



Executive
15 February 2011

**Report from the Director of
Regeneration and Major Projects**

Wards affected:
ALL

Willesden Green Library Redevelopment

APPENDICES 2, 3 AND 4 ARE NOT FOR PUBLICATION

1.0 Summary

- 1.1 This paper outlines redevelopment options for the Willesden Green Library site. It sets out proposals for the comprehensive redevelopment of the entire site into a mixed used scheme to include a new bespoke flagship Council building with housing. The new Council building would provide a vibrant cultural hub for the south of the borough and have a customer facing offer. The purpose of this report is to gain the necessary approvals required to test the market and establish if the redevelopment of Willesden Green Library can be delivered at zero net capital cost to the Council.

2.0 Recommendations

- 2.1 That the Executive agrees in principle to the comprehensive redevelopment of the entire 0.86 hectare Willesden Green Library site in accordance with paragraph 3.11.
- 2.2 That the Executive endorses the proposed use of the Homes & Community Agency Developer Partner Panel Framework to procure a development partner.
- 2.3 That the Executive endorses the proposed interim service delivery strategy for the library service.
- 2.4 That the Executive endorses the proposed consultation strategy outlined in paragraph 3.33.
- 2.5 The Executive authorise the Assistant Director of Regeneration & Major Projects (Property & Assets) to dispose of the land at Chambers Lane Willesden Green shown crossed hatched black on Plan A at Appendix 1 with

vacant possession by way of auction, on such terms as he considers appropriate provided that such reserve price as he considers appropriate is achieved.

- 2.6 That the Executive authorise the Director of Regeneration & Major Projects (where the Director of Director Regeneration & Major Projects in conjunction with the Director of Legal and Procurement consider applicable) to appropriate the Willesden Green Library site shown crossed hatched black on Plan B At Appendix 1 for planning purposes when it is no longer required for the purposes for which it is currently held.
- 2.7 That the Executive authorise the Director of Regeneration & Major Projects (in conjunction with the Director of Legal and Procurement) in respect of the housing land shown cross hatched black on Plan C at Appendix 1 forming part of the Willesden Green Library site (together with such other areas of land acquired for housing purposes which investigations may subsequently reveal have not been previously appropriated) seek consent of the Secretary of State (if applicable):
- 2.7.1 under Section 19 of the Housing Act 1985 to an appropriation for planning purposes;
- 2.7.2 under Section 32 of the Housing Act 1985 to the disposal of this land.

3.0 Background

- 3.1 In 2009 Brent Council launched a new concept of 1 -2-5-21 customer engagement across the borough. '1' is the Council's headquarters and flagship building; the new Civic Centre. '2' refers to tier two, which consists of two major customer facing offerings. One of the tier two buildings is the Civic Centre; the second building is required to offer a cultural focus for the borough, this has been identified as the Willesden Green Library (WGL).
- 3.2 WGL was highlighted as a potential site for the second tier because of its geographical location in the south of the borough, which complements the new Civic Centre situated in the north and recognises that a large proportion of our high need customers reside in the south of the Borough. It is already recognised as a local community asset thus it holds the necessary prerequisites to develop a major cultural hub.
- 3.3 WGL is a much valued local resource. The building currently incorporates a library, museum, Brent Artists Resource, bookshop, one-stop-shop, cafeteria and cinema, and is the focus of much of the borough's cultural activity. However the building is not currently fit for purpose and is inefficient to run.
- 3.4 Although the library is extremely popular and well used the building envelope does not lend itself to creating a warm or inviting customer experience. Legibility and access arrangement within the building are poor, visitors often

struggle to locate and enter the museum and meeting rooms on the second floor. The cinema and cafeteria are currently vacant and at the time of writing the Council has received no interest from the market to occupy either on a long term lease. A property survey undertaken in 2009 identified that the following essential repairs are required; replace existing plant, repairs to the facade, roof, windows and the installation of IT cabling throughout the building.

- 3.5 Developing a new Council building on the WGL site would deliver tier two of the Council's customer engagement approach, creating a cultural hub in the south of the borough. It is currently envisaged that this would include:
- Replacement Library
 - Replacement Museum [& Archive]
 - Customer Contact Points
 - Flexible Community & Cultural Spaces
 - Office Accommodation
 - Data Centre
- 3.6 The customer offer and experience would be significantly improved as the services and facilities would respond to and reflect the needs of the locality. The new flagship building would also support the delivery of the One Council's Customer Contact and Library Transformation Projects, and the Arts & Festival Strategy, whilst simultaneously acting as a catalyst for the wider regeneration of the area.
- 3.7 Within the current economic and financial climate, the aim must be for the redevelopment of WGL to be a self financing project, delivered at zero net capital cost to the Council. It is recommended that the Council seeks to retain the freehold of the new building if at all possible, in order to maximise control and flexibility for the future.
- 3.8 In July 2010 the Council commissioned a feasibility study to explore the potential redevelopment options for the site. The feasibility study looked at the following options:
- Do Nothing;
 - Minor Refurbishment: to adapt the existing building to ensure it is fit for purpose;
 - Major Refurbishment;
 - Major Refurbishment with Second Floor for additional office space;
 - Major Mixed Use New Build Development.

Further details concerning these options are set out in Appendix 3.

Delivery Approach

- 3.9 The proposed delivery approach for the redevelopment of the WGL is informed by
- 3.9.1 The aspiration to deliver a 21st century cultural hub and customer centre of a comparable quality to the Civic Centre in the South of the borough.

- 3.9.2 The requirement for the redevelopment of WGL to be a self financing scheme delivered with zero net capital cost to the Council.
- 3.9.3 The requirement to minimise the closure period of the facility such that the new building is open and fully operational by Spring 2014.
- 3.9.4 To ensure, as far as reasonably possible business continuity of the library, museum and cultural services whilst the building is closed for redevelopment.
- 3.9.5 The strong preference to retain the freehold of the new Council building.
- 3.10 Neither the minor nor major refurbishment of the existing building would deliver the requirements as set out in paragraph 3.9. The minor refurbishment of the existing building as outlined in paragraph 1.2.2 of *Appendix 3* would unequivocally fail to deliver the Council a 21st century building which is of comparable quality to the Civic Centre. The major refurbishment of the existing building as outlined in paragraphs 1.2.3 and 1.2.4 of *Appendix 3* constrains the design of the new Council building to the existing structure and fails to maximise the development potential of the site. This would result in a net capital expenditure for the Council.
- 3.11 Informed by the options appraisal and subsequent soft market testing, officers are of the view that it **may** be possible to deliver a 21st century cultural hub and customer centre of comparable quality to the Civic Centre at zero net capital cost to the Council, if a forward thinking, commercial, innovative delivery approach is adopted and the development potential of the site is maximised. The comprehensive redevelopment of the entire site is therefore proposed. This would involve demolishing the existing building, full site clearance, and redeveloping the entire 0.86ha site to deliver a mixed use scheme to include a new flagship council building with housing for market sale.
- 3.12 The comprehensive redevelopment of the entire site would also create the potential to incorporate additional retail and commercial facilities on the ground floor, and should act as a catalyst to kick start the wider regeneration of the surrounding Willesden Green area.
- 3.13 To test the market and establish if the project can be delivered at zero net capital cost to the council without exhausting the Council's valuable resources, it is recommended that a procurement process commences to procure a developer partner through calling off the Homes & Community Agency Development Partner Panel Framework (HCA DPP Framework).
- 3.14 It is intended a developer partner would be procured to deliver the bespoke new Council building, where the developer partner is given the right to develop residential units for market sale on the remainder of the site.
- 3.15 The delivery of the project would be managed through a development agreement, which would incorporate end stop dates for planning permission, start on site and practical completion of the Council building to ensure the overall project programme is achieved and the building is open by Spring 2014.

- 3.16 It is proposed that the development agreement would stipulate that the Council retains the freehold of the new building and comprise the disposal structure for the market sale of the residential units.
- 3.17 To inform the procurement process a vision statement and client brief for the Council's new building would be developed. The documents would clearly articulate the Council's aspirations and detailed design requirements for the new building. A planning brief, draft development agreement and contract would also be developed to ensure that from the outset the potential developer partners are aware of the contractual requirements that would be placed upon them when delivering the project.
- 3.18 Calling off the HCA DPP Framework would involve a three stage process. The first stage would involve sending out an expression of interest e-mail to all developers on the "Southern Cluster" of the HCA DPP Framework. The developers would be invited to confirm their interest, capacity and resource to bid in a mini competition to deliver the project.
- 3.19 At the second stage interested developer partners would be issued with a Sifting Brief to test their capabilities and experience in delivering similar mixed used developments within urban areas. Following evaluation of the sifting brief 3-6 preferred bidders would be shortlisted from the "Southern Cluster" of developers on the HCA DPP Framework to bid in a mini competition.
- 3.20 A Project Specific Tender would be issued to the 3- 6 shortlisted preferred bidders during the third and final stage. The Tender would provide the bidders with the vision statement, client brief, planning brief along with a draft development agreement and contract. They would be asked to submit concept design ideas for the site, demonstrating how they can deliver the Council's vision at zero net capital cost to the Council. The design and financial viability of the submissions would be scrutinised in the selection process to identify a preferred developer partner. At this point details of the preferred developer partner and its design, development and financial proposals would be brought forward to the Executive for their approval to the appointment of the preferred developer partner.
- 3.21 There are a number of inherent risks associated with the recommended delivery approach, including but not limited to the following;

3.21.1 Financial

Changes in market conditions could reduce the value of the residential units for market sale increasing the funding gap.

The Council would incur abortive costs if the WGL does not come forward for redevelopment as noted in paragraph 4.2

3.21.2 Planning;

Planning constraints could reduce the development potential of the site limiting the number of residential units for market sale and increasing the financial viability gap.

Local objections delay or prevent planning permission being obtained

3.21.3 Procurement;

The potential developer partners may not be prepared to take the financial risk on the planning or viability of the scheme.

3.21.4 Programme;

The construction of the new building would not be completed before Spring 2014

- 3.22 The proposed delivery and procurement approach aims to mitigate some of the identified risks whilst simultaneously delivering the Council's objectives outlined in paragraph 3.9 by cascading control of the design, delivery process and the financial viability of the scheme down to a developer partner. This limits the Council's initial upfront investment and maximises the land value of the site, aiding the delivery of a self financed new council building.
- 3.23 If the tender process identifies that the proposed scheme fails to deliver the Council's requirements outlined in paragraph 3.9, Officers would bring forward a further report to the Executive revisiting the alternative delivery options identified above, to establish if a less ambitious option might be more appropriate to deliver the Council's requirements within the identified timescale.
- 3.24 Paragraph 3.13 refers to the marketing of the site for a comprehensive redevelopment of the site. To achieve that redevelopment it may be necessary to appropriate the site for planning purposes when it is no longer required for the purposes which it is currently held. The appropriation would be in order to ensure the proper redevelopment of the site since such an appropriation would allow the Council to use powers in Part IX of the Town and Country Planning Act 1990 which only apply where land has been acquired or appropriated for planning purposes.
- 3.25 It is considered that redevelopment is clearly in the public interest and provides sufficient justification for the appropriation which would allow flexibility in what can be achieved in terms of redevelopment and would facilitate redevelopment, which would improve the economic, social and environmental well-being of the area. Appropriation will allow for the operation of powers including s. 237 of the Town and Country Planning Act 1990, to override third party rights which might impede such redevelopment or which make it more difficult to achieve the optimum scheme. If that power were required, then there would be in any event an entitlement to compensation for any party whose rights were overridden.

KEY PROJECT COMPONENTS

Client Brief

- 3.26 A vision statement and client brief would be developed for the new building, to ensure that the incorporated services and facilities align with and respond to the; One Council Customer Contact Requirements, Library Transformation Strategy, Festival and Arts Strategy and the needs of those residents living within the South of the borough. The delivery of these services would be funded through existing revenue budgets.

3.27 It is intended the client brief would incorporate an option, for the developer partner to bring forward appropriate partnership proposals for the Executives approval that would seek to deliver services from an external service provider i.e. retail, catering, private or voluntary sector within the Council building. The client brief would be used to inform the procurement process and as a tool to manage the design and delivery of the new Council building throughout the lifecycle of the project.

Interim Service Delivery Strategy

3.28 If the WGL site is redeveloped, it is anticipated at the time of writing it would need to be closed January 2012 – March 2014 (inclusive) to enable development and soft opening launches.

During this period an interim service delivery strategy would be implemented to ensure business continuity. Full details of the interim service delivery strategy for the library, museum, cultural services and the associated costs would be brought forward for the Executive's approval alongside the preferred development partners' detailed design and development proposals for the site. Please note that the interim strategy would include the provision of a temporary library facility within the Willesden locality and all associated costs would be funded through the existing revenue budgets.

Heritage Lottery Funding

3.29 In 2004 the Council successfully secured £1.3million of Heritage Lottery Funding (HLF) to refurbish WGL in order to accommodate Brent Museum. Upon receipt of the funding the Council entered into a 25 year contract with the HLF which stipulated the Council would need to seek agreement to 'Changes in Approved Purposes' to any HLF grant funded works.

3.30 HLF would need to consider in full the Council's proposals for the 'Change in Approved Purposes' and take an informed view as to whether or not any clawback of grant is required. Officers have held discussions with the HLF and if a like for like replacement is provided and the overall customer offer and experience is improved, the HLF have indicated they are likely to approve the 'Change in Approved Purposes' and not require any clawback of grant funding. At a minimum the client brief for the new building will stipulate a like for like replacement of the museum.

Consultation

3.31 Community participation, engagement and consultation are critical to the successful delivery of this project. As the project evolves, an increasing complex set of dialogues with the boroughs residents and service users would be required to inform them of a plethora of issues. The project's communications and consultation strategy has been designed to engage the following stakeholders in the project; Brent residents, Councillors, voluntary sector, investors, local businesses, local media and Brent Staff

3.32 The Strategy employs a number of communications tools (methods and delivery) that are as forward thinking and as pioneering as the building and services Officers aim to deliver, alongside more traditional methods. These two streams of communication would run simultaneously throughout the

project to ensure Officers engage existing audiences and those that are identified as hard to reach.

- 3.33 A Users Focus Group would be established to inform and seek feedback on the development of the vision statement and client brief for the new Council building. The Users Focus Group would be recruited through the existing citizen panel and WGL Valued Customer Panel members. Further details [if applicable] of the pre planning consultation strategy will be brought forward for the Executives approval alongside the preferred development partners' detailed design and development proposals for the site.

Next Steps

- 3.34 If the Executive approves the recommendations in Section 2 Officers would call off the "Southern Cluster" of the HCA DDP Framework in February 2011. The Project Specific Tenders would be evaluated in May 2011 and [if applicable] details of the preferred developer partner and its design, development and financial proposals would be brought forward to the Executive for their approval to the appointment of the preferred developer partner in July 2011. This would also be accompanied by details of the interim service delivery strategy for the library, museum and cultural services during the redevelopment and pre planning consultation strategy.
- 3.35 If the procurement process identifies that the comprehensive redevelopment of WGL cannot deliver the Councils requirements outlined in paragraph 3.9 at zero net capital cost to the Council, Officers would bring forward a report to the Executive in July 2011 to consider if a less ambitious option might be more appropriate to deliver the Council's requirements within the identified timescale.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The resource envelope for taking forward the development stage of the WGL project would be determined by the net capital receipt secured for the disposal of Chambers Lane. Further information regarding the disposal of Chambers Lane are set out in Appendix 2.
- 4.2 If the WGL does not come forward for redevelopment there is a risk abortive costs to the value of £178k will be incurred during the development stage of the project. Any abortive costs would have to be recharged to a revenue budget for which there would be a limited funds available within 2011/12 budgets to meet such costs across all Regeneration and Major Project schemes
- 4.3 Calling off the HCA DPP Framework aims to mitigate this risk as it reduces the level of upfront investment required by the Council, as there are no associated design costs. It also allows the Council to test the market and the financial viability of the scheme at an early stage in the development process.
- 4.4 If there was a requirement to repay HLF grant as referred to in paragraphs 3.30, there would be no budgetary provision to make this payment and it is likely that this would result in cuts to schemes elsewhere in the capital programme.

4.5 Where there is a requirement for the disposal of the housing land shown cross hatched black on Plan C at Appendix 1 forming part of the Willesden Green Library site, Members should note that the Local Authority (Capital Finance and Accounting) (England) Regulations 2003 state that capital receipts, or the equivalent benefit, a local authority derives from the disposal of an interest in other housing land (non Right to Buy) must be “pooled” at a rate of 50%. However, the regulations also state that a local authority can treat such receipts as reduced by an amount up to the value of its available Capital Allowance at the time the specified amount is calculated. For the purposes of these regulations the Capital Allowance is a provision that reflects the authority’s past and current forecast investment in regeneration schemes and the provision of affordable housing. Currently the council is maintaining a capital allowance significantly in excess of the forecast land value and there would be no requirement to make a pooling payment.

5.0 LEGAL IMPLICATIONS

- 5.1 A major part of the WGL site (“the Property”) is held as Housing Revenue Account land under the Housing Act 1985 and therefore any development structure involving any disposals and appropriation to planning purposes whether in whole or in part may require consents of the Secretary of State under the Housing Act 1985 as set out below.
- 5.2 Under Section 123 of the Local Government Act 1972 the Council has a general power to dispose of properties including by way of the sale of the freehold or the grant of a lease. The essential condition is that the Council obtain (unless it is a lease for 7 years or less) the best consideration that is reasonably obtainable .The general power is exercised subject to the provisions of the Housing Act 1985 in respect of housing land .
- 5.3 Disposals on the open market, including by way of auction, after proper marketing will satisfy the best consideration requirement.
- 5.4 Under Section 122 of the Local Government Act 1972 the Council can appropriate land for any purpose which under the legislation it can acquire land. What this means is that although the Council already owns the site it can appropriate it for another purpose provided it is a purpose for which it is allowed under the legislation to acquire land and provided the land is no longer required for the purpose for which it is held immediately before the appropriation. The Council must be satisfied that the appropriation is in the public interest.
- 5.5 Any appropriation of the Housing Revenue Account land may require the consent of the Secretary of State under Section 19 of the Housing Act 1985
- 5.6. Section 237 of the Town and Country Planning Act 1990 provides where land has been appropriated for planning purposes any easements or covenants which may exist for the benefit of third parties are overridden on erection, construction or carrying out or maintenance of any building and change of use in accordance with planning permission, subject to payment of any

compensation. The practical effect is that any rights which may exist do not delay or obstruct the development. This provides effective assurance to the developer that he would have a good title to the land.

- 5.7 Under Section 226 of the Town and Country Planning Act 1990 the Council is authorised to acquire land if the Council thinks that the acquisition of the land facilitate the development or redevelopment of the land and the development, re-development or improvement is likely to contribute to the promotion or improvement of the economic well-being of their area and/or the promotion or improvement of the social well-being of their area and/or the promotion or improvement of the environmental well-being of their area.
- 5.8 In respect of Housing Revenue Account land, consent is required under sections 32 to 34 and 42 to 43 of the Housing Act 1985, However a specific application for consent may not be required (dependent on the proposed heads of terms) as there is a General Consent 2005 granted under the 1985 Act which gives deemed consent for most categories of disposal of housing land at best value.
- 5.9 Further information regarding property issues are set out in Appendix 4.
- 5.10 As detailed at paragraph 3.13, the intention is to procure a development partner to deliver the project. This will be through a development agreement. There has been much recent case law regarding development agreements and on the basis of the case law, it is considered that the proposed transaction is likely to be regarded as involving the letting of a public works contract. Given the estimated value of such development agreement is higher than the EU threshold for tendering of Works contracts, the development agreement is therefore considered to be governed by the Public Contracts Regulations 2006 ("the EU Regulations"). The development agreement will also be subject to the Council's own Standing Orders in respect of High Value contracts and Financial Regulations.
- 5.11 The intention is for Officers to procure a development partner and enter into a development agreement using the HCA DPP Framework. 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. The HCA DPP Framework has been procured by the HCA in accordance with EU Regulations. The mini competition process described in paragraph 3.18 to 3.20 of this report is also in accordance with the requirements of the EU Regulations.
- 5.12 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 recommended by the relevant Chief Officer. However, this is subject to the Director of Legal and Procurement advising that participation in the Framework Agreement is legally permissible and approval to participate in the Framework being obtained from the Director of

Finance and Corporate Services. The Director of Legal and Procurement and the Director of Finance and Corporate Services have given the necessary approval. In addition, Executive approval is still required for the appointment of a development partner and entering into a development agreement due to this being a classed as a High Value contract.

6.0 DIVERSITY IMPLICATIONS

6.1 The new Council building would reflect and meet the needs of Brent's diverse and multi cultural community. The success of the project and the creation of a truly sustainable cultural hub are dependent on engaging all of Brent's residents. The entire community needs to develop a sense of ownership of the building, the building itself needs to reflect the culture and heritage of the borough and local residents need to be at its heart. The project's communication strategy would seek to find ways of involving and engaging with all local residents in the project and particularly those who are hard to reach. An array of communication methods would be employed to ensure that where possible, resident engagement in the project is representative of the borough's diverse community. An Impact Needs Requirement Assessment will be completed alongside the detailed business plan for the identified delivery route.

7.0 STAFFING AND ACCOMMODATION IMPLICATIONS

7.1 At present it is anticipated that in 2014 the new Council building would provide office accommodation for the following service areas:

Willesden Green Library & Museum Staff – *18 Desk Spaces*

Willesden Green Locality Team – *14 Spaces*

Hot Desk – *4 Spaces*

Customer Contact – *20 Service Points*

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APPENDICES

Appendix 1: Plan A, B and C

Appendix 2: Chambers Lane

Appendix 3: Options Appraisal & Financial Feasibility Study

Appendix 4: Property Issues