



## CALL-IN FORM

### **For the Attention of: The Head of Executive and Member Services**

**From:** Councillors Keith Perrin, Gaynor Lloyd, Daniel Kennelly, Jumbo Chan and Abdirazak Abdi

**Date:** 01 September 2020

*A call in request must be submitted in accordance with the requirements of Standing Orders, within 5 days of the relevant decision being made or in the case of a key decision made by officers, within 5 days of the date on which the record of the decision is made publicly available in accordance with the Access to Information Rules.*

**Decision:** Authority to Award Contract for Appointment of Engie Regeneration UK & Ireland as Works Main Contractor under a JCT Intermediate Building Contract with Contractor's Design 2016 Edition for Stonebridge Annexe, Stonebridge, NW10 0ST

**Date of decision** (or date of public notice for officer decisions): 26 August 2020

**Five non-cabinet members making request (Note: all five members do not have to be listed on or sign the same form):**

	<b>Name of councillor</b>	<b>Signature</b> <i>(only required if submitted in hard copy)</i>
1	Cllr A Abdi	N/A
2	Cllr Chan	N/A
3	Cllr Perrin	N/A
4	Cllr Lloyd	N/A
5	Cllr Kennelly	N/A

**Please provide below an explanation as to why you are calling in the decision and if you are calling in all or part of the decision:**

*(Note: according to the Protocol on Call-in (included in the Constitution), call-in requests will not be considered valid if they:*

- are used as a means of gaining information/understanding or discussing general concerns with Members and officers,*
- duplicate a call-in on the same issue within the previous six months,*

- are based on reasons already discussed by the relevant Scrutiny Committee prior to the decision being made,
- concern a decision of the Cabinet referring a matter to Full Council for consideration
- concern operational management decisions, or
- are otherwise considered by the Chief Executive to be frivolous, vexatious or clearly outside the call-in provisions.)

1. The above decision relates to the placing of a Contract for the works of refurbishment to Stonebridge Annexe ("Enabling Works") enabling the decanting of the Brent Start facilities from 1 Morland Gardens, NW6, preparatory to the demolition of the existing buildings on that site, and the erection of new mixed use buildings under planning application number 20/0345 (the "1 Morland Gardens Application").
2. The tender for the Enabling Works was concluded on or around 9 July, and, according to the Report leading to the Decision, dates (described in the Report as "anticipated") are set out for a Letter of Intent (14 August), a Letter of Award of Contract to Engie Regeneration UK & Ireland (31 August), with a view to Contract Start on Site on 14 September.
3. Having today enquired of officers in Planning and Employment and Skill, I have been informed that this Contract for the Enabling Works would not be placed, if the development under the 1 Morland Gardens Application does not proceed.
4. Issues have come to light regarding the 1 Morland Gardens Planning Application:

- Consent to the 1 Morland Gardens Application is awaited from the GLA;
- Notwithstanding the clear recommendations in paragraph R1 of the Preliminary Bat Roost Assessment dated February 2019 by Middlemarch Environmental ("Middlemarch Report") - based on a survey made in December 2018 (and repeated in paragraph 206 of the Planning Report) that at least 3 emergence/re-entry surveys be carried out during the period May-September, **no evidence has been supplied that any such surveys have been carried out.**

There are no surveys amongst the planning papers. Enquiry of officers today has not so far revealed any surveys were undertaken.

Condition 13 of the draft Planning Consent for the 1 Morland Gardens Application includes a requirement for adherence to the recommendations of the Middlemarch Report; however, if no surveys have been carried out, works under the 1 Morland Gardens Application must be deferred until after those surveys have been undertaken, results available and appropriate response formulated and actioned to ensure no criminal offence is committed. This would appear potentially to be in autumn 2021.

Appendix 1 to the Middlemarch Report sets out the legislative background; Regulation 41 of the Habitats Regulations 2017 states that a person "*commits an offence if they...deliberately disturb bats; or damage or destroy a bat roost (breeding site or resting place).*" If the surveys have not been carried out - then the whole process must be delayed until autumn 2021 to avoid the Council's committing a criminal offence.

5. I understand the Enabling Works relating to this Decision do not need planning consent. However, the provisions of the 2017 Regulations would still apply if any part of those works had the potential to disturb, or damage or destroy bats and their habitat in the Stonebridge Annexe as referred to above.

The Stonebridge Annexe is a building constructed in or around the 1930s, with a substantial area of trees surrounding it, and with strong potential for bat roosts and potentially on a Bat Corridor to the Welsh Harp and with Green and Blue Corridors in the other direction.

Accordingly, the Enabling Works may have the potential to disturb bats, and/or damage or destroy their habitats, if any are present.

However, no preliminary bat roost assessment was commissioned, which should be undertaken prior to the Contract. There is no evidence that such assessment forms part of the Enabling Works. Indeed, with the timetable referred to in the Report, the programme outlined gives no time for such assessment to be undertaken, let alone any time for any action which may be requisite to comply with statute, should evidence of bats/roosts be present.

6. We understand that it has been agreed by the Chief Executive that an investigation should be undertaken by the Strategic Director following the raising of what I am told are serious concerns by a member of the public about the Morland Gardens Application. This investigation is ongoing, and could impact on the Planning Consent for the 1 Morland Gardens Application.
7. The award of the Enabling Works Contract is premature, as there is still no certainty that the scheme envisaged by the 1 Morland Gardens Application will go ahead. Nonetheless, having regard to the importance of the project, I have spoken to officers as to the requirement for an **urgent** placing of the Contract for the Enabling Works in context of the project. In context of those conversations, I do not understand the reason for the urgency. Unfortunately, the Decision gives an impression of pre-emptive action. It will commit the Council to expenditure which may be wasted. It is at least possible to anticipate that, if delays in the development under the 1 Morland Gardens Application were to arise as a result of one of the factors referred to above, alternative proposals may result.
8. There is no compelling urgency to place the Enabling Works Contract before the above matters are resolved. By contrast, unless the Decision is called in, the Contract will be placed, and the Council will have irrevocably incurred an expenditure of £1.2m, which may be wasted – hence the reason for this carefully considered action.

**Please provide below an outline alternative course of action to the decision being called in:**

The decision should be deferred until:

1. It is certain that the proposals for 1 Morland Gardens comprised in the 1 Morland Gardens Application have received all necessary consents, including GLA consent; and
2. The legislatively required minimum of three bat emergence/re-entry surveys between May and September in one year have been undertaken, consequent assessments undertaken, the results considered and appropriate response actioned; and
3. The potential requirement of bat surveys for the Stonebridge Annexe considered and (if necessary) dealt with as above.

So that (in the case of 2 and 3 above) the Council as landowner can be certain it is not in peril of committing a criminal offence.

Please return this form to Katie Smith, Head of Executive and Member Services, by email (from your individual email address) at [Katie.smith@brent.gov.uk](mailto:Katie.smith@brent.gov.uk) or in hard copy (with signatures) and in person on the fourth floor of Brent Civic Centre.