issues relevant to protected groups.

10. Financial Implications

- 10.1 The administration of the scheme is such that it is intended to be self financing over a five year period. A fee of £550 relating to the Additional Licensing scheme will be charged per application and is set at a level where the revenue from the fee is intended to cover the costs incurred.
- 10.2 The income will be closely monitored and a team proportionate to the demand for the service will be employed. The costs of the scheme exclude the cost of any enforcement action on non-licensed properties but will cover the cost of processing the license application and of compliance monitoring and enforcement against an applicant who is given a license.

11. Legal Implications

Additional Licensing

- 11.1 Under section 56(2) of the Housing Act 2004 ("HA 2004"), before making a designation regarding additional licensing, the Council must consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.
- 11.2 Under section 56(3) of the HA 2004, before making a designation regarding additional licensing, the Council must:
- (c) Take reasonable steps to consult persons who are likely to be affected by the designation; and
 - (d) Consider any representations made in accordance with the consultation and not withdrawn.
- 11.3 Under section 56(5) of the HA 2004, in forming an opinion as to the matter mentioned in section 56(2) of HA 2004, the Council must have regard to any information regarding the extent to which any codes of practice approved under section 233 of the HA 2004 have been complied with by persons managing the HMOs in the area in question.
- 11.4 Under section 57(2) of the HA 2004, the Council must ensure that any exercise of the power (additional licensing designation) is consistent with the Council's overall housing strategy.
- 11.5 Under section 57(3) of the HA 2004, the Council must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector, both:
- (c) As regards combining licensing (under Part 2 of the HA 2004 – additional licensing) with other courses available to them, and
 - (d) As regards combining licensing with measures taken by other persons.

- 11.6 Under section 57(4) of the Housing Act 2004, the Council must not make a particular designation under section 56 of the HA 2004 unless-
- (c) They have considered whether there are any other course of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question, and
 - (d) They consider that making the designation will significantly assist them to deal with the problem or problems (whether or not they take any other course of action).
- 11.7 When making a decision to authorise the designation for an additional licensing scheme, the Executive needs to be satisfied that the statutory requirements set out in paragraphs 11.1 to 11.6 above are met.
- 11.8 Section 55(5) of the HA 2004 (under Part 2 – additional licensing of houses in multiple occupation) states that the Council (as the local housing authority) has the following duties in relation to additional licensing:
- (a) To make such arrangements as are necessary to secure the effective implementation in their district of the licensing regime provided for by this Part (i.e. Part 2 of the HA 2004 regarding additional licensing);
 - (b) To ensure that all applications for licences and other issues falling to be determined by them under this Part 2 (regarding additional licensing) are determined within a reasonable time; and
 - (c) To satisfy itself, as soon as is practically practicable, that there are no Part 1 functions (relating to mandatory licensing) that ought to be exercised by them in relation to the premises in respect of which such applications are made.
- 11.9 As soon as a designation regarding additional licensing is made, pursuant to section 59 HA 2004, the Council must publish in the prescribed manner a notice stating—
- (a) that the designation has been made,
 - (b) whether or not the designation was required to be confirmed and either that it has been confirmed or that a general approval under section 58 of the HA 2004 applied to it (giving details of the approval in question relating to additional licensing),
 - (c) the date on which the designation is to come into force, and
 - (d) any other information which may be prescribed.
- 11.10 The proposed designation in respect of additional licensing will not require confirmation from “the appropriate National Authority” under section 56 of the HA 2004 as designations regarding additional licensing are covered by a General Approval dated 30 March 2010, which was issued by the Department of Communities and Local Government under section 58(6) of the HA 2004.

Selective Licensing

- 11.11 Under section 80(2) HA 2004, before introducing a selective licensing scheme, the Council must consider that –
- (a) the first or second set of general conditions mentioned in s80(3) or (6) of the HA 2004; or
 - (b) any conditions specified in an order under s.80(7) of the HA 2004 as an additional set of conditions [this does not apply here]
- are satisfied in relation to the area.
- 11.12 Section 80(3) HA 2004 refers to the first set of general conditions which relates to low housing demand which is not relevant for the Executive report.

- 11.13 The second set of general conditions is set out in section 80(6) of the HA 2004 and they are as follows:
- (a) that the area is experiencing a significant and persistent problem caused anti-social behaviour;
 - (b) that some or all of the private sector landlords who have let premises in the area (whether under leases or licences) are failing to take action to combat the problem that it would be appropriate for them to take; and
 - (c) that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, lead to a reduction in, or the elimination of, the problem.
- “Private sector landlord” does not include a registered social landlord within the meaning of Part 1 of the Housing Act 1996.
- 11.14 Under section 80(9) of the HA 2004, before making a designation relating to selective licensing, the Council must-
- (a) take reasonable steps to consult persons who are likely to be affected by the designation; and
 - (b) consider any representations made in accordance with the consultation and not withdrawn.
- 11.15 Under section 81(2) of the HA 2004, the Council must ensure that any exercise of the power (selective licensing designation) is consistent with the Council's overall housing strategy.
- 11.16 Under section 81(3) of the HA 2004, the Council must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector, both:
- (a) As regards combining licensing (under Part 3 of the HA 2004 – selective licensing) with other courses available to them, and
 - (b) As regards combining licensing with measures taken by other persons.
- 11.17 Under section 81(4) of the HA 2004, the Council must not make a particular designation (for selective licensing) under section 80 of the HA 2004 unless-
- (a) They have considered whether there are other courses of action available to them (of whatever nature) that might provide an effective method of achieving the objective or objectives that the designation would be intended to achieve; and
 - (b) They consider that making the designation will significantly assist them to achieve the objective or objectives (whether or not they take any other course of action as well).
- 11.18 As for the definition of “anti-social behaviour”, this is set out in section 57(5) of the HA 2004 which states:
- “anti-social behaviour” means conduct on the part of occupiers or, or visitors to, residential premises –
- (a) Which causes or is likely to cause a nuisance or annoyance to persons residing, visiting or otherwise engaged in lawful activities in the vicinity of such premises; or
 - (b) Which involves or is likely to involve the use of such premises for illegal purposes.
- 11.19 When making a decision to authorise the designation for a selective licensing scheme, the Executive needs to be satisfied that the statutory requirements set out in paragraphs 11.11 to 11.17 above are met.
- 11.20 As for the Council's general duties regarding selective licensing under Part 3 of the HA 2004, these are set out in section 79(5) of the Housing Act 2004 which states as follows:

“every local housing authority has the following general duties-

- (a) To make such arrangements as are necessary to secure the effective implementation in their district of the licensing regime provided for by this Part (i.e. Part 3 HA 2004 regarding selective licensing);
- (b) To ensure that all applications for licences and other issues falling to be determined by them under this Part are determined within a reasonable time.”

11.21 As soon as a designation regarding additional licensing is made, pursuant to section 83 HA 2004, the Council must publish in the prescribed manner a notice stating—

- (a) that the designation has been made,
- (b) whether or not the designation was required to be confirmed and either that it has been confirmed or that a general approval under section 82 of the HA 2004 applied to it (giving details of the approval in question relating to additional licensing),
- (c) the date on which the designation is to come into force, and
- (d) any other information which may be prescribed.

11.22 The proposed designation in respect of additional licensing will not require confirmation from “the appropriate National Authority” under section 82 of the HA 2004 as designations regarding selective licensing are covered by a General Approval dated 30 March 2010, which was issued by the Department of Communities and Local Government under section 82(6) of the HA 2004.

Licence Fees

11.23 Section 63(7) of the HA 2004 states as follows regarding fixing licensing fees for additional licensing:

“When fixing fees under this section, the local housing authority may (subject to any regulations made under subsection (5)) take into account—

- (a) all costs incurred by the authority in carrying out their functions under this Part [i.e. Part 2 HA 2004 relating to additional licensing], and
- (b) all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 in relation to HMOs (so far as they are not recoverable under or by virtue of any provision of that Chapter).

11.24 Section 87(7) of the HA 2004 states as follows regarding fixing licensing fees for selective licensing:

“When fixing fees under this section, the local housing authority may (subject to any regulations made under subsection (5)) take into account—

- (a) all costs incurred by the authority in carrying out their functions under this Part [i.e. Part 3 of the HA 2004 relating to selective licensing], and
- (b) all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 in relation to Part 3 houses (so far as they are not recoverable under or by virtue of any provision of that Chapter).

11.25 However, the EU Directive and the Provision of Services Regulations 2009 was subsequently passed. Regulation 18 of the Provision of Services Regulations 2009 states:

“Any charges provided for or by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities.” In essence, the fees must cover no more than the actual cost of the application and authorisation process.

- 11.26 In short, the costs related to the enforcement against landlords that do not have licensed properties are not recoverable when setting the licence fee. When taking legal action against such landlords, legal costs can be recovered when the courts award costs in successful court enforcement actions. However, costs orders for all the legal costs incurred are not always made by the courts and where court enforcement cases are unsuccessful, not only does the Council not recover the legal costs of such cases, they can be liable to pay the costs of the defending parties who successfully defend such enforcement cases. The case of *Hemming v Westminster CC*, which is currently subject to an appeal, restricts the power of the local authority to the power of local authorities to include in setting the licence fee the costs of enforcement against those who have not applied for licences or have not paid the licence fee. Once fees are set, the Council is expected to review its fees and adjust them where necessary to reflect previous deficits or surpluses.

Public Sector Equality Duty

- 11.27 The public sector equality duty, as set out in section 149 of the 2010 Act, requires the Council, when exercising its functions, to have “due regard” to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who have a “protected characteristic” and those who do not share that protected characteristic
- 11.28 The “protected characteristics” are: age, disability, race (including ethnic or national origins, colour or nationality), religion or belief, sex, sexual orientation, pregnancy and maternity, and gender reassignment. Marriage and civil partnership are also a protected characteristic for the purposes of the duty to eliminate discrimination.
- 11.29 Having “due regard” to the need to “advance equality of opportunity” between those who share a protected characteristic and those who do not includes having due regard to the need to remove or minimise disadvantages suffered by them. Due regard must also be had to the need to take steps to meet the needs of such persons where those needs are different from persons who do not have that characteristic, and to encourage those who have a protected characteristic to participate in public life. The steps involved in meeting the needs of disabled persons include steps to take account of the persons’ disabilities. Having due regard to “fostering good relations” involves having due regard to the need to tackle prejudice and promote understanding.
- 11.30 The Council’s duty under section 149 of the Equality Act 2010 is to have “due regard” to the matters set out in relation to equalities when considering and making decisions on the introduction of additional licensing for the area of Brent and the introduction of selective licensing. Due regard to the need to eliminate discrimination, advance equality and foster good relations must form an integral part of the decision making process. When the decision comes before the Executive, Members of the Executive must consider the effect that implementing a particular policy will have in relation to equality before making a decision. An Equality Impact Assessment will assist with this.
- 11.32 There is no prescribed manner in which the equality duty must be exercised, though producing an Equality Impact Assessment is the most usual method. The Council must have an adequate evidence base for its decision making. This can be achieved by means including engagement with the public and interest groups and by gathering relevant detail and statistics.

11.33 The Equality Impact Assessment is set out in Appendix 5 to this report.

12. Staffing Implications

- 12.1 Private Housing Services currently employs a Mandatory HMO Licensing Team Leader and two HMO Licensing Officers. These will form part of a new team tasked to process all licence applications. If the predicted number of applications is received, further license application and administration officers will be employed on a temporary contract basis to deal with the demand. It is thought that the vast majority of license applications will be received in the first year of the scheme and there will therefore need to be more officers employed in year one of the scheme than in years two to five. In addition Licence Enforcement Officers will also need to be employed and this may include the deployment of some existing Enforcement Officers in this role. Detailed staffing and resourcing plans will be developed and will be subject to any necessary staff consultation.
- 12.3 As stated above, all staffing and other required activities will be funded from the income generated by the license fee.

Background Papers

Report from Housing Quality Network


Report from Mayhew Harper Associates

Consultation documents

Contact Officers:

Tony Hirsch
Head of Policy (Housing)
Regeneration and Growth
Email: tony.hirsch@brent.gov.uk
Tel: 020 8937 2336

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 <p>Brent</p>	<p>Executive 22 April 2014</p> <p>Report from the Director of Regeneration and Growth</p>
For Action	Wards Affected: All
<p>Adoption of Community Infrastructure Levy (CIL) Regulation 123 list</p>	

1. SUMMARY

- 1.1 The council has adopted a Community Infrastructure Levy (CIL) Charging Schedule that applies a charge to most new development in the borough. The purpose of the CIL charge is to fund new infrastructure such as schools, parks, roads and public transport improvements required to support development and growth. The council is advised to produce a list of priorities (a Regulation 123 list) itemising those types of infrastructure it wishes to spend CIL on. This report sets out a proposed CIL Regulation 123 List for the council to adopt.

2. RECOMMENDATIONS

That Executive agree to:

- 2.1 Publish the CIL Regulation 123 List as set out in Appendix 1, advertise the Regulation 123 List on the council's website and consider any representations arising; and
- 2.2 Delegate authority to make, consult and publish changes to the Regulation 123 List to the Strategic Director of Regeneration & Growth in consultation with the Lead Member for Regeneration.

3. BACKGROUND

- 3.1 The council has already set a Community Infrastructure Levy or CIL charge on most forms of large scale development to fund the provision of new infrastructure (for example the council now charges £200 per m2 of private housing). CIL is intended to replace Planning Obligations (S106 agreements) for large scale infrastructure, so instead of negotiating a

developer contribution on each scheme, CIL is now calculated on a per metre formula set out in the adopted CIL charge. Planning Obligations S106 will now be used for local matters (such as agreeing access arrangements onto a site) and to mitigate the impact of a development. So for example if a development did not provide sufficient amenity space on site, the council could secure a contribution for its provision off site through a planning obligation, although generally open space provision will be funded through a CIL contribution.

CIL Regulation 123 List

- 3.2 There is a strong incentive on local authorities to move to the CIL system to fund major infrastructure because there is a restriction on councils' now combining S106 planning obligations to fund infrastructure. Once a council has adopted a CIL, S106 agreements are intended primarily to mitigate local site related matters such as access. After April 2010, the government's CIL regulations prohibit authorities combining S106 contributions from more than four new different S106's. However authorities could carry on using the S106 provisions until a deadline of April 2014, which has recently been extended to April 2015. Because developers and landowners have expressed concern that they may be charged twice for infrastructure by paying both CIL and S106, the government recommend that local authorities clarify this matter by producing a list detailing likely infrastructure expenditure. This is known as the Regulation 123 list after the regulatory provision.
- 3.3 The proposed CIL Regulation 123 List is set out in Appendix 1. This sets out in very broad terms what infrastructure could be paid for by CIL. The council can still spend CIL on items not on the 123 List and it is intended not to be exhaustive. Regulation 123 lists can be very detailed listing named projects or they can be in very general terms, sometimes they are a mix of both approaches. The Regulation 123 list set out in Appendix 1 is deliberately very general because it will give the council flexibility to best fund the complex set of infrastructure requirements with the complex funding streams it has.
- 3.4 Your officers are also recommending the adoption of the Regulation 123 List because otherwise the council would have difficulties in continuing to legally secure planning obligations and highways works under s106 and s278 agreements. The council will also have more difficulty legally using a combination of more than four S106 planning obligations that were secured after April 2010 to fund a single piece of infrastructure.

Prioritisation Process

- 3.5 The council is likely to secure between £4-£6m p.a. on CIL to fund infrastructure. This will be in addition to S106 funding already secured. In time, S106 funding will reduce and S106 funding will only arise by historic applications being triggered. CIL will then be the dominant source of infrastructure funding.

- 3.6 It is intended that officers will bring forward a further report to Executive on ways in which CIL and S106 funds could be prioritised in order to secure regenerative development and growth.

4. FINANCIAL IMPLICATIONS

- 4.1 The recommendations in this report do not commit any resources either directly or by delegation.
- 4.2 CIL and S106 are predicted to deliver between £4m and £6m per annum amounting to £184m of infrastructure funding in the next 30 years if predicted growth housing and commercial development materialises.

5. LEGAL IMPLICATIONS

- 5.1 Part 11 of the Planning Act 2008 provided for local authorities to impose a charge on development known as the Community Infrastructure Levy or CIL. CIL Regulations have then been introduced to set out the detailed provisions enabling local authorities in England and Wales to introduce a CIL in their areas, and also how the levy would operate if they did so. The levy would apply to new buildings above a certain size and the revenue from the levy must be applied to infrastructure needed to support the development of the area. The Regulations also provide for the reform of the current system of developer contributions towards infrastructure ('planning obligations') so that the two regimes operate effectively alongside each other.
- 5.2 The government introduced the Regulations in 2010 and amended them in 2011, 2012, 2013 and more recently in March of this year referred to as the Community Infrastructure (Amendment) Regulations 2014.

Definition of Infrastructure

- 5.3 Section 59 (1) of The Community Infrastructure Regulations 2010 no 948 specifies that a charging authority must apply CIL to funding infrastructure to support the development of its area. Infrastructure is defined in s.216 of the Planning Act 2008 (as amended) as roads and other transport facilities, flood defences, schools and other educational facilities, medical facilities, sporting and recreational facilities and open spaces.

6.0 Diversity Implications

- 6.1 CIL provides a mechanism to collect a charge on development. The implications for diversity arise when decisions on the CIL spend is made. This will be considered in a further report to Executive.

7.0 Staffing/Accommodation Implications

- 7.1 The council can top slice up to 5% of its own and Mayoral CIL to administer the Levy. This charge is used to fund the cost of two officers deployed to administer and manage CIL / s106.

Background Documents

Planning Act 2008
CIL Regulations, 2010, 2011, 2012, 2013, 2014

Contact Officer

Dave Carroll
Head of New Initiatives

Tel: 0208 937 5202
Email dave.carroll@brent.gov.uk

ANDREW DONALD
Strategic Director, Regeneration and Growth

APPENDIX 1.

London Borough of Brent INFRASTRUCTURE (REG 123) LIST List of Infrastructure to be funded by the Community Infrastructure Levy

In accordance with Regulation 59 of the Community Infrastructure Levy Regulations 2010 (as amended) ("the CIL Regs"), CIL receipts from Brent CIL must fund the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of Brent. Types of infrastructure to be funded in whole or in part by CIL are listed below. The list will be reviewed and updated regularly. This list is valid from 22 April 2014.

The London Borough of Brent intends to fund either in whole or in part the provision, improvement, replacement, operation or maintenance of new and existing:


- public realm infrastructure, including town centre improvement projects and street trees;
- roads and other transport facilities;
- schools and other educational facilities;
- parks, open space, and sporting and recreational facilities;
- community & cultural infrastructure;
- medical facilities;
- renewable energy and sustainability infrastructure; and
- flood defences,

except unless the need for specific infrastructure contributions is identified in the S106 Planning Obligations Supplementary Planning Document or where section 106 arrangements will continue to apply if the infrastructure is required to make the development acceptable in planning terms.

Inclusion of a project or type of infrastructure is not a commitment by Brent to fund the project either in whole or in part.

In accordance with Regulation 123 of the CIL Regs, Brent will not seek contributions through planning obligations for the infrastructure listed; however planning obligations may still be required for the type of infrastructure listed where these comply with Regulation 122 and 123 of the CIL Regs. This list should be read in conjunction with the S106 Planning Obligations Supplementary Planning Document.

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 Brent	<p style="text-align: center;">Executive 22 April 2014</p> <p style="text-align: center;">Report from the Strategic Director of Regeneration and Growth and Strategic Director of Children and Families</p>
<p>For Action Wards Affected: Wembley Central</p>	
<p>Copland Community School and adjacent lands - proposed land rationalisation and update on Academy conversion and Priority Schools Building Programme</p>	

Not for publication ('below the line')

Appendices 1, 3, 5 & 6 of this report are not for publication.

1. Summary

- 1.1. Copland Community School (CCS), which is currently a foundation school, is scheduled to become a sponsored Academy on 1 September 2014. The school will transfer to ARK Schools (ARK) and will operate in a close relationship with ARK Wembley. In the interim period the school is being managed by an Interim Executive Board (IEB).
- 1.2. Post transfer and until a new school is built, the school will continue to operate as an eight form of entry (FE), providing places to children aged 11 to 18 in secondary education. It has been confirmed that CCS will receive capital funding as part of the Priority Schools Building Programme (PSBP) – funded by the Education Funding Authority (EFA). It is anticipated that a new school will be completed by September 2016 and at that point the school will expand by an addition one FE.

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- 1.3. In order to facilitate the best possible solution for the new build school, this report proposes arrangements to rationalise land ownership, ensure an optimum footprint for the new school buildings, and support the wider regeneration of the area in line with the Wembley Area Action Plan.
- 1.4. The proposals contained in this report facilitate the delivery of much needed new and expanded secondary school, providing a vastly improved learning environment for the students and helping meet the medium term demand for secondary school places. The proposals will also enable the delivery of additional primary school places at the adjacent Elsley Primary School, which are critical to meeting additional demand for primary school places.
- 1.5. Additionally the proposals seek to facilitate the delivery of new homes including affordable homes, commercial and community space at the frontage of the existing CCS in line with the aspirations set out in the Wembley Area Action Plan.

2.0 Recommendations

That the Executive:

- 2.1 Notes that Copland Community School has been approved by the Secretary of State for Education for conversion to an Academy with the ARK as a sponsor.
- 2.2 Notes that Copland Community School is proposed for rebuilding under the Priority Schools Building Programme and that the Education Funding Authority will be responsible for delivery of the new school.
- 2.3 Agrees to assist Copland Community School's Interim Executive Board with removal of the title restriction.
- 2.4 Agrees to the Council entering into a deed of indemnity with Copland Community School 's Interim EB as further explained in Section 6 of the report and the confidential appendix 1
- 2.5 Agrees to the land transfers as outlined in the report and for the Council to seek appropriate approvals from Copland Community School's Interim Executive Board, the Secretary of State and The Ark Academy as required.
- 2.6 Agrees that the Council will underwrite costs arising from the build of the new school including provision of Furniture Fittings and Equipment & ICT as well as other associated costs together with transitional liabilities of the current school as set out in the confidential appendix 1.
- 2.7 Agrees that officers work with Copland Community School's Interim Executive Board, the Ark Academy, the Education Funding Agency (in

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relation to both conversion issues and the Priority Schools Building Programme) and Secretary of State for Education and Sport England to secure appropriate agreements and consents.

- 2.8 That authority be delegated to the Operational Director of Regeneration & Growth (Policy and Projects) in consultation with the Chief Finance Officer and the Operational Director of Children & Families to agree the scope and detailed terms of the land rationalisation proposals outlined in this report.

3.0 Detail - Background

Copland Community School

- 3.1 CCS is a large secondary school in Brent. The school has faced challenges in recent years including mismanagement by the previous leadership team, low attainment, a falling student roll and repeated changes at senior leadership level. In March 2013, the school was inspected by Ofsted and placed into special measures. Following this Brent appointed the IEB (in place of the former Governing Body) who appointed an interim head teacher.
- 3.2 Brent appointed the IEB to develop a plan which would provide long term stability to the school and secure its future. The IEB believes that the best way to ensure the school continues to improve is for CCS to become an Academy in line with Department for Education and Skills (DfES) expectations. The ARK operates a network of 27 schools across London, Birmingham, Hastings and Portsmouth, and is the sponsor of the Wembley Park Academy. The Secretary of State (SoS) issued an Academy Order in October 2013 to begin the process for CCS to join the ARK network.
- 3.3 CCS will become an Ark Academy on 1 September 2014. The school would continue to be non-selective, non-denominational and co-educational. Current pupils and staff would transfer to the Academy. The IEB has consulted the school community on proposals and a consultation report was published called "consultation on the Copland Community School Academy proposal" dated January 2014. Some essential works to the fabric of the existing school will be required before the transfer takes place, as set out in confidential appendix 1.

Priority Schools Building Programme

- 3.4 Funded by the Department of Education, the PSBP programme is a centrally managed programme set up to address the needs of the schools most in need of urgent rebuilding. The first schools were planned to complete in 2014, with 5 batches containing 46 schools expected to be delivered by the end of 2017. It was recently announced that Brent had been successful in its bid for CCS, paving the way for a complete rebuild

of the school. The PSBP is run by the Education Funding Agency (EFA), who will design the school and appoint and supervise the building contractor. The EFA is aiming to open the new school by September 2016.

- 3.5 A new school building for CCS is seen as essential in the drive to improve educational standards at the school. The building is no longer fit for purpose. In addition to improving conditions for the current students the PSBP project will provide a 1 FE expansion. The expansion has been part of the scheme from the application stage and is built into the EFA funding package.
- 3.6 A new school could be provided solely within the footprint of the existing school. However, this could result in a sub-optimal solution and will entail considerable disruption to the learning environment during the two year construction period. Working with the EFA we are keen to investigate the possibility of a better solution which would include simplifying land holdings to provide fit for purpose accommodation and enhancing FFE and ICT to allow for a much improved student school experience and educational offer.
- 3.7 The aspiration to deliver a new school is complicated firstly by the existence of a time limited restriction on transfer/disposals on the legal title of the site. This restriction expired in January 2014 and can be released upon application to the Land Registry - as further explained in section 6 (Legal Implications) and the confidential appendix 1.
- 3.8 The proposals for the PSBP are further compromised by the existing land ownership structure, with the school owning a majority of the site on a freehold basis (though with the restriction as referred to above), but with a significant proportion being held on a leasehold basis, with the freehold being owned by the Council, as shown on the plan at appendix 2.

Elsley Primary School Expansion

- 3.9 The expansion of Elsley Primary School by two FE from September 2015 has been included by the Executive as part of the school expansion programme, providing much needed primary school places. In February 2014 it was reported that the school “is currently undertaking statutory consultation on permanent expansion from September 2015”. In fact this consultation is now halted pending the outcome of review of land matters. It has now been established that the proposed Elsley Primary expansion cannot be delivered without CCS land being released. This requires agreement with the IEB and the SoS for Education on a number of land transactions as set out in confidential appendix 3.

Planning Policy

- 3.10 The northern part of the CCS site is situated within the Wembley Regeneration Area, as designated within the Council's Local Development Framework Core Strategy (2010). The Wembley Area Action Plan identifies the site as part of the Wembley Link lands – with a primary function of stitching together the older traditional High Road with the new large scale mixed use developments adjoining the National Stadium.
- 3.11 Wembley is an important strategic town center, identified as a growth area in the Council's Local Development Framework Core Strategy (2010), which needs to strengthen its offer to remain competitive.
- 3.12 The Council's strategy is to create a continuous active frontage from Wembley High Road to Wembley Park Station, via the new London Designer Outlet and the Wembley Park Boulevard.
- 3.13 The northern part of the existing CCS site is an important and prominent site in the delivery of the wider regeneration strategy for Wembley.
- 3.14 In 2006 the CCS site received planning consent for the demolition of the existing school buildings and their re-provision elsewhere on the site, and the erection of a mixed-use commercial and residential scheme on the frontage (see appendix 4). This planning consent has now expired.

Brent House

- 3.15 In the context of CCS and planning policy, it is noteworthy that Brent House was marketed last year, following which the Executive approved the disposal to a preferred bidder in December 2013. This transaction is at heads of terms stage and therefore a small window exists to review the CCS proposals in the context of the Brent House plans.

Access

- 3.16 CCS has its main pedestrian entrance prominently situated fronting the High Road providing excellent public transport access via bus, tube and main line rail services. The primary vehicular access is via Cecil Avenue off the High Road with occasional secondary access directly off the High Road adjacent to the Brent House eastern boundary.
- 3.17 St Joseph's Primary School is accessed via Chatsworth Avenue and Waverley Avenue to the east of the site and via a public footpath to the east of Brent House adjacent to the recently redeveloped Elizabeth House which runs to the south and crosses the CCS site in an east – west direction.
- 3.18 To the south of the site, Elsley Primary School is accessed via Tokyngton Avenue and the former Dennis Jackson Centre and Wembley Youth & Community Centre via London Road.

3.19 There are a number of pedestrian access points that are shown on the ownership plan at appendix 2.

3.20 Should proposals proceed the opportunity will be taken to consider rationalisation of existing access points into the site.

4.0 Land Rationalisation Proposal

IEB and transfer to the ARK

4.1 CCS is a foundation school and therefore the land and buildings are mainly in the ownership of the school itself, the responsibility for which is vested in the IEB. The IEB has expressed agreement to transfer the freehold of the site which it currently owns to the Council instead, in order for the Council to rationalise the ownership and use of the site overall, ensuring an optimum footprint for the school. The ARK would under these proposals be granted a 125 year lease on the final school site.

4.2 As part of these transactions, the Council would secure enough land from the overall site to facilitate the proposed expansion of Elsley Primary School.

Title matters

4.3 Current land ownership is as detailed at appendix 2 of this report and the arrangements for removal of the restriction from the CSS title are referred to in Section 6 of this Report (Legal Implications).

4.4 The current arrangement is complex and unless there is consolidation, it leaves the optimum site for the new school in multiple-ownership. In order to simplify the proposed transactions and future ownership, officers have discussed with the IEB the transfer of the entire CCS freehold to the Council – subject to the restriction on title being resolved. Unless the restriction is removed, none of the other proposals are possible.

4.5 On completion of the freehold transfer the Council will grant the ARK an interim lease agreement to allow occupation of the existing school building until the new building is completed. Following this a 125 year lease arrangement will be granted. The transfer from the IEB needs to happen before the conversion to Academy Status, because the IEB will cease to exist on the conversion date, proposed for 1st September.

4.6 In order to expand Elsley School by two FE additional land is required for the purposes of building additional play space and land requirements will be provided as per confidential appendix 3. Brent's schools capital team in Regeneration & Growth is responsible for delivery of the school expansion.

- 4.7 In relation to existing rights of way over the site, the need to stop up, provide temporary provision, appropriate and relocate are all requirements that would be inherent in any redevelopment plan.

Redevelopment proposals

- 4.8 Under the PSBP programme it has been confirmed that CCS will be a design and build scheme.
- 4.9 The EFA runs the PSBP, and so it will be the EFA who designs the building and lets and manages the works contract, as opposed to the ARK. The intention is that the procurement process will be stream-lined and cost effective with the EFA taking the contractual and delivery risk. So rather than the local authority selecting a contractor for the construction of the new school the risk will be with the EFA.
- 4.10 The EFA expects the Council or Academy to enter into extensive back to back arrangements to deal with matters such as granting unimpeded access to the site and license to carry out works.
- 4.11 Brent has started initial dialogue with the IEB and EFA. The starting point is to ascertain the preferred location for the new school. The preference is for one decant as opposed to the development of temporary accommodation in order to build on the existing school site.
- 4.12 Having reviewed a number of options the preferred school location appears to be for the new school to be located immediately behind the existing CCS and Brent House, in a similar location to that which secured planning consent in 2006 (See appendix 5). The location and access layout both during and post construction are yet to be signed off by the IEB and ARK and an initial draft redline plan (confidential appendix 6) has been provided to the EFA to enable the feasibility study to proceed, we anticipate some dialogue on the plan before it is finalised.
- 4.13 Planners' view on this proposal is that this solution allows for direct access from the primary road network during construction and when open as a school, as well as direct access to bus stops, providing visual and signing prominence on Wembley High Road. The EFA's model layout can be accommodated provided an adequate amount of the shared areas is dedicated for the Sports Hall. This solution will require a relatively limited boundary adjustment with Brent House to facilitate direct access, this option appears not to present any significant decant issues.
- 4.14 The preferred bidder on Brent House has indicated that they would be willing to work with us in delivering the suggested boundary adjustment subject to further design detail being developed, as it has little impact on their emerging plans. This site is in close proximity to the existing school and careful management plans will need to be in place to safeguard a

decent learning and education environment during both construction of the new school and redevelopment of the frontage.

- 4.15 The Council will need to continue to work with the EFA, IEB and ARK to reach agreement on the precise and optimum location for the new school. It should be noted that from the Council's experience with Alperton School, which also has PSBP funding, that the EFA will expect the Council to pick up costs that do not relate purely to the fabric of the school, including (but not limited to) planning requirements that the building is BREEAM Excellent (as the EFA only funds to Good) and Planning conditions relating to off site highway and road junction improvements..
- 4.16 In addition the EFA have made clear their expectation that the existing CCS furniture, fittings, equipment and ICT is expected to be re-used in the new school building. The conditions of these items are generally poor and as part of commercial negotiations the IEB and the ARK have asked that the Council consider funding a replacement and renewal proposal.
- 4.17 At the appropriate stage and on completion and occupation of the new school, arrangements and costs for demolition and site clearance will need to be factored into plans relating to the existing CCS site.

Secretary of State for Education and Sport England

- 4.18 The land transaction proposals in the report are dependent on the Secretary of State for Education agreeing to disposal of education land, and specific consent surrounding disposal of school playing fields, this is an absolutely critical point referred to further in section 6 below and the confidential appendix 1.

Timetable

- 4.19 The anticipated project timetable is as follows:

1. IEB to lift title restriction immediately.
2. Secretary of state and Sport England consent to land disposals to Council May 2014.
3. EFA/PSBP planning application following 2 (May 2014).
4. Transfer of freehold to be completed before 31/8/14.
5. Agreement's with the ARK (1) standard commercial transfer agreement on Academy conversion (2) license to occupy and to grant 125 year lease on the letting of the design and build contract for the new school - 1st September 2014 or on completion of the new school

actual date to be confirmed and (3) surrender agreement (as appropriate).

6. Opening of Ark Elvin (on existing site) 1/9/14.
7. Expanded Elsley Primary School opens 1/9/15.
8. New Ark Elvin School (on new site) opening 1/9/16.

Risks

4.21 Principle risks are as detailed in title matters above, the legal section below and confidential appendix 1. Usual statutory services checks will be required to ensure proposals are deliverable as proposed. Site surveys will be needed for the purposes of supporting any planning application.

5.0 Financial Implications

5.1 It is proposed that the following principal agreements/documents will be entered into:-

1. The Council to enter into a deed of indemnity with the IEB relating to the restriction on title – see confidential appendix 1.
2. The IEB transfer to the Council the freehold interest in the CCS site at nil consideration.
3. The Council accepts a surrender of CCS's leasehold interests at nil consideration.
4. Council, IEB and the ARK enter into Commercial Transfer Agreement concerning the conversion, IEB ceases to exist.
5. The Council grants the ARK a short term lease of the existing CCS buildings at peppercorn rent.
6. The Council or the ARK will enter into required PSBP agreements – see confidential appendix 1.
7. The Council will grant the ARK a 125 year lease of the new school site at a peppercorn rent.
8. The ARK will surrender the lease to the existing school at nil consideration.
9. The Council will provide Elsley Primary School the land required for the proposed school expansion as per confidential appendix 3.

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- 5.2 The benefits of this transaction as outlined above are the delivery of a new and expanded secondary school and an expanded primary school, along with new homes (including affordable housing) retail, commercial and community floor space in line with the ambitions of the Wembley Area Action Plan. The transactions may generate a capital receipt that will help offset the costs of this proposal as outlined in confidential appendix 1, some of which will be incurred irrespective of whether the freehold transfer proceeds or not.
- 5.3 However there are significant financial risks associated with agreeing the proposals set out in this report. These include:
- The expenditure and income items in confidential appendix 1 are estimated and subject to negotiation and or/tender;
 - That significant expenditure (as set out in confidential appendix 1) may need to be committed/incurred before funding for that expenditure is secured; and
 - That the proposed freehold transfer is subject to IEB, the ARK, and SoS approval.

6.0 Legal Implications

- 6.1 The restriction that is currently registered against the CCS title effectively prevents any transfer, disposals or leases being completed in respect of this land, as without a consent from the beneficiary any such transaction could not be registered at the Land Registry.
- 6.2 Public land and school playing fields are protected by various statutory provisions. Disposals or the change of use of such land requires notification to and/or prior consent of the SoS.
- 6.3 Therefore, prior to any disposal or change of use of school land the relevant statutory process will need to be followed. The relevant statutory process that applies will depend upon who owns the said land (for example a governing body of a school, or local authority), and whether the land is playing field land, or non-playing field land. Each process for consent and/or notification has its own specific requirements and complexities.
- 6.4 Accordingly, the first stage of the transaction highlighted by this report (the transfer of the freehold from the IEB to the Council) will need to follow the necessary process for consent in relation to the playing field land (section 77 School Standards and Framework Act 1998) and notification in respect of non-playing field elements (section 22 of the School Standards and Framework Act 1998).

- 6.5 The second stage of the transaction (the grant of the leasing arrangements from the Council to the Academy Trust) will also need to follow the necessary processes (Schedule 1 to the Academies Act 2010).
- 6.6 Any further disposal or change of use of the school land by the Council would also need to comply with the necessary process (Section 77 of the School Standards and Framework Act 1998 and Schedule 1 to the Academies Act 2010).
- 6.7 The Department for Education's guidance on disposals and changes of use of school land notes that parties should have no expectation that an application for consent will be approved; each application will be considered by the Department for Education bearing in mind the site specific and local school issues. The SoS considers a number of issues in its deliberation of applications one of which is whether the land being disposed of could be used for the provision of land for an Academy/Free School in the local area. In this situation, the portion of land intended to be leased to the Academy by way of 125 Year Lease is already being proposed for such use.
- 6.8 The Council should note that as a result of these statutory restrictions on the disposal and use of school land, where consent is required from the SoS no disposal should be made or completed before the necessary consent has been obtained or notification been made.

7.0 Diversity Implications

- 7.1 The majority of pupils at CCS are from BME communities and many are from families with social disadvantage. This work will ensure a successful future for CCS and will directly contribute to promoting educational achievements and therefore equality.

8.0 Staffing/Accommodation Implications

- 8.1 All staffing matters are within the remit of the CCS/IEB and ARK and therefore not covered in this report.
- 8.2 Accommodation implications are as per the main body of this report.

9.0 Background Papers

- 9.1 The IEB and ARK "consultation on the Copland Community School Academy proposal" dated January 2014.

10.0 Appendices

Appendix 1: Commercial Matters (Confidential)

Appendix 2: Copland Community School and adjoining land ownership

Appendix 3: Elsley Expansion Plan (Confidential)

Appendix 4: 2006 Copland Community School planning consent

Appendix 5: Brent's preferred school location (Confidential)

Appendix 6: Draft red line plan (Confidential)

Appendix 7: Equality Analysis

Contact Officers

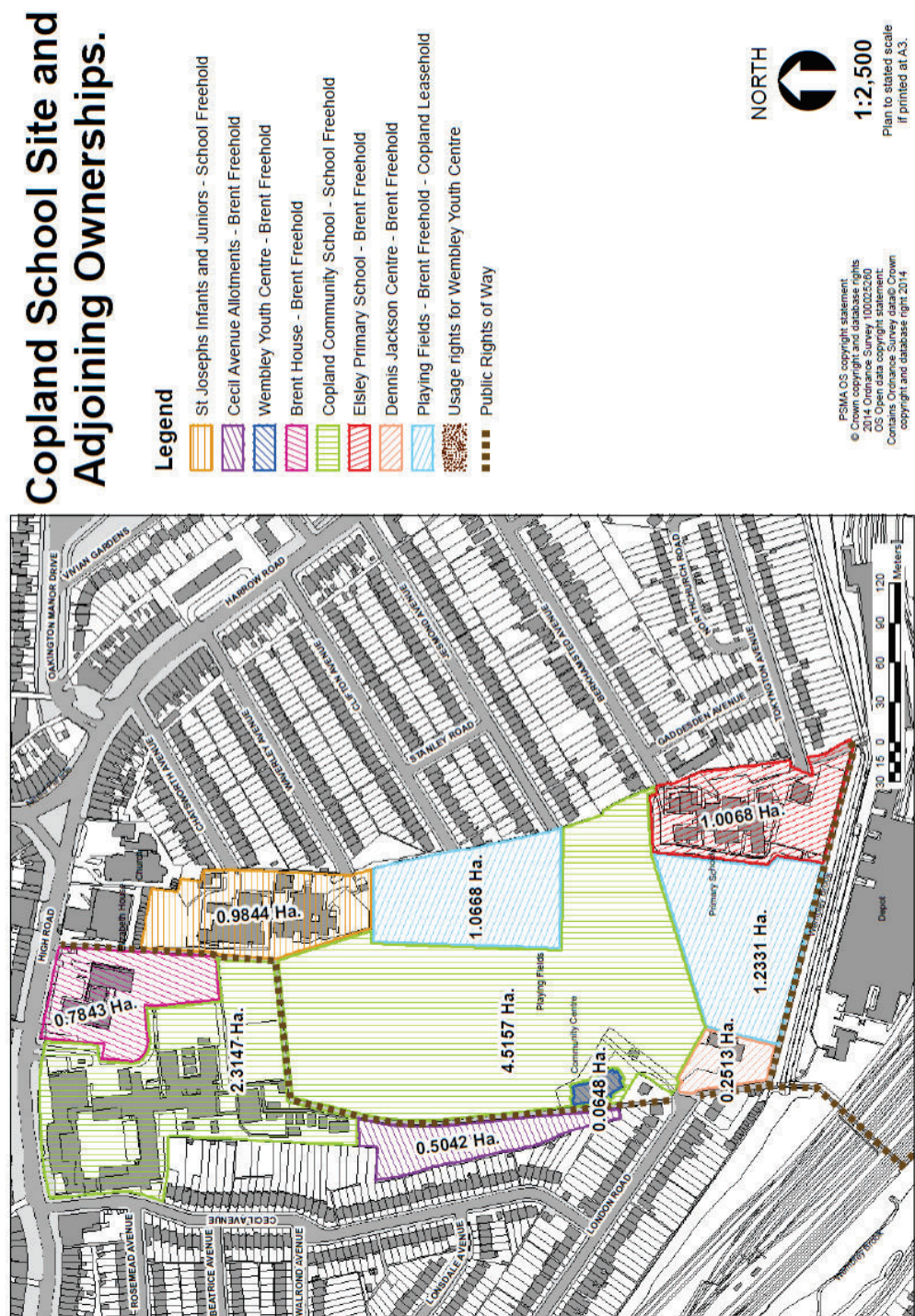
Sarah Chaudhry
Head of Strategic Property
0208 937 1705
Sarah.Chaudhry@brent.gov.uk

Richard Barrett
Operational Director of Property & Projects
0208 937 1330
Richard.barrett@brent.gov.uk

Sara Williams
Acting Director, Children and Families

Andrew Donald
Strategic Director of Regeneration and Growth

Appendix 2: Copland School and adjoining ownerships



Appendix 4: 2006 Planning Consent

BRENT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

DECISION NOTICE – APPROVAL



Application No: 02/2699

To: Montagu Evans
Premier House
44-48 Dover Street
London
W15 4AZ

I refer to your application dated 02/10/2002 proposing the following:

Full planning application for demolition of existing school buildings and erection of mixed-use commercial, residential and educational development comprising:

- (i) 28-storey and part 4-, 5-, 6-, 7-, 8-, 9-, 10-storey residential block (323 self-contained flats) with basement-level health & fitness club (Class D2), ground-floor level commercial (Class A1, A2 & A3) on High Road frontage and 270 two basement-level car-parking spaces;
- (ii) 2 no. part 5-, 7-, 8- & 9-storey residential blocks (128 self-contained units in total) of affordable housing to the rear of this block;
- (iii) 3-storey secondary school (including sports hall, swimming pool, performing arts and community hall uses);

(iv) formation of new vehicular access to Wembley High Road;

(v) construction of new, all-weather sports area;

(vi) alterations to existing footpath routes;

together with associated external works comprising landscaping, improvement of playing fields and the construction of surface parking spaces, and subject to a Deed of Agreement dated 11/04/2006 under Section 106 of the Town and Country Planning Act 1990 (as amended) and accompanied by plans or drawings under the reference(s):

RT/4978/C/1001/C, 1002/B, 1003/C, 1004/C, 1010/B, 1020/B, 1100/H, 1103/F, 1110/B, 1120/C, 1130/G, 1131/D, 2000/B, 2001/B, 2002/B, 2003/B, 2004/B, 2005/B, 2006/B, 2007/B, 2008/B, 2009/B, 2010/B, 2011/B, 2012/B, 2013/B, 2014/B, 2025/B, 2023/B, 2030/A, 2031/A, 2032/A, 2033/A, 2034/A, 2035/A, 2080/E, 2081/C, 2082/C, 2083/C, 2090/A, 2091/A, 2092/A, 2100/C, 2101/B, 2102/B, 2103/C, 2110/D, 2111, 2120/D, 2121/D, 2220/D, 2221/D and PCL/341A/09

at ALL BUILDINGS & PLAYING FIELDS, COPLAND COMMUNITY SCHOOL, High Road, Wembley, HA9

The Council of the London Borough of Brent, the Local Planning Authority, hereby GRANT permission subject to the conditions set out on the attached Schedule B.

Date: 11/04/2006

Signature:

Director of Planning

Notes

DocFolDr Decision
DocDes: Brent's Decision Notice

DocFDN
Ref: 02/2699 Page 1 of 8

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of the Local Government Act 1972.

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of the Local Government Act 1972.

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of the Local Government Act 1972.

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2012

Equality Analysis

Guidance and Form



Brent Council Equality Analysis Form

Please contact the Corporate Diversity team before completing this form. The form is to be used for both predictive Equality Analysis and any reviews of existing policies and practices that may be carried out.

Once you have completed this form, please forward to the Corporate Diversity Team for auditing. Make sure you allow sufficient time for this.

1. Roles and Responsibilities: please refer to stage 1 of the guidance	
Directorate: Regeneration & Growth Service Area: Property & Projects	Person Responsible: Name: Sarah Chaudhry Title: Head of Strategic Property Contact No: 0208 937 1705 Signed: Sarah
Name of policy: Copland Community School & Adjacent Lands - Proposed land rationalisation and Update on Academy Conversion and Priority Schools Building Programme	Date analysis started: 28/3/14 Completion date: 28/3/14 Review date: 28/3/14
Is the policy: This is not a policy it is a proposal. New Old	Auditing Details: Name: Sarah Chaudhry Title: Head of Strategic Property Date: 28/3/14 Contact No: 0208 937 1705 Signed: Sarah
Signing Off Manager: responsible for review and monitoring Name: Richard Barratt Title: Operational Director Property & Projects Date: 28/3/14 Contact No: 0208 937 1330 Signed: Richard	Decision Maker: Name individual /group/meeting/ committee: Executive Committee Date: 22/4/14

2. Brief description of the policy. Describe the aim and purpose of the policy, what needs or duties is it designed to meet? How does it differ from any existing policy or practice in this area?

The aim of this report is to set out proposals relating to Copland Community School (CCS) and adjacent land, the proposals make recommendations that aim to deliver land rationalisation.

The report is not asking the Executive to make a decision about the proposal for CCS to convert to an academy, or the proposal for the school to be rebuilt with an additional form of entry once it has academy status, as these decisions have been or will be taken by third parties. While Elsley has been mentioned in the report, the expansion is reported to the Executive as part of a separate programme.

These proposals before the Executive will not have any differential impact, our aim is to enable CCS to continue as current in the short term.

In the longer term we anticipate that proposals would have a positive indirect impact on everyone regardless of their equality characteristics and would be of particular indirect benefit in improving educational standards for pupils from disadvantaged groups by facilitating the construction of new and better configured school buildings at both CCS and Elsley Primary School.

As a local authority, we are not the decision maker in this instance and all decisions about the new building will be made by the governing body of CCS currently the Interim Executive Board (IEB), ARK Academy (ARK) or the Education Funding Authority (EFA).

The IEB and ARK have undertaken public consultation on proposals and a report called "consultation on the Copland Community School Academy proposal" dated January 2014 is available on the internet. Outcome of this consultation demonstrated both strong support and strong opposition to the academy conversion. The question in the consultation was a simply one that asked "Do you think Copland should become an academy?".

The transfer of landownership in itself should not have any differential impact on equality.

We acknowledge that building works when they commence will have an impact on the local community. At the appropriate stage, as plans become further developed we would expect the ARK/EFA to undertake further public consultation specific to the building proposals, expecting that any concerns raised will be responded to through putting in place where possible measures that aim to lessen the impact of works on the interim school and local community.

We expect that there will be a separate equality analysis and consultation on the expansion of the Elsley primary school.

3. Describe how the policy will impact on all of the protected groups:

The majority of pupils in the school are from BME communities. The 13-14 March 2013 Ofsted inspection report noted that “very few students are from White British Backgrounds; the largest groups are of African and Caribbean heritage. Around three quarters of all students are believed to speak English as an additional language”, Ofsted (2013).

The aim of the work is to improve educational standards. The 2013 Ofsted report states that the “existing building remains in very poor condition. This was reported in the 2006, 2009 and 2010 inspection reports. Some classrooms provide a completely unacceptable environment in which to teach and learn”.

To improve conditions at Copland, the EFA will be funding a new school under the Priority Schools Building Programme (PSBP). Under this programme, new buildings are built in accordance with the EFA’s PSBP “facilities output specification: generic brief” dated June 2013 (Authority Draft), this sets out in quite a bit of detail the expectations of a new building.

The key principles of the facilities brief are:

- Functionality;
- Health and safety;
- A standardised approach;
- Future proofing and minimum life expectancy; and
- Sustainable design and construction.

With the following key educational drivers:

- Educational background and context;
- Curriculum and organisation;
- Teaching and pedagogy;
- Behavioural and pastoral care;
- SEN and disability; and
- Health and well being.

The school, through a well designed and carefully specified building will provide for a good quality new learning environment that would provide for compliance with statutory requirements and the Disability Discrimination Act (DDA) that requires that buildings are fully accessible.

The new school building would provide for a big improvement on the current situation and would positively impact of the protected groups.

Please give details of the evidence you have used:

Under previous schools capital investment programmes such as Building Schools for the Future (BSF) significant investment was undertaken in schools.

The then Rt Hon Charles Clarke MP, Secretary of State for Education and Skills along with the then David Miliband MP, Minister of State and School Standards in support of the BSF programme are quoted as saying “Education is the

Government's top priority. We have an ambitious reform programme to raise educational standards. And we believe that school buildings have a crucial role to play" – 2005/6.

More recently in a report called the "Review of Education Capital" by Sebastian James in April 2011, the report tells us at 2.6 that "no one doubts that children deserve to learn in safe and pleasant environment – and that significant parts of the schools estate were and are in an unacceptable state – there is very little evidence that a school building that goes being fit-for-purpose has the potential to drive educational transformation".

While there is a shift in thinking behind the PSBP moving to a more moderate approach focusing on fitness looking to deliver more for less with Michael Gove in 2012 saying "I have been determined to use the capital funding at my disposal to best effect seeking value for money and efficiency from every pound spent" while referencing the Sebastian James Review. In what were still difficult economic times in the UK a commitment to keep funding and investing in schools capital programmes reflects that without doubt that investment in schools is critical.

Indeed our own experience is that where we have provided new or improved facilities it has provided for a better user experience and has a proven impact on educational standards positively impacting protected groups.

4. Describe how the policy will impact on the Council's duty to have due regard to the need to:

(a) Eliminate discrimination (including indirect discrimination), harassment and victimisation;

A report commissioned by the Design Council, called the "Impact of School Environments: A literature review" in 2005. With the objective of challenging those involved in leadership, design, planning, resourcing and management of Britain's school to provide innovative and effective learning environments.

The study aimed to address the following question: "what impact do (physical) school learning environments have on student behaviour".

As discrimination harassment and victimisation are linked with difficult behaviour the findings apply.

Informing that "there appears to be a strong link between effective engagement with staff, students and other users of school buildings and the success of environmental change in having an impact on behaviour, well being and attainment.

The findings also note that "while there can be a dynamic relationship between environment and behaviour it is not automatic". Further noting that "other physical characteristics affect student perceptions and behaviour but it is difficult to draw

definite general conclusions”.

Therefore the proposals in the report are likely to positively impact the elimination of discrimination, harassment and victimisation.

(b) Advance equality of opportunity;

The majority of pupils in the school are from BME communities. The aim of the work is to improve educational standards. The school, through having a new building, would also be fully accessible to young people with disabilities.

Therefore the proposals are likely to positively impact equality of opportunity.

(c) Foster good relations

A new school, a better learning environment, improved educational standards and better behaviour will all contribute towards creating better relationships within the school community, the wider community in which the school is based, assisting with general regeneration in the local area all of which will contribute longer term in creating a more cohesive and sustainable community.

Therefore the proposals are likely to positively impact fostering good relations.

5. What engagement activity did you carry out as part of your assessment?

N/A – although the consultation undertaken by the IEB and ARK has already been mentioned above.

i. **Who did you engage with?**

ii. **What methods did you use?**

iii. **What did you find out?**

iv. **How have you used the information gathered?**

v. **How has it affected your policy?**

6. Have you have identified a negative impact on any protected group, or identified any unmet needs/requirements that affect specific protected groups? If so, explain what actions you have undertaken, including consideration of any alternative proposals, to lessen or mitigate against this impact.

No – although as mentioned above during construction phase there will be impacts on the interim school and local area the impact of which will be mitigated through consultation at the appropriate time.

Please give details of the evidence you have used:

Experience of delivering construction projects, school, residential, etc. the impacts are likely to be similar.

7. Analysis summary

Please tick boxes to summarise the findings of your analysis.

Protected Group	Positive impact	Adverse impact	Neutral
Age	X		
Disability	X		
Gender re-assignment			X
Marriage and civil partnership			X
Pregnancy and maternity			X
Race	X		
Religion or belief			X
Sex			X
Sexual orientation			X

8. The Findings of your Analysis

Please complete whichever of the following sections is appropriate (one only).
Please refer to stage 4 of the guidance.

No major change

Your analysis demonstrates that:

- *The policy is lawful*
- *The evidence shows no potential for direct or indirect discrimination*
- *You have taken all appropriate opportunities to advance equality and foster good relations between groups.*

Please document below the reasons for your conclusion and the information that you used to make this decision.

N/A

Adjust the policy

This may involve making changes to the policy to remove barriers or to better advance equality. It can mean introducing measures to mitigate the potential adverse effect on a particular protected group(s).

Remember that it is lawful under the Equality Act to treat people differently in some circumstances, where there is a need for it. It is both lawful and a requirement of the public sector equality duty to consider if there is a need to treat disabled people differently, including more favourable treatment where necessary.

If you have identified mitigating measures that would remove a negative impact, please detail those measures below.

Please document below the reasons for your conclusion, the information that you used to make this decision and how you plan to adjust the policy.

N/A

Continue the policy

This means adopting your proposals, despite any adverse effect or missed opportunities to advance equality, provided you have satisfied yourself that it does not amount to unlawfully discrimination, either direct or indirect discrimination.

In cases where you believe discrimination is not unlawful because it is objectively justified, it is particularly important that you record what the objective justification is for continuing the policy, and how you reached this decision.

Explain the countervailing factors that outweigh any adverse effects on equality as set out above:

Please document below the reasons for your conclusion and the information that you used to make this decision:

Yes - based on the evidence in this analysis, the Copland Ofsted report, the EFA facilities specification and findings of the Design Council study our proposals are likely to have a positive overall impact on promoting equality of opportunity.

Stop and remove the policy

If there are adverse effects that are not justified and cannot be mitigated, and if the policy is not justified by countervailing factors, you should consider stopping the policy altogether. If a policy shows unlawful discrimination it must be removed or changed.

Please document below the reasons for your conclusion and the information that you used to make this decision.

N/A

9. Monitoring and review

Please provide details of how you intend to monitor the policy in the future.
Please refer to stage 7 of the guidance.

In the short term we will work with the IEB, ARK and EFA to deliver proposals in the report. In the longer term we will monitor through review of future Ofsted reports.

10. Action plan and outcomes

At Brent, we want to make sure that our equality monitoring and analysis results in positive outcomes for our colleagues and customers.

Use the table below to record any actions we plan to take to address inequality, barriers or opportunities identified in this analysis.

Action	By when	Lead officer	Desired outcome	Date completed	Actual outcome

Please forward to the Corporate Diversity Team for auditing.

Introduction

The aim of this guidance is to support the Equality Analysis (EA) process and to ensure that Brent Council meets its legal obligations under the Equality Act 2010. Before undertaking the analysis there are three key things to remember:

- It is very important to keep detailed records of every aspect of the process. In particular you must be able to show a clear link between all of your decisions and recommendations and the evidence you have gathered.
- There are other people in the council and in your own department who have done this before and can offer help and support.
- The Diversity and Consultation teams are there to advise you.

The Equality Act 2010

As a Public Authority, Brent Council is required to comply with the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. These duties require Brent Council to have 'due regard' to the need to

- Eliminate discrimination, be it direct or indirect discrimination
- Advance equality of opportunity between persons who share a relevant protected characteristic and others who do not share it; and
- Foster good relations between people who share a protected characteristic and those who do not share it

The equality duty covers:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity

- Marriage and civil partnership (direct discrimination only)
- Race
- Religion or belief
- Sex (formally known as gender)
- Sexual orientation

What is equality analysis?

Equality Analysis is core to policy development and decision making and is an essential tool in providing good services. Its purpose is to allow the decision maker to answer two main questions.

- Could the policy have a negative impact on one or more protected groups and therefore create or increase existing inequalities?
- Could the policy have a positive impact on one or more protected groups by reducing or eliminating existing or anticipated inequalities?

What should be analysed?

Due consideration of the need for an Equality Analysis should be addressed in relation to all policies, practices, projects, activities and decisions, existing and new. There will be some which have no equalities considerations, but many will. Where an EA is undertaken, some policies are considered a higher risk than others and will require more time and resources because of their significance. This would include:

- Policies affecting a vulnerable group such as young people, the elderly and people with a disability
- Policies related to elective services such as Sports Centres or Libraries
- High profile services
- Policies involving the withdrawal of services
- Policies involving significant reductions in funding or services
- Policies that affect large groups of people
- Policies that relate to politically sensitive issues

It can sometimes be difficult to identify which policies are more sensitive. If you are in doubt seek advice from a more senior officer or the Diversity Team.

When should equality analysis be done?

The EA must be completed before the policy is sent to the decision maker but should be carried out at the earliest possible stage. The advantage of starting early is that the equalities data informs and shapes the policy as it develops and progresses and this allows more time to address issues of inequality. You should also bear in mind that several changes may be happening at the same time. This would mean ensuring that there is sufficient relevant information to understand the cumulative effect of all of these decisions.

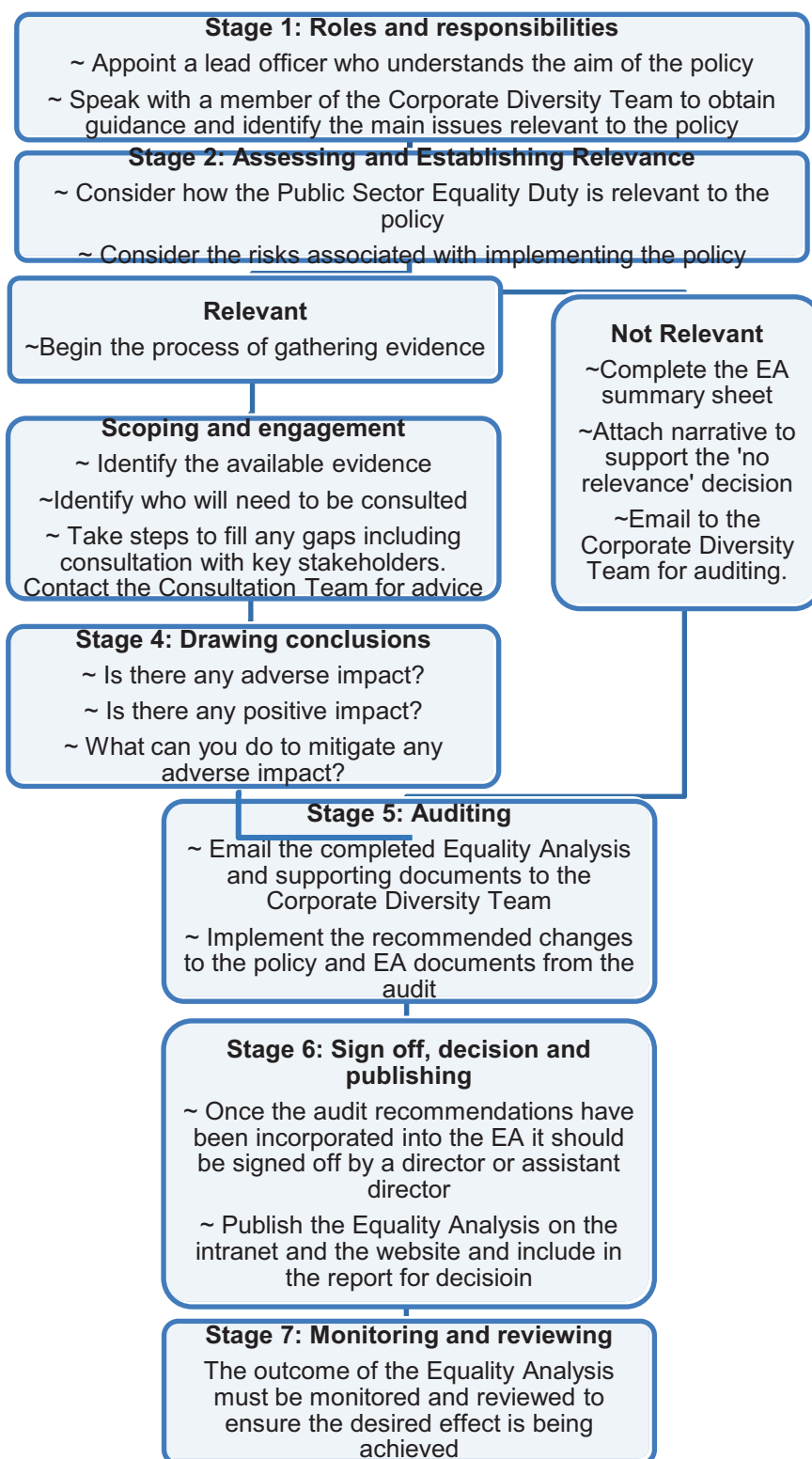
Positive action

Not all policies can be expected to benefit all groups equally, particularly if they are targeted at addressing particular problems affecting one protected group. (An

example would be a policy to improve the access of learning disabled women to cancer screening services.) Policies like this, that are specifically designed to advance equality, will, however, also need to be analysed for their effect on equality across all the protected groups.

Brent Council's Equality Analysis Process

This flow chart sets out the process for carrying out an EA. Details on each stage of the process follow. Please note that it may be necessary to consult the Corporate Diversity team at each stage and that Legal may also need to be involved. This should be factored in to the time scale.



Stage 1: Roles and Responsibilities

The first stage in the process is to allocate the following roles.

Role	Responsibilities and tasks
Decision maker - the person or group making the policy decision (e.g. CMT/Executive/Chief Officer).	<ul style="list-style-type: none"> • Check that the analysis has been carried out thoroughly: • Read and be familiar with the EA and any issues arising from it and know, understand and apply the PSED. (The evidence on which recommendations are based must be available to this person.) • Take account of any countervailing factors e.g. budgetary and practical constraints
The officer undertaking the EA	<ul style="list-style-type: none"> • Contact the Corporate Diversity and Consultation teams for support and advice • Develop an action plan for the analysis • Carry out research, consultation and engagement if required • Develop recommendations based on the analysis • Submit the EA form to the Diversity team for audit with the evidence and any other relevant documents including the report the EA will be attached to • Incorporate the recommendations of the audit • Include the Equalities Analysis in papers for decision-makers
The Corporate Diversity Team. Usually an individual officer will be assigned at the start of the process	<ul style="list-style-type: none"> • Provide support and advice to the responsible officer • Carry out the audit of the EA to monitor quality standards and ensure it is sufficiently rigorous to meet the general and public sector duties. • Return the analysis to the responsible officer for further work if it fails to meet the necessary standard • Consult Legal if necessary (this stage of the process will take at least 5 days)
The council officer responsible for signing off the EA. Usually a senior manager within the relevant directorate	<p>Ensure:</p> <ul style="list-style-type: none"> • That the EA form is completed • That any issues raised as part of the auditing process have been fully dealt with • That the EA, the evidence used and any issues arising from the analysis are brought to the attention of the decision maker • Ensure that the findings are used to inform service planning and wider policy development.

Stage 2: Assessing and Establishing Relevance

We need to ensure that all of our policies and key decisions, both current and proposed, have given appropriate consideration to equality. Consideration of the need for an EA needs to be given to all new policies, all revised policies, all key decisions and changes to service delivery need an EA. Those that are more relevant will require more resources and data.

The following questions can help you to determine the degree of relevance, but this is not an exhaustive list:

Key Questions:

- Does the policy have a significant effect in terms of equality on service users, employees or the wider community? Remember that relevance of a policy will depend not only on the number of those affected but also by the significance of the effect on them.
- Is it a major policy, significantly affecting how functions are delivered in terms of equality?
- Will it have a significant effect on how other organisations operate in terms of equality?
- Does the policy relate to functions that previous engagement has identified as being important to particular protected groups?
- Does or could the policy affect different protected groups differently?
- Does it relate to an area with known inequalities (for example, access to public transport for disabled people, racist/homophobic bullying in schools)?
- Does it relate to an area where equality objectives have been set by Brent Council?

If the answer to any of the above is “yes”, you will need to carry out an Equalities Analysis.

“Not relevant”

If you decide that a policy does not impact on any of the equality needs contained in the public sector equality duty, you will need to:

- Document your decision, including the reasons and the information that you used to reach this conclusion. **A simple statement of no relevance to equality without any supporting information is not sufficient, nor is a statement that no information is available.** This could leave you vulnerable to legal challenge so obtaining early advice from the Corporate Diversity team would be helpful.
- Complete the EA Form and send it to the Corporate Diversity Team for auditing. If the Corporate Diversity Team advises that policy is relevant then you will need to continue the EA process (See flowchart). If the Corporate Diversity Team advises that the policy is not relevant then you will need to have it signed off, publish it and put in place monitoring arrangements for the policy.

Stage 3: Scoping

Scoping establishes the focus for the EA and involves carrying out the following steps:

- Identify how the aims of the policy relate to equality and which aspects have particular importance to equality.
- Identify which protected groups and which parts of the general equality duty the policy will, or is likely to, affect.
- Identify what evidence is available for the analysis, what the information gaps are, and establish which stakeholders can usefully be engaged to support the analysis.

Think about:

- The purpose of the policy, and any changes from any existing policy
- The reason for the policy
- The context
- The beneficiaries
- The intended results

At this early stage you should start to think about potential effects on protected groups. This could mean that you decide to change your overall policy aims or particular aspects of the policy in order to take better account of equality considerations. It is often easier to do this at an earlier stage rather than having to reconsider later on in the process.

Sources of information

It is important to have as much up-to-date and reliable information as possible about the different groups likely to be affected by the existing or proposed policy. The information needed will depend on the nature of the existing or proposed policy, but it will probably include many of the items listed below:

- The Brent Borough profile for demographic data and other statistics
- Census findings; the 2011 census data will be available during 2012
- Equality monitoring data for staff and/or service users
- Reports and recommendations from inspections or audits conducted on service areas
- Previous reports that have been produced either on a similar topic or relating to the same service user group
- Responses to public enquiries on similar topics e.g. Freedom of Information requests
- Comparisons with similar policies in other departments or authorities to help you identify relevant equality issues.
- Analysis of enquiries or complaints from the public to help you understand the needs or experiences of different groups.
- Recent research from a range of national, regional and local sources to help you identify relevant equality issues.
- Results of engagement activities or surveys to help you understand the needs or experiences of different groups.

- Local press and other media. This will tell you whether there is public concern about possible equalities implications and help you to highlight issues for engagement

Many of these sources will be consulted as a matter of course when reviewing or developing a policy. Equalities considerations are one part of the policy process, not an extra.

Service user information

The type of information you need will depend on the nature of the policy. However, information relating to service users is usually essential. Consider:

- The full range of information that you already have about the user group e.g. information contained within service reviews, audit reports, performance reviews, consultation reports
- Who actually uses the service?
- When do they use it?
- How do they use it and what are their experiences?
- Are there alternative sources of provision that could be accessed?
- Who will be using the service in the future?
- Information from groups or agencies who deliver similar services to your target group e.g. survey results from voluntary and community organisations.

Identify your information gaps

If you do not have equality information relating to a particular policy or about some protected groups, you will need to take steps to fill in your information gaps. This could mean doing further research, undertaking a short study, conducting a one off survey or consultation exercise, holding a focus group etc.

Engagement

The Consultation team are available to advise on all aspects of engagement. You may wish to carry out engagement, which can help you to:

- Gather the views, experiences and ideas of those who are, or will be, affected by your decisions.
- Base your policy on evidence rather than on assumptions
- Check out your ideas
- Find solutions to problems and develop ways to overcome barriers faced by particular groups.
- Design more appropriate services,
- Monitor and evaluate the success of your policies and understand where improvements may be necessary.
- Avoid the costs of remedying and adapting services after their implementation
- Pre-empt complaints, which can be costly and time-consuming.

But remember you don't always have to consult or embark upon engagement if you already have enough information to assess the likely impact of the policy change on the equality needs, and if there is no other legal duty to consult. This engagement

can form part of the broader consultation being carried out around service changes. You can also use recent engagement and research activities as a starting point, for example on a related policy or strategy and you can use documentation resulting from other equality analysis that Brent Council (or others) have undertaken.

For your engagement to be effective you will need to:

- Think carefully about who you should engage with. You will need to prioritise those who are most likely to be affected by the policy and those who will experience the greatest impact in terms of equality and good relations.
- In regard to people with a disability, as good practice it is recommended that they should be actively involved in engagement activity which directly affects them or the services that they receive.
- Make sure that the level of engagement is appropriate to the significance of the policy and its impact on equality
- Consider what questions you will need to ask, in order to understand the effect of the policy on equality. If you find it difficult to frame suitable questions you may take advice from the Corporate Diversity and Consultation teams
- Link into existing forums or community groups or to speak with representatives to help you reach less visible groups or those you have not engaged with before.
- Create opportunities for people to participate in supportive and safe environments where they feel their privacy will be protected, or via technology such as the internet
- Think of strategies that address barriers to engagement. Other people in the council have experience of this and can advise, as can the Corporate Diversity team and the Consultation team.

Stage 4: Drawing conclusions

You will need to review all of the information you have gathered in order to make a judgement about what the likely effect of the policy will be on equality, and whether you need to make any changes to the policy.

You may find it useful to ask yourself “What does the evidence (data, consultation outcomes etc.) tell me about the following questions”:

- Could the policy outcomes differ between protected groups? If so, is that consistent with the policy aims?
- Is there different take-up of services by different groups?
- Could the policy affect different groups disproportionately?
- Does the policy miss opportunities to advance equality and foster good relations, including, for example, participation in public life?
- Could the policy disadvantage people from a particular group?
- Could any part of the policy discriminate unlawfully?
- Are there other policies that need to change to support the effectiveness of the policy under consideration?

If the answer to any of the above is "yes", you should consider what you can do to mitigate any harmful effects. Advice from the Diversity team will be particularly helpful at this stage.

You will also want to identify positive aspects of the policy by asking yourself:

- Does the policy deliver practical benefits for protected groups?
- Does the policy enable positive action to take place?
- Does the policy help to foster good relations between groups

Having considered the potential or actual effect of your policy on equality, you should be in a position to make an informed judgement about what should be done with your policy.

There are four main steps that you can take:

- **No major change**
- **Adjust the policy**
- **Continue the policy**
- **Stop and remove the policy**

(please see EA form for detailed descriptions of each decision)

Decisions may involve careful balancing between different interests, based on your evidence and engagement. For example, if the analysis suggests the needs of two groups are in conflict, you will need to find an appropriate balance for these groups and for the policy in question. The key point is to make sure the conclusions you reach can be explained and justified. Speak to the Diversity team if you are unsure. As a result of your analysis you may need to develop new equality objectives and targets. These should be documented on the EA form.

Stage 5: Auditing

Once you have completed the EA you will need to complete the EA Form and send it to the Corporate Diversity Team for auditing. It is important to ensure that the EA Form is completed as fully as possible. Documenting all of your analysis is important to ensure that you can show how the general and specific duties are being met. This aspect of the analysis has been subject to legal challenge so you need to be able to show how you reached your conclusions. The audit process involves the Corporate Diversity Team reviewing the completed form, the information and evidence. Sometimes this may require advice from Legal. You need to bear in mind that this will take at least five days. The team will send you back a feedback form with comments and recommendations which you will need to action prior to the sign off of the form.

Stage 6: Sign Off, Decision and Publishing

Once the EA Form is completed, the document must be signed off and the completed document must be sent to the Corporate Diversity Team to be published on the council website.

Decision-making

In order to have due regard to the aims of the public sector equality duty, decision-making must be based on a clear understanding of the effects on equality. This means that Directors, CMT and others who ultimately decide on the policy are fully aware of the findings of the EA and have due regard to them in making decisions. They are also entitled to take into account countervailing factors such as budgetary and practical constraints.

Stage 7: Monitoring and Reviewing

Your EA, and any engagement associated with it, will have helped you to anticipate and address the policy's likely effects on different groups. However, the actual effect of the policy will only be known once it has been introduced. You may find that you need to revise the policy if, for instance:

- Negative effects do occur
- Area demographics change, leading to different needs,
- Alternative provision becomes available
- New options to reduce an adverse effect become apparent

You will need to identify a date when the policy will be reviewed to check whether or not it is having its intended effects. This does not mean repeating the EA, but using the experience gained through implementation to check the findings and to make any necessary adjustments. Consider:

- How you will measure the effects of the policy?
- When the policy will be reviewed (usually after a year) and what could trigger an early revision (see above)?
- Who will be responsible for monitoring and review?
- What type of information is needed for monitoring and how often it will be analysed?
- How to engage stakeholders in implementation, monitoring and review?

Section 3: Glossary

Civil partnership: Legal recognition of a same-sex couple's relationship. Civil partners must be treated the same as married couples on a range of legal matters.

Direct discrimination: This refers to less favourable treatment of one individual, if, because of that person's protected characteristic, that person is treated less favourably than another. Direct discrimination cannot be justified unless it is discrimination on the grounds of age.

Disability: A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

Equality information: The information that you have (or that you will collect) about people with protected characteristics that will help you to show compliance with the equality duty. This may include the findings of engagement with protected groups and others and evidence about the effect of your policies on protected groups. It includes both qualitative and quantitative information, as well as evidence of analysis you have undertaken.

Gender reassignment: This is the process of transitioning from one sex to another. See also trans, transgender, transsexual.

Harassment: Unwanted conduct related to a protected characteristic that has the purpose or effect of violating a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. It may also involve unwanted conduct of a sexual nature or be related to gender reassignment or sex.

Indirect discrimination: This is when a neutral provision, criterion or practice is applied to everyone, but which is applied in a way that creates disproportionate disadvantage for persons with a protected characteristic as compared to those who do not share that characteristic, and cannot be shown as being a proportionate means of achieving a legitimate aim.

Mitigation: This is when measures are put in place that lessen the negative effects of a policy or policies on protected groups.

Objective justification: Your provision may indirectly discriminate against a particular group if:

- It is a proportionate means to achieve a legitimate end
- The discrimination is significantly outweighed by the benefits
- There is no reasonable alternative to achieve the legitimate end

For example, some employers have policies that link pay and benefits to an employee's length of service, such as additional holiday entitlement for long-serving employees. This may indirectly discriminate against younger people who are less likely to have been employed for that length of time, but in most circumstances it is seen as being a proportionate way of encouraging staff loyalty.

Direct discrimination on the grounds of age can also be objectively justified (no other direct discrimination can be).

Positive action: Lawful actions that seeks to overcome or minimise disadvantages that people who share a protected characteristic have experienced, or to meet their different needs (for example, providing mentoring to encourage staff from under-represented groups to apply for promotion).

Pregnancy and Maternity: Pregnancy is the condition of being pregnant. Maternity is the period after giving birth and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, including as a result of breastfeeding.

Proportionality: The weight given to equality should be proportionate to its relevance to a particular function. This may mean giving greater consideration and resources to functions or policies that have the most effect on the public or on employees.

Race: This refers to a group of people defined by their colour, nationality (including citizenship), ethnic or national origins.

Reasonable adjustment: Public authorities making adjustments to the way in which they carry out their functions so that disabled people are not disadvantaged by the way in which those functions are carried out. This is with regard to policies, practices or procedures, premises, and the provision of auxiliary aids or services.

Relevance: How far a function or policy affects people, as members of the public, and as employees of the authority. Some functions may be more relevant to some protected groups than to others, and to one or more of the three elements of the general equality duty. The function or policy may still be relevant if the numbers affected by it are very small.

Religion or belief: Religion means any religion, including a reference to a lack of religion. Belief includes religious and philosophical beliefs including lack of belief (for example, Atheism). Generally, a belief should affect your life choices or the way you live for it to be included.

Sexual orientation: This is whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

Trans: The terms 'trans people' and 'transgender people' are both often used as umbrella terms for people whose gender identity and/or gender expression differs from their birth sex, including transsexual people (those who propose to undergo, are undergoing or have undergone a process of gender reassignment to live permanently in their acquired gender), transvestite/cross-dressing people (those who wear clothing traditionally associated with the other gender either occasionally or more regularly), androgyne/polygender people (those who have non-binary gender identities and do not identify as male or female), and others who define as gender variant.

Transgender: An umbrella term for people whose gender identity and/or gender expression differs from their birth sex. They may or may not seek to undergo gender reassignment hormonal treatment/surgery. Often used interchangeably with trans.

Transsexual: A person who intends to undergo, is undergoing or has undergone gender reassignment (which may or may not involve hormone therapy or surgery). Transsexual people feel the deep conviction to present themselves in the appearance of the opposite sex. They may change their name and identity to live in the preferred gender. Some take hormones and have cosmetic treatments to alter their appearance and physical characteristics. Some undergo surgery to change their bodies to approximate more closely to their preferred gender. Transsexual people have the protected characteristic of gender reassignment under the Equality Act 2010. Under the Act, gender reassignment is a personal process rather than a medical one and it does not require someone to undergo medical treatment in order to be protected.

Victimisation: Subjecting a person to a detriment because they have made a complaint of discrimination, or are thought to have done so; or because they have supported someone else who has made a complaint of discrimination. Victimisation is unlawful under the Equality Act 2010.

A Summary of the Equality Act 2010

The Equality Act 2010 replaces the existing anti-discrimination laws with a single Act. The legislation covers:

- Employment and work
- Goods and services
- The exercise of public functions
- Premises
- Associations
- Transport
- Education

The act prohibits:

- Direct discrimination
- Indirect discrimination
- Discrimination by association
- Discrimination by perception
- Discrimination arising from disability
- Victimisation
- Harassment

The new legislation no longer refers to 'diversity strands' instead it introduces the concept of 'protected characteristics or groups, the protected characteristics are:

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

The Public Sector Equality Duty

The public sector equality duty requires that the council must, in the exercise of its functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

These are generally referred to as the three arms of the duty. In relation to 'fostering' there is a duty to have due regard to the need to tackle prejudice and promote understanding.

Equality of opportunity is expanded by placing a duty on the Council to have due regard to the need to:

- Remove or minimize disadvantages connected to a characteristic of a protected group.
- Take steps to meet the needs of protected groups.
- Encourage participation of protected groups in public life where participation is proportionately low.

There is also a specific requirement that councils must take steps to take account of a person's disability and there is a duty to make reasonable adjustments to remove barriers for disabled people. The duty is 'anticipatory'. For example, Brent Council cannot wait until a disabled person wants to use its services, but must think in advance (and on an ongoing basis) about what people with a range of impairments might reasonably need.

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 Brent	<p>Executive 22 April 2014</p> <p>Report from the Strategic Director Regeneration and Growth</p>
<p>Ward Affected: Stonebridge</p>	
<p>Disposal of land at Drury Way, Neasden, NW10 0TZ</p>	

Not for publication ('below the line')

Appendix B of this report is not for publication.

1.0 SUMMARY

- 1.1 This report sets out proposals for the disposal of the freehold of land within the Council's ownership at Drury Way, Neasden, NW10 0TZ.

2.0 RECOMMENDATIONS

That the Executive:

- 2.1 Approve the disposal the freehold interest in the land at Drury Way, Neasden, as marked on the attached plan, on a subject to survey basis to the Wallace School of Transport Ltd for a capital receipt upon the grant of planning consent.
- 2.2 That, as a reserve, subject to satisfactory resolution of matters highlighted in the confidential appendix B, in the event that the above offer does not proceed satisfactorily that the alternative two offers as set out in the confidential appendix B paragraph 15 also be approved.
- 2.3 Grant delegated authority to the Operational Director Property and Projects to agree the terms of the transaction in consultation with the Chief Finance Officer.

3.0 DETAIL

- 3.1 The Council is currently the freehold owner of land at Drury Way, Neasden, labelled A outlined in black on the attached plan appendix A. The site is currently used for open parking and storage, but will become surplus to the Council's requirements over the next 12 months.
- 3.2 The site was originally acquired by the Council from British Rail in 1972, as part of a larger 6.4 hectare parcel secured for the development of the St Raphael's housing estate. The site has an area of 4,274 sq. m. and is firmly located within an area designated as industrial land in the Local Development Framework.
- 3.3 The Council's site is bounded to the west and north by surfaced parking for lorries and waste refuse vehicles, Vernon House school to the south and Drury Way road to the east.
- 3.4 The site to the north, marked B on the plan, is owned by 2 private individuals and is leased for 20 years to Veolia at a rent of £260,000 pa from 2007. The site provides 4,469 sq. m. of hard-standing and 450 sq. m. of offices and workshop. Veolia are seeking to sub-let or assign their leasehold interest.
- 3.5 The site to the west, marked C on the plan, is owned by Team Relocations who operate their UK headquarters from this site. Team provide international removal operations for the corporate sector operating on a worldwide basis with a second main headquarters site in Rotterdam. They operate a state of the art warehouse of 11,500 sq. m. and offices of 1,140 sq. m. along with lorry parking on their site. Team Relocations also own Pickford Move Management who also use the site.
- 3.6 The Council's site is accessed from Drury Way – an extremely busy road which is the primary access route to the Wembley Industrial Areas to the west. There is an established full right of vehicular access across the Council's land to the Team site, shown cross hatched on the attached plan. The access is used by HGV vehicles to access the Team site, effectively constraining the usable area of the Council's land to 3,607 sq. m. In addition, there is a 24 inch main gas pipeline running under the access road. In locational terms the council owned site sits adjacent to the Vernon House School, which is to the south.
- 3.7 Historically, the site was used principally as a lorry park and, for many years, as overnight parking for lorries following the introduction in 1986 of the night time lorry ban in London. Following a review of Brent's property assets about 10 years ago, the Council took on direct management of the site collecting income directly from a number of operators who were already operating from the site. About half of the site was used by a skip hire company, with a coach hire operator and other miscellaneous users. This arrangement was time consuming and management intensive with rental arrears being an ongoing problem.

- 3.8 More recently the site has been utilised by Brent's Street-care unit, with Veolia taking on responsibility for day to day management. This is a short term requirement, pending the consolidation of these functions at the new Marsh Road depot.
- 3.9 The site was considered by Brent as a possible location for a new depot site. However, following the acquisition of the Marsh Road Depot, Alperton this is no longer a requirement. Consequently the Drury Way site will not be required as an operational asset after 31st March 2015 and will therefore become surplus to operational requirements.
- 3.10 The options then available to Brent are broadly to revert to letting this site out for ad hoc rental opportunities as from 2015, or alternatively seek a freehold disposal.
- 3.11 Drury Way was placed on the open market and offers were sought on the basis of an exchange of contracts in June 2014 with completion delayed until 1st April 2015. Offers were required to be submitted by 4th April 2014. Seven offers were received which are set out in the confidential Appendix B.
- 3.12 A recommendation has been made to proceed with the Wallace School of Transport as the preferred bidder.

4.0 FINANCIAL IMPLICATIONS

- 4.1 Details of the proposed capital receipt and associated matters arising from the recommendation to this report are set out in the confidential appendix B.
- 4.2 Transaction costs for the proposed disposal are to be covered by the capital receipt arising.
- 4.3 The Council's general policy is that receipts arising from the disposal of land and properties are used to support the overall capital programme. This site is not included within the Council's Capital Disposals Programme and as such the recommendation to dispose would improve the Council's Capital Programme funding position.
- 4.4 There is an existing net revenue rental stream of £65k from the current occupation of the site that will be lost should the recommendation to this report be approved.
- 4.5 Additional uniform business rates income from any new build scheme would arise. It is estimated that about 30% of this additional amount would accrue directly to the Council.
- 4.6 The recommendation for disposal over a potential ongoing rental as open storage land could mean that Brent would be foregoing a net rent which in the future would be in the order of £90,000 pa.

5.0 LEGAL IMPLICATIONS

- 5.1 Under Section 123 of the Local Government Act 1972 the Council has the general power to dispose of properties by way of sale or lease .The essential condition is that the Council obtains the best consideration that is reasonably obtainable unless it is a lease of 7 years or less.
- 5.2 Disposal on the open market either via auctioneer, marketing agent or to a special purchaser by way of private treaty will satisfy the best consideration requirement ensuring the site has been properly exposed to the market through marketing with bids coming in on a competitive basis.

6.0 DIVERSITY IMPLICATIONS

- 6.1 See attached equality analysis.

7.0 STAFFING/ACCOMMODATION IMPLICATIONS

- 7.1 There are no staffing implications.

8.0 BACKGROUND PAPERS

None

9.0 APPENDIX

Appendix A – Site Plan

Appendix B – Outcome of Marketing (Confidential)

Appendix C – Equality Analysis

Contact Officers

James Young MRICS, Head of Assets and Valuation
james.young@brent.gov.uk, 020 8937 1398

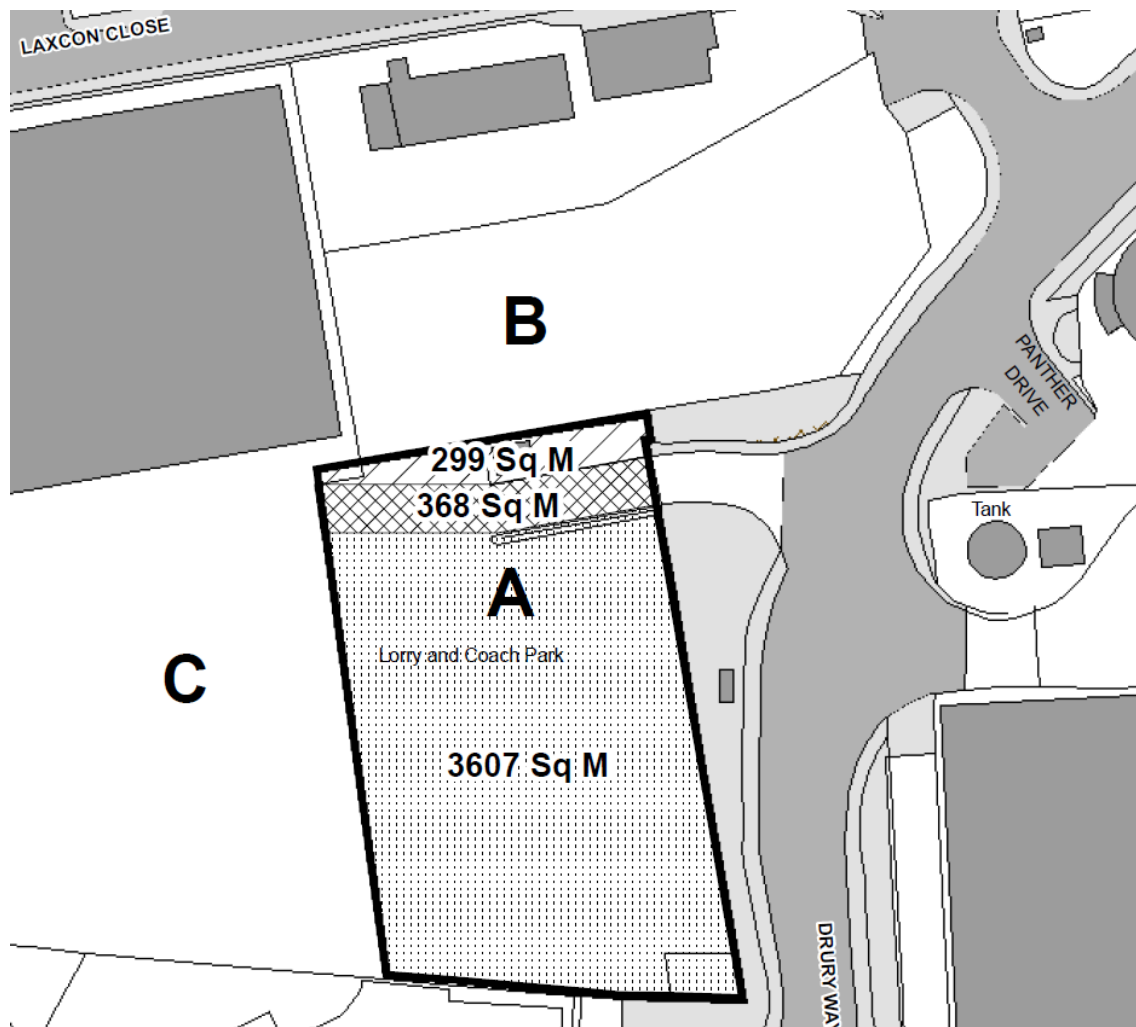
Sarah Chaudhry, Head of Strategic Property
Sarah.Chaudhry@Brent.gov.uk, 0208 937 1705

Richard Barrett, Operational Director Property & Projects

ANDREW DONALD
Strategic Director Regeneration and Growth

Appendix A

Location Plan



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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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Equality Analysis

Fred Eastman
London Borough of Brent



Brent Council Equality Analysis Form

Please contact the Corporate Diversity team before completing this form. The form is to be used for both predictive Equality Analysis and any reviews of existing policies and practices that may be carried out.

Once you have completed this form, please forward to the Corporate Diversity Team for auditing. Make sure you allow sufficient time for this.

1. Roles and Responsibilities: please refer to stage 1 of the guidance	
Directorate: Regeneration & Growth Service Area: Property & Projects	Person Responsible: Name: Fred Eastman Title: Estate surveyor Contact No: 0208 937 4220 Signed: Fred Eastman
Name of policy: This is a transaction for the sale of Brent House following relocation of staff into the Civic Centre as part of the Civic Centre strategy.	Date analysis started: 04/04/2014 Completion date: 04/04/2014 Review date:
Is the policy: New <input type="checkbox"/> Old <input checked="" type="checkbox"/>	Auditing Details: Name: Fred Eastman Title: Estate Surveyor Date: 04/04/2014 Contact No: 0208 937 4220 Signed: Fred Eastman
Signing Off Manager: responsible for review and monitoring Name: Richard Barrett Title: Operational Director Property and Projects Date: Contact No: 0208 937 1330 Signed:	Decision Maker: Name individual /group/meeting/ committee: Executive Committee Date: 22 nd April 2014

Meeting
Date

Version no.
Date

2. Brief description of the policy. Describe the aim and purpose of the policy, what needs or duties is it designed to meet? How does it differ from any existing policy or practice in this area?

To dispose of this surplus Council owned property to obtain a capital receipt.

3. Describe how the policy will impact on all of the protected groups:

Drury Way car park will be disposed of, subject to Executive Committee's approval following a marketing campaign and receipt of informal tenders.

This is an open and transparent method for the sale of property assets and permits all sections of society to purchase the property in an open and transparent way. It ensures that there is no discrimination to any potential bidder and y any bidder.

Please give details of the evidence you have used:

The evidence used to justify this assertion is the result achieved from the marketing of the subject property and previous property transactions.

4. Describe how the policy will impact on the Council's duty to have due regard to the need to:

(a) Eliminate discrimination (including indirect discrimination), harassment and victimisation;

There are no unmet needs or requirements that can be identified that affect specific groups.

No one from a protected characteristic was prevented from entering a bid for this property.

(b) Advance equality of opportunity;

This is an open and transparent method for the sale of property assets and permits all sections of society to purchase the property in an open and transparent way.

The property was marketed no one from a protected characteristic was prevented from entering a bid for this property.

(c) Foster good relations

This is an open and transparent method for the sale of property assets and permits all sections of society to purchase the property in an open and transparent way.

No one from a protected characteristic was prevented from entering a bid for this property.

5. What engagement activity did you carry out as part of your assessment? Please refer to stage 3 of the guidance.

Who was consulted on the plan, which protected characteristics were included in consultation?

- i. **Who did you engage with?**
- ii. **What methods did you use?**
- iii. **What did you find out?**
- iv. **How have you used the information gathered?**
- v. **How has it affected your policy?**

No consultation has taken place.

1. Have you have identified a negative impact on any protected group, or identified any unmet needs/requirements that affect specific protected groups? If so, explain what actions you have undertaken, including consideration of any alternative proposals, to lessen or mitigate against this impact.

This is an open and transparent method for the sale of property assets and permits all sections of society to purchase the property in an open and transparent way.

No negative impacts have been identified.

Please give details of the evidence you have used:

7. Analysis summary

Please tick boxes to summarise the findings of your analysis.

Protected Group	Positive impact	Adverse impact	Neutral
Age			X
Disability			X
Gender re-assignment			X
Marriage and civil partnership			X
Pregnancy and maternity			X
Race			X
Religion or belief			X
Sex			X
Sexual orientation			X

8. The Findings of your Analysis

Please complete whichever of the following sections is appropriate (one only).
Please refer to stage 4 of the guidance.

A major change

Your analysis demonstrates that:

- *The policy is lawful*
- *The evidence shows no potential for direct or indirect discrimination*
- *You have taken all appropriate opportunities to advance equality and foster good relations between groups.*

Please document below the reasons for your conclusion and the information that you used to make this decision.

The property was advertised by the in the specialised property and local press and the Council's web-site, which ensured that any interested party was aware of the disposal.

As this is retrospective we probably make no change but ensure monitoring and review is in place.

As this method of disposal is open and transparent and anybody is able to bid, there will not be any public concern as to this method of disposal being discriminatory.

Adjust the policy

This may involve making changes to the policy to remove barriers or to better advance equality. It can mean introducing measures to mitigate the potential adverse effect on a particular protected group(s).

Remember that it is lawful under the Equality Act to treat people differently in some circumstances, where there is a need for it. It is both lawful and a requirement of the public sector equality duty to consider if there is a need to treat disabled people differently, including more favourable treatment where necessary.

If you have identified mitigating measures that would remove a negative impact, please detail those measures below.

Please document below the reasons for your conclusion, the information that you used to make this decision and how you plan to adjust the policy.

Not Applicable.

Continue the policy

This means adopting your proposals, despite any adverse effect or missed opportunities to advance equality, provided you have satisfied yourself that it does not amount to unlawfully discrimination, either direct or indirect discrimination.

In cases where you believe discrimination is not unlawful because it is objectively justified, it is particularly important that you record what the objective justification is for continuing the policy, and how you reached this decision.

Explain the countervailing factors that outweigh any adverse effects on equality as set out above:

Please document below the reasons for your conclusion and the information that you used to make this decision:

It will not have an adverse impact. It will promote equality of opportunity as it will allow everybody the opportunity to purchase the property in an open and transparent way.

Stop and remove the policy

If there are adverse effects that are not justified and cannot be mitigated, and if the policy is not justified by countervailing factors, you should consider stopping the policy altogether. If a policy shows unlawful discrimination it must be removed or changed.

Please document below the reasons for your conclusion and the information that you used to make this decision.


Not Applicable

9. Monitoring and review

Please provide details of how you intend to monitor the policy in the future. Please refer to stage 7 of the guidance.

I am responsible for monitoring the results of the marketing exercise and with the marketing agent the number of enquiries received regarding the property and types of bids received.

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 <p>Brent</p>	<p>Executive 22 April 2014</p> <p>Report from the Strategic Director of Regeneration and Growth</p>
<p>For Action</p>	<p>Wards Affected: Kilburn</p>
<p>South Kilburn Regeneration – Lease for UK Power Network</p>	

1. SUMMARY

- 1.1 This report seeks the Executive's approval to delegate authority to the Operational Director of Property and Projects to grant a Lease for land anticipated to comprise the transformer chamber at Bronte House & Fielding House, Cambridge Road, Kilburn, London NW6 5BG to UK Power Networks Plc.

2. RECOMMENDATIONS

- 2.1 That the Executive delegate authority to the Operational Director of Property and Projects to grant a Lease and ancillary consents related to the grant of a Lease to UK Power Networks Plc for land anticipated to comprise the transformer chamber at Bronte & Fielding House, Cambridge Road, Kilburn, London NW6 5BG as identified on the plan at Appendix 1.

3. DETAIL

- 3.1 Bronte House & Fielding House form part of Phase 2a of the South Kilburn Regeneration Programme. On 6th June 2013 the Council entered into a Development and Sale Agreement with Network Housing Association Ltd to comprehensively redevelop Bronte House and Fielding House to deliver 229 new homes. Network Housing Association Ltd are responsible for - and bear all costs associated with - demolishing the existing buildings on site, carrying out preparation and any enabling works required and building out the scheme in accordance with the Stage D Design. It is anticipated that the 229 new homes will be delivered by November 2016 and that of those, 103 will be affordable. The affordable homes will be made available to secure tenants currently residing in Hereford House and Exeter Court, thereby facilitating vacant possession of those sites for redevelopment.
- 3.2 On 3rd December 2013 Bronte House & Fielding House were handed over to Network Housing Association Ltd for development. Demolition works are now well underway on site. In order to build out the scheme in accordance with the Stage D design Network

Housing Association Ltd need to enter into a Lease with UK Power Networks Ltd to relocate the existing substations on site, enabling the existing structures to be demolished.

3.3 As the freeholder of the land, the Council will need to join in the grant of a lease.

3.4 The anticipated land demised of this lease is known as Transformer Chamber at Bronte & Fielding House, Cambridge Road, Kilburn, London NW6 5BG and is identified on the plan attached at Appendix 1.

4. LEGAL IMPLICATIONS

4.1 Under paragraph 4.2 of Part 4 of Brent Council's Constitution, Executive approval is required to acquire or dispose of leases where the term exceeds 25 years.

4.2 The documentation is in a draft stage in relation to the proposed grant of the 99 year lease of the substation site and it may be necessary for the Council to join in the grant of the 99year Lease of the substation site in addition to issuing ancillary consents related to the same land.

5. FINANCIAL IMPLICATIONS

5.1 The Lease rental charge will be one 'Peppercorn' per annum. Therefore there are no specific financial implications associated with the proposals contained within this report.

6. DIVERSITY IMPLICATIONS

6.1 There are no specific diversity implications associated with the proposals contained within this report.

7. STAFFING/ACCOMMODATION IMPLICATIONS

7.1 There are no specific staffing or accommodation implications associated with the proposals contained within this report.

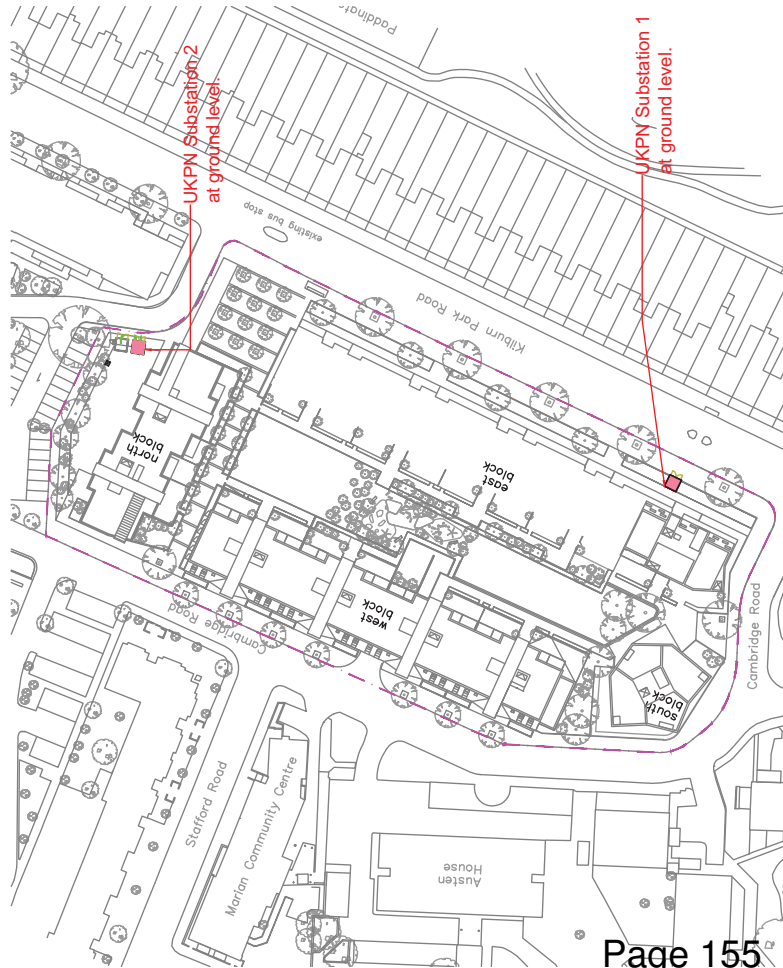
Contact Officer

Abigail Stratford
South Kilburn Programme Manager

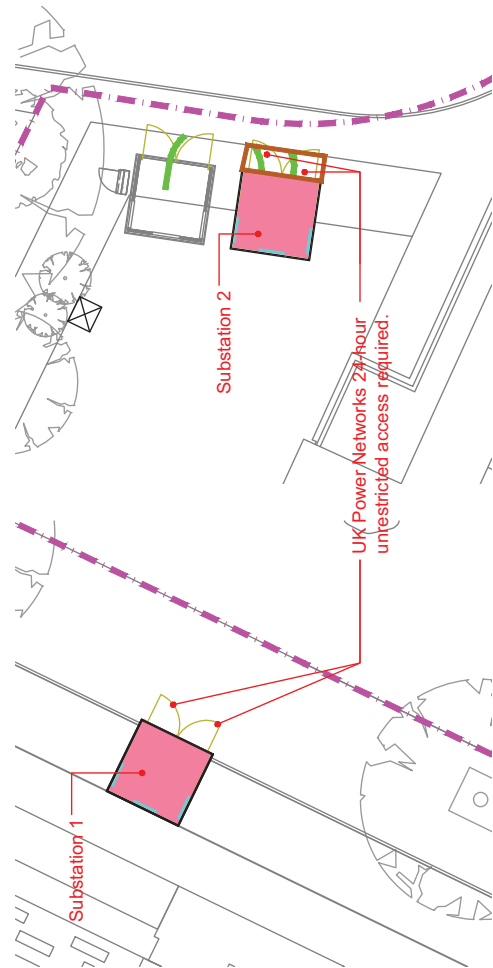
Tel: 0208 937 1026

Email abigail.stratford@brent.gov.uk

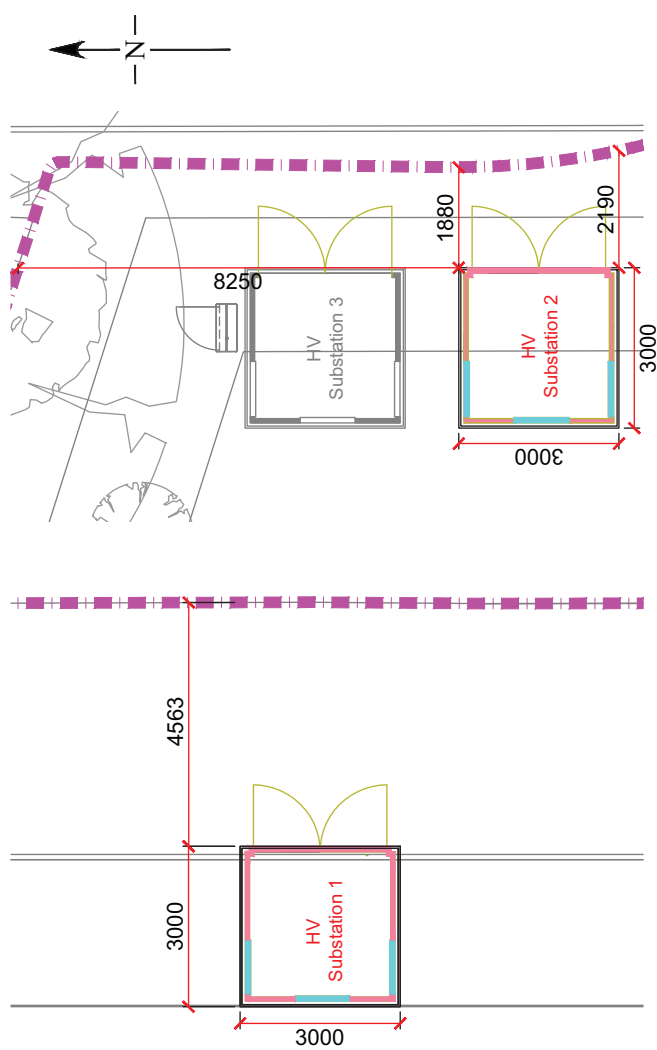
Andrew Donald
Strategic Director of Regeneration and Growth



Location Plan ~ Scale 1:1250








Ground Level Access Plan ~ Scale 1:200



Substation and Ventilation Plan ~ Scale 1:100

Key:

-  Substation.
-  24 Hour Access for Cables and Earthing (Cable Easement)
-  24 Hour Access for Men and Materials.
-  Ventilation.
-  Site Boundary

Rev	Description	Revised By	Date
1	Design Approved	J5	06/01/2014

For Design Approval



Title
Substation at: Bronte & Fielding House
Cambridge Road, Kilburn, London
NW6 5BG

Date Drawn	Scale
28/11/2013	As Stated @ A3
Drawn By	Project Manager
GJ	TPC

Drawing Number	Rev
UKP2129 - DWG700	1

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 <p>Brent</p>	<p>Executive 22 April 2014</p> <p>Report from the Strategic Director of Regeneration and Growth</p>
<p>For Action</p>	<p>Wards affected: Kensal Green</p>
<p>161 High Street, Harlesden, NW10 4TL</p>	

1.0 SUMMARY

- 1.1 This report sets out proposals for the taking of a lease at 161 High Street, Harlesden for a period up to 31 August 2015 in order to allow for the continued operation of the Brent Customer Services Centre that is currently in occupation.

2.0 RECOMMENDATIONS

- 2.1 That the Council enters into a lease with Department of Work and Pensions for a sub lease of premises at 161 High Street, Harlesden for a period up to 31 August 2015.

3.0 DETAIL

Background

- 3.1 The Council previously had a customer services contact centre at the old Willesden Green Library Centre. This was closed in February 2013 in order to allow for the redevelopment of this site. The new development is anticipated to be completed by Summer 2015, at which point it is currently proposed that the customer contact centre will move into the new building.
- 3.2 In order to cover the period of closure, alternative accommodation in the Willesden and Harlesden area was sought for a temporary customer contact centre suitable for accommodating 14 customer contact officers..

- 3.3 .A review of Brent's own portfolio did not identify any suitable premises in the Willesden or Harlesden areas.
- 3.4 A review of privately owned space in the area identified that the Job Centre Plus (JCP) had surplus space on the third floor of their Harlesden job centre, at 161 High Street. The building is in third party ownership and is managed by TRILLIUM PRIME LIMITED who runs and provide the facilities management services to the building. The offices were offered to the Council on a fully serviced basis. Given the obvious synergies with the work of Job Centre Plus, the location within an area of high customer demand, and the lack of available alternative premises, officers secured agreement to occupy the space from Job Centre Plus.
- 3.5 The council has been occupying the premises since xxxxx by means of an exchange of correspondence, and authority had been previously granted to the Operational Director of Property and Projects to complete the lease. Changes to the constitution now mean that the proposed lease now exceed the delegated powers limits, and therefore the agreement of the Executive is sought to finalise the lease arrangements.
- 3.6 Twelve workstations are provided on the third floor and 2 workstations along with customer waiting facilities on the ground floor. The building provides functioning access for disabled and wheelchair users. An all inclusive rent equivalent to a total cost of £103,397 per annum is proposed. The rent covers all charges including, power, maintenance, repairs, security, cleaning and business rates.
- 3.7 The lease is to commence in May 2014 and expire on 31st August 2015.
- 3.8 The JCP are able to break the lease on 6 months notice and the Council are able to terminate it on 3 months notice at anytime. The Job Centre Plus are also able to offer alternative locations for desking should they have an operational need to reconfigure the space within the building.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The full lease costs of £103,397 pa are being funded from the savings in business rates from the demolished former Willesden Green Library Centre.

5.0 LEGAL IMPLICATIONS

- 5.1 None

6.0 DIVERSITY IMPLICATIONS

- 6.1 Closure of the Brent Customer Services contact centre for this period could have an impact on disadvantaged groups in an area of significant need. By retaining access in this part of the Borough the Council is ensuring that people wishing to access the customer contact centre are not disadvantaged during the redevelopment period at Willesden Green.

7.0 Staffing/Accommodation Implications (if appropriate)

7.1 None

8.0 Background Papers


None

Contact Officers

**James Young Head of Assets and Valuation 020 8937 1398,
james.young@brent.gov.uk**

**Andy Donald
Strategic Director of Regeneration and Growth**

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 <p>Brent</p>	<p>Executive 22 April 2014</p> <p>Report from the Director of Regeneration and Growth</p>
<p style="text-align: right;">Wards affected: ALL</p>	
<p>National Non-Domestic Rates – Applications for Discretionary Rate Relief</p>	

1.0 Summary

- 1.1 The Council has the discretion to award rate relief to charities or non-profit making bodies. It also has the discretion to remit an individual National Non-Domestic Rate (NNDR) liability in whole or in part on the grounds of hardship. The award of relief is based on policy and criteria agreed by the Executive in September 2013. New applications for relief have to be approved by the Executive
- 1.2 The report details new applications for relief received since the Executive last considered such applications on 14 January 2014.

2.0 Recommendations

- 2.1 That the applications for discretionary rate relief detailed in Appendices 2 and 3 be agreed.

3.0 Detail

- 3.1 Details of the Council's discretion to grant rate relief to charities, registered community amateur sports clubs and non-profit making organisations are contained in the financial and legal implications' sections (4 and 5).

- 3.2 Appendix 1 sets out the criteria and factors to consider for applications for NNDR relief from Charities and non-profit making organisations. This was agreed by the Executive in September 2013.
- 3.3 Appendix 2 lists new applications from local charities that meet the criteria. These receive 80% mandatory relief, where they meet the criteria the council will award up to 100% discretionary relief in respect of the remaining 20% balance. It also shows the cost to the Council if discretionary relief is awarded.
- 3.4 It should be noted that the application by Willesden Community Sports Ltd will actually result in a saving to the council. The council via its operator currently incurs a rate liability of £50,963.04 for 2014/15, the cost of awarding relief is £15,288.91, a saving of £ £35,674.13 will therefore be achieved for 2014/15 and £34,892.42 for 2013/14.
- 3.4 Appendix 3 list new applications from non profit making organisations that meet the criteria for awarding relief. As these organisations are not registered charities they do not receive 80% mandatory relief. The Council's usual policy is to award 25% relief to organisations that meet the criteria. It also shows the cost to the Council if discretionary relief is awarded.
- 3.5 The criteria for awarding discretionary rate relief focuses on ensuring that the arrangements are consistent with corporate policies and relief is directed to those organisations providing a recognised valued service to the residents of Brent. Further detail is set out in Appendix 1. Should relief be granted entitlement will remain until 31 March 2017 unless there are any changes to the organisation. During 2016/17 it has been agreed that the council will review its criteria for awarding relief.
- 3.6 Charities and registered community amateur sports clubs are entitled to 80% mandatory rate relief and the council has discretion to grant additional relief up to the 100% maximum
- 3.7 Non-profit making organisations do not receive any mandatory relief, but the Council has the discretion to grant rate relief up to the 100% maximum. However the council's policy limits relief for these to 25%

4.0 Financial Implications

Discretionary Rate Relief

- 4.1 Charities and registered community amateur sports clubs receive 80% mandatory rate relief. The Council has the discretion to grant additional relief up to the 100% maximum. Prior to 1 April 2013 75% of the cost of this would have been met by the council, however from 1 April 2013 30% is met by the council with 50% being met by central government and 20% by the GLA.
- 4.2 Non-profit making organisations do not receive any mandatory relief, but the Council has the discretion to grant rate relief up to the 100% maximum. Prior to 1 April 2013 the Council met 25% of the cost of any relief granted, however

this has also changed with 30% being met by the council with 50% being met by central government and 20% by the GLA.

- 4.3 The Council, where it has decided to grant relief, has followed a general guideline of granting 100% of the discretionary element to local charities and 25% of the discretionary element to non-local charities. Any additional awards of relief will reduce income to the Council by 30%.
- 4.4 In respect of non profit making organisations the council has agreed where the organisation meets the criteria to award 25% discretionary rate relief. The cost to the council of awarding this relief is 30% of the amounts granted..
- 4.5 The costs therefore of awarding relief to the charitable organisations detailed in Appendix 2 is £16,020.59 for 2014/15 and £15,307.86 for 2013/14, (although the relief awarded to Willesden Community Sports Ltd will result in net savings to the council). The costs of awarding relief to the non profit making organisations detailed in Appendices 3 is £1,068.59 for 2014/15 and £738.35 for 2013/14. This will be borne by the council's projected income from Business Rates Retention in 2013/14.

5.0 Legal Implications

Discretionary Rate relief

- 5.1 Under the Local Government Finance Act 1988, charities are only liable to pay 20% of the NNDR that would otherwise be payable where a property is used wholly or mainly for charitable purposes. This award amounts to 80% mandatory relief of the full amount due. For the purposes of the Act, a charity is an organisation or trust established for charitable purposes, whether or not it is registered with the Charity Commission. Under the Local Government Act 2003, registered Community Amateur Sports Clubs also qualify for 80% mandatory relief.
- 5.2 The Council has discretion to grant relief of up to 100% of the amount otherwise due to charities, Community Amateur Sports Clubs, and non-profit making organisations meeting criteria set out in the legislation. These criteria cover those whose objects are concerned with philanthropy, religion, education, social welfare, science, literature, the fine arts, or recreation. Guidance has been issued in respect of the exercise of this discretion and authorities are advised to have readily understood policies for deciding whether or not to grant relief and for determining the amount of relief. Details of the current policy are contained in Appendix 1
- 5.3 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 allow Brent to grant the relief for a fixed period. One year's notice is required of any decision to revoke or vary the amount of relief granted, if in the case of a variation, it would result in the amount of rates increasing. The notice must take effect at the end of the financial year.
- 5.4 The operation of blanket decisions to refuse discretionary relief across the board would be susceptible to legal challenge on grounds that the Council

would be fettering its discretion. The legal advice provided to officers and Members is that each case should be considered on its merits.

6.0 Diversity Implications

- 6.1 Applications have been received from a wide variety of diverse charities and organisations, and an Impact Needs Analysis Requirement Assessment (INRA) was carried out in 2008 when the criteria were originally agreed. As there were no changes made to the criteria in September 2013 an Equality Impact assessment was not required. All ratepayers receive information with the annual rate bill informing them of the availability of discretionary and hardship rate relief.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 None

Background Papers

Report to Executive 16 September 2013 – National Non-Domestic Relief – Review of Discretionary Rate Relief Policy

Contact Officers

Richard Vallis, Revenues & IT Client Manager – Brent House, Tel 020 8937 1503

Andrew Donald
Director of Regeneration & Major Projects

Appendix 1

ELIGIBILITY CRITERIA FOR APPLICATIONS FOR NNDR DISCRETIONARY RELIEF FOR CHARITIES & FROM NON PROFIT MAKING ORGANISATIONS

Introduction

The following details the criteria against which the Local Authority will consider applications from non profit making organisations. In each case the individual merits of the case will be considered.

- (a) Eligibility criteria**
- (b) Factors to be taken into account**
- (c) Parts of the process.**

(a) Eligibility Criteria

- The applicant must be a charity or exempt from registration as a charity, a non-profit making organisation or registered community amateur sports club (CASC).
- All or part of the property must be occupied for the purpose of one or more institutions or other organisations which are not established or conducted for profit and whose main objects are charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts; or
- The property must be wholly or mainly used for the purposes of recreation, and all or part of it is occupied for the purposes of a club, society or other organisation not established or conducted for profit.

(b) Factors to be taken into account

The London Borough of Brent is keen to ensure that any relief awarded is justified and directed to those organisations making a valuable contribution to the well-being of local residents. The following factors will therefore be considered:

- a. The organisation should provide facilities that indirectly relieve the authority of the need to do so, or enhance or supplement those that it does provide
- b. The organisation should provide training or education for its members, with schemes for particular groups to develop skills
- c. It should have facilities provided by self-help or grant aid. Use of self-help and / or grant aid is an indicator that the club is more deserving of relief
- d. The organisation should be able to demonstrate a major local contribution.

- e. The organisation should have a clear policy on equal opportunity.
- f. There should be policies on freedom of access and membership.
- g. It should be clear as to which members of the community benefit from the work of the organisation.
- h. Membership should be open to all sections of the community and the majority of members should be Brent residents
- i. If there is a licensed bar as part of the premises, this must not be the principle activity undertaken and should be a minor function in relation to the services provided by the organisation.
- j. The organisation must be properly run and be able to produce a copy of their constitution and fully audited accounts.
- k. The organisation must not have any unauthorised indebtedness to the London Borough of Brent. Rates are due and payable until a claim for discretionary rate relief is heard

(c) Parts of the process

No Right of Appeal

Once the application has been processed, the ratepayer will be notified in writing of the decision. As this is a discretionary power there is no formal appeal process against the Council's decision. However, we will re-consider our decision in the light of any additional points made. If the application is successful and the organisation is awarded discretionary rate relief, it will be applied to the account and an amended bill will be issued.

Notification of Change of Circumstances

Rate payers are required to notify any change of circumstances which may have an impact on the award of discretionary rate relief.

Duration of award

The new policy will award relief to 31 March 2017. Prior to the end of this period applications will be sent inviting recipients to re-apply, this will ensure the conditions on which relief was previously awarded still apply to their organisation. This will help ensure that the Council's rate records remain accurate.

Withdrawal of relief

One years notice has to be given by the Council for the withdrawal of relief

Unlawful activities

Should an applicant in receipt of discretionary rate relief be found guilty of unlawful activities for whatever reason, entitlement will be forfeited from the date of conviction.

	Type of Charitable/Non-Profit Making Organisation	Current Policy
		Discretionary Relief Limited to
1	Local charities meeting required conditions (80% mandatory relief will apply)	20% (100% of remaining liability)
2	Local Non-profit-making organisations (not entitled to mandatory relief)	25%
3	Premises occupied by a Community Amateur Sports Club registered with HM Revenue & Customs. (80% mandatory relief will apply)	20% (100% of remaining liability)
4	Non-Local charities (80% mandatory relief will apply)	25% (of remaining liability)
5	Voluntary Aided Schools (80% mandatory relief will apply)	20% (100% of remaining liability)
6	Foundation Schools (80% mandatory relief will apply)	20% (100% of remaining liability)
7	All empty properties	NIL
8	Offices and Shops occupied by national charities	NIL
9	An organisation which is considered by officers to be improperly run, for what ever reason, including unauthorised indebtedness.	NIL
10	The organisation or facility does not primarily benefit residents of Brent.	NIL
11	Registered Social Landlords (as defined and registered by the Housing Corporation). This includes Abbeyfield, Almshouse, Co-operative, Co-ownership, Hostel, Letting / Hostel, or YMCA.	Nil
12	Organisations in receipt of 80% mandatory relief where local exceptional circumstances are deemed to apply.	Up to 20% (100% of remaining liability)

Appendix 2

New Applications for Discretionary Rate Relief – Local Charities

	100% Relief to be awarded	Charge	Bill net of statutory relief	Cost to Brent at 30%
	<u>Organisation</u>			
3279113X	Willesden Community Sports Ltd Sports centre, Donnington Road NW10 3QX 1/4/2014 – 31/3/2015 1/4/2013 – 31/3/2014	£254,815.20 £249,231.60	£50,963.04 £49,846.32	£15,288.91 £14,953.90
32977790	Islamic Cultural Centre, Former Tokyngton Library Monks Park HA9 6JE 1/4/2104 – 31/3/2015 10/10/2013 – 31/3/2014	£10,604.00 £4,911.30	£2,120.80 £982.26	£636.24 £294.68
32998324	Tabernacle of Praise Outreach Suite 11, Alperton House Wembley HA0 1EH 1/4/2014 – 31/3/2015 12/8/2013 – 31/3/2014	£1,590.60 £987.94	£318.12 £197.59	£95.44 £59.28
Total	2014/15 2013/14	£267,009.80 £255,130.84	£53,401.96 £51,026.17	£16,020.59 £15,307.86

Appendix 3

New Applications for Discretionary Rate Relief – Non Profit Making Organisations

	25% Relief to be awarded	Charge	Amount of relief (25%)	Cost to Brent at 30%
	<u>Organisation</u>			
32974355	Abraco Immigrande 24 Craven Park Road Willesden NW10 4AB 1/4/2014 – 31/3/2105 1/4/2013 – 31/3/2014	£7,065.00 £6,930.00	£1,766.25 £1,732.50	£529.88 £519.75
32999778	Talent Engaged Tuition Services Suite 17, Alperton House Wembley HA0 1EH 1/4/2014 – 31/3/2015 1/11/2013 – 31/3/2104	£7,182.75 £2,914.71	£1,795.69 £728.68	£538.71 £218.60
Total	2014/15 2013/14	£14,247.75 £9,844.71	£3,561.94 £2,461.18	£1,068.59 £738.35

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 <p>Brent</p>	<p>Executive 22 April 2014</p> <p>Report from the Chief Finance Officer</p>
For Action	Wards Affected: ALL
<p>Authority to award a contract for Microsoft licences</p>	

Appendix 1 of this report is Not for Publication

1.0 Summary

- 1.1 This report requests authority to award contracts as required by Contract Standing Order No 88. This report summarises the process undertaken in selecting a supplier and, following the completion of the evaluation of the bids, recommends to whom the contract should be awarded.

2.0 Recommendations

- 2.1 That Members award a contract for Microsoft Licences for a period of three years to Bytes Software Services.

3.0 Detail

Background

- 3.1 Brent Council uses a number of Microsoft software products for the provision of desktop services to staff. These include the Windows Operating System, Office, Exchange, Lync, SharePoint, Project and Visio.
- 3.2 The current contract for the maintenance of these products comes to an end on 31/5/2014. The licensing of these products mandates that a maintenance agreement is in place when these products are used in a thin-client environment, such as is in use at the Council, or where staff

work from home accessing these products from devices not owned by the Council. Therefore a new licensing arrangement needs to be in place from 01/06/14.

- 3.3 Microsoft have revised their licensing model and as part of the proposed renewal the Council will be converting its licenses to a new subscription model that:
- a) allows the Council to vary the number of licences it pays for annually in accordance with the number of staff in the council, as opposed to the current agreement that comes at a fixed annual cost.
 - b) gives the Council the capability to use Microsoft Office products in the cloud, ultimately migrating our users away from infrastructure the Council has to maintain. This is consistent with the direction IT is following going forward.

The selection process

- 3.4 Officers reviewed the options for the procurement of Microsoft licences and determined that the use of a national framework agreement offered the most appropriate and effective means of procurement. Officers identified the Pro5 Framework Y10178 Software Products and Associated Services - Lot 1 Microsoft (the “Framework”) as meeting the Council’s needs.
- 3.5 Microsoft licences are purchased through a reseller – the Framework is a vehicle whereby licences can be procured competitively from resellers, and in particular this Framework was selected because:
- The maximum allowable uplifts on Microsoft pricing are highly competitive (0% in some cases), and a further competition exercise ensured that the best possible prices are obtained.
 - The process for access requires minimal resources
 - There is no cost to the Council for its use
- 3.6 The use of the Framework requires that the new contract will be let using the Pro5 Contract Y10178 standard terms and conditions. This will be for a period of 3 years.
- 3.7 The six suppliers on Lot 1 of the Framework were invited to submit a bid for the Council’s requirements. The London Tenders portal was used for the process.
- 3.8 As permitted by the Framework, the bidding instructions stated that the contract would be awarded on the basis of the lowest price.

Evaluation process

- 3.9 The evaluation of bids received was carried out by representatives of Information Technology Unit (“ITU”) and the Procurement Unit.
- 3.10 All bids had to be submitted electronically no later than 3pm on 28th March 2014. Bids were opened on 28th March 2014 and 5 valid bids were received.
- 3.11 Officers from ITU and the Procurement Unit met on 28th March 2014 and carried out the price evaluation.
- 3.12 The names of the bidders are contained in Appendix 1 and their submitted prices are contained in Appendix 2. As the evaluation methodology was based on lowest price, Officers are therefore recommending the award of the contract to Bytes Software Services (Contractor A).
- 3.13 The contract will commence on 1st June 2014.

4.0 Financial Implications

- 4.1 The Council’s Contract Standing Orders state that contracts for supplies and services exceeding £250k or works contracts exceeding £500k shall be referred to the Executive for approval of the award of the contract.
- 4.2 The value of this contract is £351,999.51 per annum. The total value of the contract could vary depending on the number of licenses that are used and so at this point in time the contract is valued at £1,055,998.53 over the 3 year contract term.
- 4.3 The previous cost of the contract was £274,419.75, which is an increase of 28% due to changes in Microsoft licensing since the last contract was signed. The new contract gives the Council the capability to run Microsoft Office products in the cloud, which will result in savings in infrastructure expenditure in future years.
- 4.4 The cost of the contract will be funded from the existing IT revenue budget. The increase in cost from the previous contract price will be funded by re-allocating the budget for PC hardware maintenance, costs of which have reduced since the move to the Civic Centre.

5.0 Legal Implications

- 5.1 The estimated value of this contract over its the lifetime is higher than the EU threshold for Supplies and the award of the contracts and therefore is governed by the Public Procurement Regulations 2006 (the “EU Regulations”). The award is subject to the Council’s own Standing Orders in respect of High Value contracts and Financial Regulations.

- 5.2 As indicated in paragraphs 3.4 – 3.11, Officers have used a framework agreement to select a bidder. The EU Regulations allow the use of framework agreements and prescribe rules and controls for their procurement. Contracts may then be called off under such framework agreements without the need for them to be separately advertised and procured through a full EU process. Also, there is no requirement for the Council to observe a mandatory minimum 10 calendar day standstill period before the contract can be awarded when using a framework.
- 5.3 The Council's Contract Standing Orders state that no formal tendering procedures apply where contracts are called off under a framework agreement established by another contracting authority, where call off under the framework agreement is approved by the relevant Chief Officer and provided that the Director of Legal and Procurement has advised that participation in the framework is legally permissible. Legal Services have reviewed the Framework and is able to confirm that participation in the Framework is legally permissible.

6.0 Diversity Implications

- 6.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 There are no implications for Council staff arising from retendering the contract.

Contact Officers

Prod Sarigianis
Head of IT Service Transition
Email: prod.sarigianis@brent.gov.uk
Tel: 020 8937 6080

Conrad Hall
Chief Finance Officer

APPENDIX 2

Contractor	Price
Contractor A	£351,999.51
Contractor B	£366,000.33
Contractor C	£366,226.68
Contractor D	£395,380.71
Contractor E	£436,046.79

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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