



Executive
16 January 2012

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

Wards affected:
ALL

Willesden Green Library Centre Redevelopment

APPENDICES 8, 14 AND 16 ARE NOT FOR PUBLICATION

1.0 Summary

- 1.1. This report summarises the procurement process undertaken by the Council to procure a developer partner to redevelop the Willesden Green Library Centre site and requests delegation to the Director of Regeneration and Major Projects in consultation with the Director of Legal & Procurement to award and enter into a Development Agreement with the preferred developer partner.
- 1.2. This report summarises the structure of the development agreement to be entered into with the preferred developer partner and requests delegation to the Director of Regeneration and Major Projects in consultation with the Director of Finance and Corporate Services to approve the detailed design and detailed cost for the "**Council Works**"; defined as; a new cultural centre which will include a library, museum, archive and customer contact centre on a designated plot, associated public realm, community amenity spaces and designated car parking.
- 1.3. Finally a general update and overview of the project is provided, demonstrating that all the pieces are now in place to redevelop the Willesden Green Library Centre site and deliver a new cultural centre in the south of the Borough, equivalent in quality to the new civic centre in the north, at net zero capital cost to the Council.

2.0 Recommendations

- 2.1 That the Executive delegate authority to the Director of Regeneration & Major Projects in consultation with Director of Legal & Procurement to award and enter into a Development Agreement with Galliford Try Plc in respect of the Willesden Green Library Centre site as shown crossed hatched black in the plan A at Appendix 1; such agreement to provide for the acquisition of the

land as shown edged blue and green in the plan B at Appendix 1 and the development of a new cultural centre within the land as shown edged orange in the plan B at Appendix 1.

- 2.2 The Executive authorise the Director of Regeneration and Major Projects to dispose of the land at Chambers Lane Willesden Green shown crossed hatched black on Plan C at Appendix 1 to Galliford Try Plc to form part of the Willesden Green Library Centre site as shown crossed hatched black in the plan A at Appendix 1.
- 2.3 That the Executive authorise the Director of Regeneration & Major Projects (where the Director of Regeneration & Major Projects in conjunction with the Director of Legal and Procurement consider applicable) to take the necessary steps to override or where requisite extinguish rights and interests in the land which might otherwise act to constrain the development by
- (i) appropriating the land shown crossed hatched black in the plan A at Appendix 1 for planning purposes when it is no longer required for the purposes for which it is currently held
 - (ii) taking any other legal steps as may be necessary to achieve this objective.
- 2.4 That the Executive delegates authority to the Director of Regeneration & Major Projects in consultation with the Director of Finance and Corporate Services to authorise the detailed design and detailed costs for the “Council Works” as detailed in Section 5.2, 7.5 and 7.6.
- 2.5 That the Executive endorses the proposed interim service delivery strategy as detailed in paragraphs 6.4 -6.36 below for the services currently provided at the Willesden Green Library Centre.
- 2.6 That the Executive notes the detailed Impact Needs/Requirements Assessment in Appendix 15 and the detailed Equality Strand Analysis, key issues and proposed mitigation in Annex 15.1.
- 2.7 That the Executive endorses the proposed consultation strategy outlined in Appendix 2.

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 Centre (WGLC).
- 3.2 WGLC 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 into a major cultural hub.

- 3.3 WGLC is a much valued local resource. The building currently incorporates; a library, museum, archive, gallery, bookshop, one-stop-shop, cafeteria, meeting rooms and cinema space and in the past has been the focus of much of the borough's cultural activity. However in recent years the facility has struggled to meet the expectations of local people. The cinema and café have both closed. The building is poorly designed, confusing for visitors, inefficient to run and manifestly does not accord with the Council's vision of delivering customer facing services in modern, state of the art buildings fit for the 21st century.

4. Rationale for Change

- 4.1 Although elements of the WGLC are extremely popular and well used, the building does not lend itself to creating a warm or inviting customer experience. Legibility and access arrangements within the building are poor. Whilst relocating the museum to WGLC has resulted in increased use of the museum service, its location on the second floor does make it relatively less visible limiting visits. Visitors also often struggle to locate and enter the meeting rooms on the second floor.
- 4.2 Historically WGLC has struggled to fulfil its potential. It has not evolved into a truly local cultural destination. Its poorly designed internal structural layout means the building is essentially not fit for purpose. This is most clearly demonstrated in the cinema, which was originally intended to be a theatre, and the café which has a small kitchen and limited storage. The cinema and café have both been vacant for over 2 years and at the time of writing the Council has received no interest from the market to occupy either on a long term lease.
- 4.3 Where poor legibility and vacant spaces combine, areas within the existing WGLC can feel unsafe. This intensifies at night, as the building envelope creates small, dark areas that have no natural surveillance which attract both vandalism and anti social behaviour. The resulting perceived fear of crime does not encourage people from Brent's diverse communities to explore or congregate within the WGLC especially after dark.
- 4.4 The physical condition of WGLC is also extremely poor. 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. Completing these repairs would require an initial investment of £657,000 to merely ensure the building was brought up to accord with minimum building standards.
- 4.5 In 2009 when the 1-2-5-21 customer engagement strategy was launched the Council committed to delivering customer facing services in buildings fit for the 21st century. High quality, modern, bright, sustainable, flexible, efficient

buildings which are accessible to all and actively welcome people from all of Brent's diverse communities. The new civic centre clearly echoes that commitment. For WGLC to become the Council's tier '2' building with a major customer facing offer, it needs to be redeveloped into a building of comparable quality to the civic centre. The WGLC needs to offer an appropriate outward looking, open and responsive environment for One Council ways of working in a building where people will want to go.

- 4.6 The Council is currently driven by the overarching concept of One Council. This aims to provide excellent public services and deliver these in the most efficient way but also to build strong relationships and better communications between the Council and citizens ensuring local priorities are addressed and that local potential is nurtured. A redeveloped WGLC will play an important role in this strategy supporting both the One Council Library Transformation Project and the One Council Future Customer Service Project.
- 4.7 The One Council Library Transformation Project focuses on a network of libraries in high street locations designed in modern, dynamic, multi functional buildings with an improved digital offer that are able to better meet local community need. Phase three of the transformation project is dependent on delivering a new state of the art library at WGLC.
- 4.8 The Future Customer Service Project aims to improve efficiency and clarity of the services offered to citizens. The strategy is dependent on developing a new customer contact centre at WGLC providing a service for the south of the borough, an area where many of the Council's high need customers reside.
- 4.9 The redevelopment of WGLC has the potential to act as a catalyst for the wider regeneration of the area particularly the lower end of the High Road which has historically failed to thrive, through:
- Stimulating the local economy through nurturing local enterprise and business and through encouraging investment
 - Enhancing the 'offer' and character of the town centre in a way that encourages people both to come to and to spend time in Willesden Green, by day and in the evening, rather than going elsewhere
 - Drawing on and enhancing the strengths of the existing community and its cultural traditions to help build a sense of local identity in terms of both activity and architecture
 - Helping to forge links between communities old and new by providing spaces that encourage shared uses
- 4.10 Despite a strong and robust rational for redeveloping the WGLC, in the current economic and financial climate it is imperative that the redevelopment of WGLC is brought forward only if the project is self financing and delivered at zero net capital cost to the Council. It is also a primary aim of the project that the Council retains the freehold of its new building, in order to maximise control and flexibility for the future.

4.11 **Delivery Approach**

- 4.12 In July 2010 the Council commissioned a feasibility study to explore the potential redevelopment options for the WGLC site. Informed by an options appraisal and subsequent soft market testing, officers were then 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 the comprehensive redevelopment of the entire WGLC site was brought forward.
- 4.13 In February 2011 the Executive accordingly gave their approval in principle to the comprehensive redevelopment of the entire WGLC site as shown on plan A at Appendix 1. At the same time, the Executive authorised Officers to call off the Homes and Community Agency Developer Partner Panel Framework (HCA DPP) to test the market and establish if the redevelopment of the WGLC site could be delivered at zero net capital cost to the Council without exhausting the Council's valuable resources.
- 4.14 Following the Executive approval of February 2011, a comprehensive and thorough consultation process was undertaken with Senior Council Officers, WGLC staff and users to discuss, evaluate and agree the key requirements for the Council's proposed new building, which for the purpose of this report will be referred to as a 'cultural centre'. This consultation process produced a vision statement (attached at Appendix 3) and client design brief, which clearly and confidently articulate the Council's technical design and quality requirements for its new cultural centre.
- 4.15 The vision statement and client design brief informed the procurement process outlined below in section 5 and will thereafter form the basis for the detailed design development of the cultural centre.
- 4.16 The key components of the Council's new cultural centre are:
- General Library
 - Children's Library
 - Customer Contact Centre
 - Museum
 - Special Exhibition Gallery
 - Education Room
 - Community Gallery
 - Archive
 - Climate Controlled Archive Store
 - Foyer/Reception
 - Café
 - Three Creative Cluster Spaces which will be fitted out to facilitate an array of artist and cultural programming
 - Data Centre
 - Confidential Conference Room
 - Public Toilets
 - Office Space

- 4.17 Within its immediate amenity, the cultural centre will sit within a high quality public realm, which will include replacement public amenity and a maximum of 8 car parking spaces for staff (1), family and children (2), disabled (2), car club (1) and library escort vans (2).
- 4.18 Following the Executive approval of February 2011 the Council also reviewed the red line site boundary of the site. In order to maximise viability it was decided to incorporate Chambers Lane - the land marked crossed hatched black on plan C at Appendix 1 - within the WGLC site, as shown edged black in the plan A at Appendix 1. In February 2011 the Executive had previously authorised the Assistant Director of Regeneration & Major Projects (Property & Assets) to dispose of the land at Chambers Lane Willesden Green shown crossed edged black on plan C at Appendix 1 with vacant possession by way of auction.
- 4.19 In June 2011, having defined the site and the Council's requirements for the cultural centre, a tender process was followed in accordance with the HCA DPP Framework procurement procedures, a framework which the HCA has set up already under the EU procurement rules.

5. Tender Process for the Willesden Green Redevelopment Project leading to recommendation for award of contract.

- 5.1 The Council are looking to select a developer partner from the HCA DPP Framework to deliver a mixed use redevelopment of the WGLC site.
- 5.2 The Council has stated the selected developer partner would be required to work with the Council to agree the detailed design and build out of the **"Council Works"** defined as: the new cultural centre on a designed plot and in accordance with the client design brief associated public realm, community amenity space and 8 designated car parking spaces. The Council Works would be delivered on the **"Council Works Land"**, of which the Council will retain the freehold.
- 5.3 In return the developer partner would be granted the right to develop residential units for market sale, associated public realm and car parking to accord with planning guidance (together defined as the **"Developer Works"**) on the remainder of the site. The Developer Works would be delivered on the **"Developer Works Land"**, the freehold of which will be transferred to the developer partner on a drip feed basis, such that up to 30 residential units would be available for early transfer to the developer partner before the completion of the Council Works but with the remaining Land withheld from the developer partner until the Council Works were complete.
- 5.4 The key project principles informing the procurement process were;
- Brent Council aspires to deliver the redevelopment of the WGLC at no net capital cost to the Council. It is therefore envisaged the developer partner will deliver a mixed use scheme, in accordance with the Planning Statement, that provides sufficient enabling residential

development for market sale and other appropriate uses, to fund the development of the Council Works.

- Brent Council would retain the freehold of the new cultural centre, on a designated site within the development.
- Brent Council would be responsible for securing vacant possession of the site prior to redevelopment.
- Brent Council aspires to the new cultural centre being open and fully operational by spring 2014.
- Brent Council expects the new cultural centre to be a bespoke high quality flagship building, in line with the Vision Statement and Design Brief.
- The developer partner is expected to work in partnership with Brent Council to deliver the redevelopment of the WGLC site.

5.5 **Principle Structure:**

5.6 The principle structure of the standard offer set out in the procurement documents, in accordance with the Development Agreement is summarised at Appendix 4.

5.7 **Variant Bid:**

5.8 To maximise the project's financial viability, ensure the Council achieves best value and that the project objectives are met, the HCA DPP panel members were also invited but not required to submit one variant bid. Details of the variant bid options, as set out in the procurement documents, in accordance with the Development Agreement are summarised at Appendix 5.

5.9 **Stage 1: Expression of Interest E-mail**

5.10 On 1st June 2011 the Council commenced the three stage process involved in calling of the HCA DPP Framework. All seventeen developers on the "Southern Cluster" of the HCA DPP Framework were sent an Expression of Interest E-mail which outlined the key principles of the project as set out above in Section 5.4. The developers were invited to confirm their interest, capacity and resource to bid in a mini competition to deliver the Willesden Green Redevelopment Project.

5.11 A total of 9 developers expressed an interest in the project. All 9 developers were invited to attend a Bidders Day on 16th June 2010 and enter the second stage of the procurement process.

5.12 **Stage 2: Sifting Brief**

5.13 On 9th June 2011, nine developers were issued with a sifting brief. The sifting brief set out details of the site, background information to the project, the schemes objectives and asked four site specific questions designed to test the developers capabilities and experience in delivering similar mixed used developments within urban areas.

- 5.14 A total of four developers responded to the sifting brief in accordance with the deadline on 30th June 2011. The four site specific questions used to shortlist the developers are set out at Appendix 6.
- 5.15 The three developers who scored highest were invited to bid in a mini tender competition to deliver the Willesden Green Redevelopment Project.
- 5.16 **Stage 3: Mini Tender**
- 5.17 On 14th July 2011 a project specific mini tender was issued to the 3 short listed developers in what was the third and final stage of the procurement process. The mini tender incorporated an array of project specific information, including but not limited to the following; vision statement, client design brief, planning statement along with a draft Development Agreement, title deeds and site investigation reports.
- 5.18 The mini tender stated that the evaluation will be determined and the contract award on the basis of the most economically advantageous tender MEAT to the Council and in evaluation of the tenders, the Council would use the evaluation criteria set out in the Evaluation Matrix at Appendix 7 of this report. Overall 40% of the marks were awarded for price and 60% for quality.
- 5.19 Of the 40% award for price, 20 points measured the overall 'Value' to the Council. The overall value to the Council was calculated as a sum of the three (or in the case of variant bids, four) elements set out below.
- a) A non refundable payment of £50,000 to the Council on exchange of the Development Agreement
 - b) Confirmation of the Total Cost Allocation for the Council Works to be incurred by the delivery partner. This will form the Council Works Threshold Cost
 - c) Confirmation of the residual land value of the Developer Works Land after allowing for the £50,000 deposit and cost of the Council Work to be delivered on the Council Works Land.
 - d) FOR VARIANT OPTION 1 ONLY: A land payment of £300,000 upon the unconditional date as defined in the Development Agreement.
- 5.20 Tenders from three organisations (Appendix 8) were submitted on time, and these were opened and logged in accordance with the Council's Contract Standing Order 100. Two organisations (Appendix 9) also submitted a variant bid option. Both variant bids received combined Variant Bid Option 1: The inclusion of Chambers Lane and Variant Bid Option 2: Staged Release of Developer Works Land. In total five submissions were received from three organisations.
- 5.21 **Mini Tender: Evaluation Process**
- 5.22 All submissions received were of extremely high quality and all submissions clearly and confidently demonstrated that the redevelopment of the WGLC site could be delivered at no net capital cost to the Council and the cultural centre could be open and operational by spring 2014.

- 5.23 Evaluation of all parts of the tender submission was carried out by a panel of officers, with the assistance of consultants, facilitated by an Officer from the Procurement Section. Technical advice was provided by the Council's Planning Department in respect of sustainability. AOC Architecture provided design advice in evaluating whether the design proposals met the quality and design standards as set out in the client design brief. AOC Architecture also facilitated a workshop with WGLC staff in order to provide feedback on the design proposals from an operational perspective. CB Richard Ellis provided commercial advice. In addition Keegans also provided financial advice. Panel members met on 27th September 2011 and 28th September 2011 to score the quality section of the evaluation.
- 5.24 The financial evaluation (which carries a maximum percentage of 40 of the total available score) was carried out by the Council's cost consultant Keegans and C B Richard Ellis the Council's agent in conjunction with officers from Finance and Corporate Services.
- 5.25 Two financial adjustments were made to the financial submission to inform the financial evaluation. Developer 1 financial figures were adjusted to reflect the legal advice obtained by the Council on Stamp Duty Land Tax which conflicted with that of Developer 1. Developer 2 financial figures were adjusted to remove the demolition and design fees from the Council Works Threshold Cost. These financial adjustments were made to ensure the Council were evaluating like for like bids.
- 5.26 All three bidders attended a clarification meeting with the tender evaluation panel and technical advisors on 6th October 2011. The clarifications provided by the bidders at the meeting informed the tender evaluation panel when they met to confirm their scores on 10th October 2011.
- 5.27 The detailed evaluation results are set out in Appendix 10 (price) and Appendix 11 (quality).
- 5.28 Following the evaluation, the variant tender from Developer 1 was identified as the most economically advantageous tender. The Council subsequently entered into discussions with Developer 1 in order to resolve a number of outstanding clarifications. At that point in time, Officers had intended to take recommendation to the Executive in November 2011.
- 5.29 Developer 1 was reliant upon obtaining a significant level of funding from an external source. During the clarification period Developer 1 clarified the terms and conditions of their external funder. The clarifications received identified that Developer 1 required an immediate interest in the Developer Works Land. This was disappointing as prior to its selection the preferred bidder Developer 1 had specifically confirmed that this would not be the case. This was a material change to the structure of the offer as set out in the original tender instructions and Development Agreement which it would have been unfair, to other bidders, to allow. As a result of the clarifications received, Officers concluded that the offer from Developer 1 was non-compliant and therefore

they were no longer in a position to recommend contract award to the Executive in November 2011.

- 5.30 When Brent Council entered into a clarification period with Developer 1, Officers wrote to all bidders advising them of the Council's intention. The Council stated that, if at the end of the clarification period Brent Council were not in a position to appoint the preferred developer, then the Council reserved the right to reopen the competitive process. Consequently, when Officers concluded that the offer from Developer 1 was non-compliant, Brent Council reopened the competitive process and each organisation was given the opportunity to engage further in the bidding process.
- 5.31 On 15th November 2011 Brent Council wrote to all three tenderers and provided them with a 9 day window of opportunity to submit a revised standard bid in accordance with the terms and conditions, notices and disclaimers set out in the original Mini Tender Instructions. All tenderers were also invited to submit a revised variant bid in accordance with the terms and conditions, notices and disclaimers set out in the original Mini Tender Instructions. This approach is in accordance with established procurement practice. Alternatively, tenderers were invited to reaffirm all aspects of their original submission.
- 5.32 The information submitted by Developer 2 as part of the revised submission was unclear. A pricing template for the standard bid was submitted but with a supporting appraisal relating to a variant bid. Clarification was twice sought from Developer 2 as to their submission but their responses failed to provide clarity. As the information submitted clearly included the Chambers Lane site, Officers concurred with the technical advisors recommendation, that the offer submitted by Developer 2 was for a Variant Bid Option 1 (inclusion of Chambers Lane) only. Developer 3 submitted both a revised standard bid and variant bid in accordance with the deadline on 24th November 2011. Developer 3's variant bid combined Variant Bid Option 1: (the inclusion of Chambers Lane) and Variant Bid Option 2: (staged Release of Developer Works Land). In total three submissions were received from these two organisations. During this period, rather than proposing revised bid(s) Developer 1 reconfirmed their bids, the status of such being as reached at the end of the clarification period (i.e with the required material change to the Development Agreement).
- 5.33 Evaluation of all parts of the revised tender submissions was carried out by a panel of Officers with the assistance of consultants, facilitated by an Officer from the Procurement Section. As Developer 1's bids remained non compliant, their bids were not evaluated.
- 5.34 The detailed evaluation results for the revised tender submissions for Developer 2 and Developer 3 are set out in Appendix 12 (price) and Appendix 13 (quality).
- 5.35 Following the evaluation of the revised tender submissions, the variant bid from Galliford Try Plc has been identified as the top scoring tender bid and

therefore is considered the most economically advantageous tender. As minor clarifications are still being sought from Galliford Try therefore Officers recommend that the Executive delegate authority to the Director of Regeneration & Major Projects in consultation with Director of Legal & Procurement to award and enter into the Development Agreement with Galliford Try Plc, (Company Number 00836539) whose registered office is at Cowley Business Park, Uxbridge, Middlesex, UB8 2AL to redevelop the Willesden Green Library Centre site.

- 5.36 Galliford Try Plc were agreed by the panel to have provided a high quality submission; they showed a good understanding of the aims and ambitions of the project and put forward a strong team who clearly had the appropriate skills and resources to deliver a high quality scheme on time and to budget.
- 5.37 Within their revised submission Galliford Try Plc confirmed that despite the programme delay they could still achieve the Council's target practical completion date of spring 2014.

6. Project Update

6.1 Vacant Possession

In order to redevelop WGLC site the Council is required to secure vacant possession of the site. Parts of the property are currently let on a protected business tenancy to a bookshop and on a tenancy at will to Brent Irish Advisory Service (BIAS). It is essential to the timing of the delivery of the cultural centre that vacant possession of the site is obtained. Most importantly it should be noted that the Council have a legal obligation to deliver vacant possession to the developer partner and as such will be in breach of contract if this cannot be delivered to enable the development to start on site on the allotted date.

- 6.2 In order to secure vacant possession of the site the Council has served the bookshop with a Section 25 Notice to terminate their tenancy. BIAS tenancy at will will be terminated in accordance with the agreed development programme. The Council will offer assistance to both organisations to try and secure alternative premises within the Borough. Additional financial assistance will not be made available. Neither organisation will be offered space within the new cultural centre.

- 6.3 Brent Artist Resource (BAR) currently occupy spaces within the WGLC on a service level agreement. The Council will also offer assistance to BAR to try and secure alternative premises within the Borough.

6.4 Interim Service Delivery Strategy

- 6.5 It is anticipated at the time of writing that the WGLC will need to be closed for just 18 months between September 2012 – April 2014 (inclusive) to enable its redevelopment. To secure vacant possession by September 2012, the WGLC decant will begin in July 2012. It is also envisaged the third party tenants may vacate the site prior to July 2012. To ensure business continuity an interim

service delivery strategy will be implemented for all the core Council services currently provided at the WGLC.

- 6.6 The interim service delivery strategy as set out below in Sections 6.7-6.36 is thorough and comprehensive. It has been designed to maximise opportunities to test new innovative ways of working and to reach as many new customers as possible with the aim of enhancing service provision during the interim period. In the nine months before the redevelopment starts the detailed plan will be further refined.
- 6.7 The interim service delivery strategy also builds upon the focus to deliver the Library Transformation Project, approved by the Executive in April 2011. The improvements are set out in detail in that report, but some of the key areas are:
- 7 day a week opening at all the Council's libraries
 - Improved online services including virtual reading groups, improved reservation services and more reference materials
 - An extensive home delivery and outreach service
 - Exciting events and courses
 - More public involvement in future stock
 - Additional support for children, young people and families and people with disabilities
- 6.8 In addition to these improvements, the new Civic Centre at Wembley will open by June 2013, providing access to a larger library, more study space and public IT.
- 6.9 Whilst the new WCLC facility is being constructed this is an exciting opportunity to reach new audiences and improve the availability of Library, Arts and Heritage (LAH) services. Brent's Cultural Strategy 2010-2015 and the Libraries Transformation Project will be very much at the heart of this vision and the service will work on a wide range of projects with the goal of:
- Keeping existing customers and reaching new customers
 - Enhancing cultural vibrancy and raising the profile of culture
 - Increasing participation
 - Community engagement and consultation
 - Making the most of London 2012 and other major events
- 6.10 A wide range of research has been used to develop the interim service provision in line with community needs:
- The results of the comprehensive public consultation carried out as part of the Libraries Transformation Project
 - Brent commissioned research by Red Quadrant as part of the LTP to look at the current Brent libraries offer , to inform the project and develop proposals
 - Library management data to identify user trends

- Strategic influences- Library Strategy 2010-2012, , Libraries Transformation Project and MLA report: What People Want from Libraries (December 2010)

- 6.11 There will be a blend of traditional and new, innovative services including providing library and museum services through outreach, home visits and 'pop up' venues for events. It is also an exciting time to explore new ways of enhancing cultural diversity and increasing participation across the area.
- 6.12 Customer segmentation of library use across the borough (Red Quadrant report 2010) told us that some groups were under-represented, in particular residents living in high density social housing with higher levels of diversity. Willesden Green is one of the wards that has the highest levels of this type of housing and these areas will be targeted in our activities and marketing campaigns.
- 6.13 Marketing, outreach and communications: There will be a wide reaching communications plan to keep customers, stakeholders and partners informed about the interim services and excited about the redevelopment of the current centre. The communications plan will be carefully targeted to reach key audiences and it will use both traditional and on-line media, leafleting and word of mouth. The plan will also incorporate residents in Kensal Rise and Cricklewood to make sure they are aware of the facilities during the temporary closure.
- 6.14 Monitoring and review of service: Interim service provision will be monitored and evaluated regularly to ensure the service meets its goals of reaching new and potential customers. A working group will be formed to drive services forward and review the progress of all new projects. This group will be made up of the Library Manager, Museum and Archive Manager, Senior Arts Officer, Arts Commissioning Officer and a Regeneration team member.
- 6.15 Staff: Staff will be focussed on day to day delivery of current services and increased community engagement, audience development, outreach and online services, and marketing and promotion.
- 6.16 **Library provision**
The interim library service will help deliver the Libraries Transformation Project (LTP) plan and will showcase a service delivery model for the redeveloped Willesden Green cultural centre.
- 6.17 During the redevelopment core library functions will be retained in the temporary accommodation and a range of alternative services will be provided. We will reap the benefits of the Libraries Transformation Project during this period, with more books, enhanced outreach services, more home visits, improvements in IT and online digital offer a more efficient reservations process to ensure that Willesden residents still receive an excellent library service.

- 6.18 Library accommodation: A temporary lending library facility will be provided in the Grange Road offices which are conveniently located next to the current library. The location will be well sign-posted. Through this easily accessible location customers will be able to access the full collection of 6 million books with an improved reservation service. Whilst the library will house a reduced collection of stock, further premises are being investigated in the Willesden area.
- 6.19 The popular under 5's sessions, reading group sessions, school support services for excluded children, homework help and chatterbooks sessions for children will all be provided from the Grange Road office and other nearby venues.
- 6.20 Study Spaces: Study space is a key part of the interim service. On an average day, staff observation shows that 60 of the 130 spaces at WGLC are used. During the exam period of April – June most of the spaces are used. Study space for the summer 2012 exams will be provided from the current Willesden Green library.
- 6.21 Day to day, during the temporary closure, we will promote the study facilities already available at nearby libraries and Vale Farm and Bridge Park Sports Centres. We have also organised a minimum of 50 spaces on a day to day basis:
- 10 PCS and 10 spaces at the temporary Grange Road library
 - 20 extra spaces at Kilburn library
 - 5 extra spaces at Ealing Road
 - 5 extra spaces at Town Hall
- 6.22 In addition, during exam time, we are negotiating for a further 80 spaces. At least 30 in the redevelopment of Roundwood Youth Centre (opening in the summer of 2012) and a further 50 spaces in the Willesden New Testament Church of God. These will be supplemented by an additional 40 spaces at the new Civic Centre in Wembley. This will be closely monitored and if necessary we will continue to negotiate with local venues for further study spaces.
- 6.23 ICT facilities for residents: The temporary library will have 10 public PCs with internet access (see above) and Wi-Fi facilities. Kilburn library, which is in easy reach of Willesden Green, will have an increased number of work stations. The possibility of further IT facilities in high street locations is also being explored. This provision will be further enhanced with the opening of the new Civic Centre in June 2013 with widely available free wireless broadband.
- 6.24 Stock Collections: An evidence based stock management system and data from the library management system will be used to formulate a stock policy for the temporary library, which will provide customers with an optimum range of stock collections/materials.
- 6.25 Events and Activities: The temporary library and other venues in the area will be used to run a vibrant, exciting range of events promoting literature and

educational opportunities. Children and adults will continue to be able to access reading events, author talks, exhibitions and some of the high profile promotions planned for 2012. The option of holding these events in vacant shops, pubs, restaurants, nearby community buildings and open spaces will also be explored, thus reaching new audiences. New audiences will be sustained by capturing their data to ensure they are sent marketing materials on forthcoming promotions, events and developments. In the run up to the temporary closure, use of meeting rooms will be carefully analysed and any groups regularly using these spaces will be contacted.

6.26 Online Service: Further online services will be introduced including extra e-books, a new virtual enquiry service, additional reference resources, brand new online courses and more virtual reading groups. These improvements will be backed up with a communications plan to market the services and to train and support customers in confidently using these services.

6.27 Community Engagement, Partnerships and Outreach Services: Outreach work is a key plank in the interim service delivery. The library service will not only continue to engage with families and current users, but also develop new audiences by outreach contact and partnership work with a wide range of partners including youth development agencies such as Connexions, new communities, homeless groups and commuters. Opportunities to develop partnerships with Transport for London, businesses and retail outlets on Willesden High Road will maximise the accessibility and use of the service.

The library service will maintain current level of contact with schools, colleges, nurseries and children centres.

6.28 It has already been decided by the Council that a library facility at Willesden Green should continue to be provided. The basis for that decision is set out in the report to the Executive of 11th April 2011, namely that libraries located on the high street or in central hub locations are more frequently used. Indeed Willesden Green Library has the highest library usage in the borough. It is therefore considered vital that the temporary relocation of this service should, so far as possible, be in the same location. This will enable the high level of service users to continue to use the facility. The Grange Road location meets those needs in terms of location, albeit that it is smaller than the current site. Grange Road remains centrally placed in Willesden Green with the same travel access as the current venue. The continued location in Willesden also reduces any negative impact on service users in the interim period pending completion of the redevelopment. The locations for extra study places are based on availability of space in other Council libraries nearby where the relevant facilities are already available, and at other suitable and easily accessible locations from the present facility. The cost of providing these additional places is kept to a minimum by using Council run buildings which have capacity, and does not entail any additional staffing.

6.29 There has been a suggestion by a very small number of members of the public supporting the continued use of the Kensal Rise and Cricklewood sites, that the Council should use those sites for use as an alternate library and or

study space. Members are advised that officers have considered a range of other options before recommending the interim arrangements set out in this report. These sites would not be suitable: Firstly the need for use of an alternative building does not arise until July 2012 by which time it is highly likely, if the Council continues to be successful in the legal challenge against the libraries decision, that the sites will be actively administered by All Souls College and not the Council - as owner, trustee or otherwise. Secondly, even were the sites to be available, the on cost of managing the buildings for this purpose is relatively high in terms of maintenance, heating etc. thirdly due to the well-established need to retain a library in the Willesden Green area, the location would have to be in addition to that at Grange Road and additional staff would need to be recruited, and lastly the locations do not meet the needs of the borough's residents.

6.30 **Museum and Archives provision.** During the redevelopment, Brent Museum will adopt a strategy of outreach work across Brent, an enhanced online presence and pop up exhibitions. The interim service objectives are:

- Make contact with new communities – notably;
 - The Indian Community around Wembley
 - The Somali/African communities
 - The Irish community.

- Take the Service to parts of the Borough that do not usually visit the Museum and Archives
 - North Brent – the North Circular Road really divides the Borough and north/south movement is not the norm.
 - South Kilburn – this is a major regeneration area and thus there is potential for tying in with regeneration projects.

- Engage young people (under 25)

The under 25s – Both through the formal education system and outside of it. This audience is difficult to capture outside of school visits. It will require a tailored form of engagement, probably delivered through partnerships with other organisations.

- Continue to engage families and repeat visitors

This existing audience needs to be nurtured to be retained as it will no longer have the familiar museum location to visit.

- Maintain repeat visits/users

It is comparatively easy to attract first-time visitors. Repeat visitors are harder given the limited resources to put on new exhibitions. With having no fixed location for the museum will provide the opportunity to explore a range of new activities to meet this challenge.

- Maintain current level of contact with schools

Create a service to take out to schools with a minimum aim of maintaining the number of pupils who currently come into contact with the Museum Service (c.2000). The closure gives the opportunity for longer visits with more intensive sessions. Schools could also provide the venue for exhibitions, curation and even family events to help retain the family audience and hopefully reach out to new families and communities; working with colleagues in LAH will help to identify suitable partner venues.

- Upgrade access

There are a number of key activities to support the above objectives which will allow better access to the collections:

- Cataloguing the archive collections - over the next two years the Archives service will catalogue the Wembley History Society collection and six smaller organisational collections
- A move to a culture of archive users learning to research resources for themselves
- Upload to the online catalogue museum accessions information for at least 2,000 items
- Plan a new museum permanent exhibition in line with Heritage Lottery Fund requirements, where possible rectifying any design flaws in the original museum design
- Plan for proactive collecting post-2014, building on the work done with communities during the transition period
- Plan to have Archive presence in temporary library space, where appointments can be conducted on request basis.

6.31 Researchers will be able to study original documents by appointment in an archives search room in the Grange Road temporary library. Excitingly, the service will experiment with activities and projects across the borough in alternative venues, including themed open days in libraries, family history workshops, online interactive exhibitions and increased work with schools.

6.32 **Customer Contact Centre** As the majority of the Council's high need clients reside in the south of the borough, officers are committed to retaining a customer access point in the south of the borough during the interim period. The closure of WGLC has therefore provided opportunities to explore options for alternative customer services access arrangements, including the potential for a shared access point with Job Centre Plus (JCP), located in the heart of Harlesden. Evaluation of all options has indicated that the shared JCP access point would provide the best facilities for customers and could be achieved within existing budgetary provision.

6.33 In order to provide this service, the Council is looking to reach an agreement to work in partnership with the JCP and provide a customer service access point from the Harlesden JCP. Combining the delivery of these complimentary services under one roof provides a fantastic opportunity to enhance the customer offer and experience for Brent's residents. It also provides an

opportunity for the Council to work more collaboratively with a public sector partner in the way we propose to do more of in the future.

- 6.34 JCP are able to provide modern Customer Services facilities, with dedicated space for Brent customers at their convenient Harlesden High Street location. The proposed location will mirror all facilities currently available at the WGLC including reception facilities, customer telephones, self service kiosks and a spacious waiting area. The Harlesden JCP is easily accessible by public transport and the opening hours align with the existing service arrangement so there will be no reduction in service provision. Harlesden JCP offers modern customer services facilities that would enable relocation of the WGLC access point with minimum set up requirements. This should allow a seamless transfer of the access point from WGLC with no interruption to service availability for customers.
- 6.35 BIAS currently has a tenancy at will in the WGLC. The charity, which is independent of the Council, receives funding from a number of sources and provides services and advice for the Irish community. Assistance to find similar suitable accessible space in the Willesden area will be provided and accordingly officers do not consider there will be an adverse impact upon its user group.
- 6.36 All costs associated with the interim service delivery strategy will be met from within the associated service department existing revenue budget allocations.
- 6.37 **Consultation**
- 6.38 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.
- 6.39 Within their submission Galliford Try Plc set out a detailed and robust consultation and communication strategy for the project. The strategy has been designed to engage the following stakeholders in the project; Brent residents, Councillors, voluntary sector, community groups, local businesses, local schools, local media and Brent Staff.
- 6.40 Working closely in partnership with the Council, Galliford Try Plc will refine, agree and deliver the indicative consultation strategy set out at Appendix 2. The consultation will internally commence immediately after the Executive in January 2012. Although the strategy will inevitably evolve in response to the feedback received from stakeholders. The strategy set out at Appendix 2, demonstrates a robust framework is in place to ensure thorough and meaningful consultation is undertaken in respect to this project which not only engages existing audiences but also those identified as hard to reach.

6.41 **Heritage Lottery Fund**

6.42 In 2004 the Council successfully secured £1.3million of Heritage Lottery Funding (HLF) to refurbish WGLC 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.

6.43 The 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.

6.44 The Council now intend to engage fully and consult with the HLF during the detailed design development phase for the cultural centre to ensure at an absolute minimum a like for like replacement is provided. At the appropriate time, as identified in consultation with HLF, the Council will make an application for a 'Change in Approved Purposes'.

6.45 **Risks and Issues**

6.46 There are a number of inherent risks associated with the redevelopment of the WGLC site, including but not limited to the following;

Risk/Issue	Mitigating Action
Financial There is a risk the detailed cost of the "Council Works" could exceed the Council Works Threshold Cost (the sum the Developer has allowed for carrying out the Council works).	As soon as reasonably practicable the Developer will provide the Council with a detailed breakdown of the anticipated detailed costs in relation to the Council Works for consideration by the Council's independent cost consultant for consideration as to whether they are reasonable and represent value for money. If the detailed costs exceed the Council Works Threshold Cost the Council could, if it was deemed appropriate, use the residual land value to offset the additional costs or the Council could determine the Development Agreement. The developer can however, prevent the Council terminating by agreeing to bear any additional costs. The structure of the deal ensures that the Council retains financial control of the

	<p>Council Works throughout the detailed design development. The overall financial value of £10,449m is the total cost envelope available to the Director of Regeneration and Major Projects to ensure the Council's high quality design and build out standards for the Council Works is maintained throughout the lifecycle of the project.</p>
Planning	
<p>Local objections delay or prevent planning permission being obtained, to include the risk of a judicial review challenge against any decision to grant planning permission.</p>	<p>The Council will work with Galliford Try Plc to undertake full and comprehensive pre application consultation to reduce the risk of objections and any legal challenge. The planning programme is extremely tight, thus there is a risk the practical completion date maybe delayed if the planning application or approval is delayed.</p>
Programme	
<p>There is a risk delays could occur in the overall programme, particularly during the construction which could mean the cultural centre is not open and fully operational in spring 2014.</p>	<p>The Council will work with Galliford Try Plc to ensure that a full and comprehensive risk register is developed to identify risk and take the necessary mitigating action to minimise the risk of programme delays.</p>
Quality	
<p>There is a risk that the Council Works may not be delivered to the required high quality standard.</p>	<p>The Development Agreement stipulates the Council will have an independent Clerk of Works who will monitor the progress and quality of the Council Works to ensure the Council's required standards are achieved. The Development Agreement contains controls on the transfer of the Developer Works Land to the developer partner unless the Council Works are being and have been carried out to the Council's required standards.</p>
Vacant Possession	
<p>The Council cannot deliver vacant possession of the site due to current occupiers not having vacated and the Council being in breach of the</p>	<p>The Council's internal legal department are working to ensure the Council can legally secure vacant possession and take all steps to</p>

Development Agreement.	relocate and secure possession as appropriate of the premises. Please see Appendix 16 for further details.
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6.47 The conditions set out in the Development Agreement aim to mitigate some of the identified risks by cascading as much risk as possible down to the developer partner whilst simultaneously allowing the Council to retain quality and financial control of the “Council Works” throughout the detailed design development.

6.48 **Next Steps**

6.49 The Director of Regeneration and Major Projects in conjunction with the Director of Legal and Procurement intend to award and enter into a Development Agreement with Galliford Try Plc by 31st January 2012.

6.50 The Council will work in partnership with Galliford Try Plc thereafter to develop and deliver the indicative development programme as set out below:

Development Activity	Indicative Programme
Resident Consultation	January – March 2012
Submit Planning Application	April 2012
Planning Approval Consideration	July 2012
Council Works Specification & Detailed Costs Approved	August – September 2012
Start on Site	October 2012
Cultural Centre Grand Opening	April 2014

6.51 The project will need to move at an extremely fast pace over the next nine months prior to the anticipated start on site in October 2012 or thereabouts. In order to ensure the Council accords with the overall project programme, it is recommended the Executive endorses the Director of Regeneration & Major Projects in consultation with the Director of Finance and Corporate Services to authorise the detailed design and detailed costs for the “Council Works”.

6.52 A not for publication appendix (Appendix 16) is attached in respect of the current occupiers of the WGLC development site.

7. FINANCIAL IMPLICATIONS

7.1 Appointment of Galliford Try Plc as per the recommendation to this report will result in a forecast overall value to the Council of £10.449m as detailed in Appendix 14 of this report.

7.2 The overall value to the Council is calculated as a sum of the following three elements as set out below and detailed in Appendix 14.

- a) A non refundable payment of £50,000 to the Council on exchange of the Development Agreement

- b) Confirmation of the Total Cost Allocation for the Council Works to be incurred by the delivery partner. This will form the Council Works Threshold Cost.
- c) Confirmation of the residual land value of the Developer Works Land after allowing for the £50,000 deposit and cost of the Council Work to be delivered on the Council Works Land.
- d) A land payment of £300,000 upon the unconditional date (i.e. after planning is obtained and after the partners are satisfied the Council Works can be carried out within the Council Works Threshold Cost see below) as defined in the Development Agreement.

- 7.3 Galliford Try Plc have committed to an initial Total Cost Allocation for the Council Works as detailed in Appendix 14. The overall financial value of £10.449m is the total cost envelope available to the Director of Regeneration and Major Projects to ensure the Council's high quality design and build out standards for the Council Works is maintained throughout the lifecycle of the project.
- 7.4 Upon securing planning consent and approval of the Council Works detailed specification, Galliford Try Plc will be required to provide the Council with a detailed cost breakdown of the Council Works, demonstrating the costs are reasonable and represent value for money. The Council will review and approve the detailed costs.
- 7.5 If the detailed costs are below the Council Works Threshold Cost, the Council may elect to add additional items to the Council Works or require the difference to be paid to the Council.
- 7.6 If the detailed costs exceed the Council Works Threshold Cost the Council may determine the development agreement. The structure of the deal ensures that the Council retains financial control of the Council Works throughout the detailed design development. The overall financial value of £10.449m is the total cost envelope available to the Director of Regeneration and Major Projects to ensure the Council's high quality design and build out standards for the Council Works is maintained throughout the lifecycle of the project.
- 7.7 Galliford Try will pay any remaining residual land value for the developer works land upon the project completion date, which is equivalent to the date of the land transfer for the Developer Works Land. This money will be held as a client contingency until such date after which any residual balance will be ring fenced by Brent Council to secure the delivery of affordable housing as set out in the mini tender.

The HCA completed a desktop review of Galliford Try Plc and their ability to carry out the development from a financial viewpoint. The HCA confirmed that the development is to be funded out of the existing resources of Galliford Try Plc. Galliford Try successfully completed the re-financing of its facilities in May 2011 therefore the HCA concluded that Galliford Try Plc should be capable of funding this development.

- 7.8 The HCA review has subsequently been scrutinised by the Council's finance team who concurred with the conclusion drawn.
- 7.9 The resource envelope available to drive forward the WGLC redevelopment project and take the site forward to the market, was determined by the estimated net capital receipt of the disposal of the Chambers Lane site.
- 7.10 When the Council took the decision to incorporate the Chambers Lane site within the overall development site taken to the market, the Regeneration & Major Projects Department Budget was used to cashflow the project.
- 7.11 The inclusion of Chambers Lane within the WGLC development site was subject to the selected developer partner paying an early advance of the purchase price, for the estimated net capital value of the Chambers Lane site, upon the Unconditional Date which is the date upon which the last condition precedent is fulfilled. On the Unconditional date the Chambers Lane site will be transferred to the Developer to enable the first 2 residential units to be commenced in accordance with the existing planning permission for the site. The remainder of the Developer Works Land will be transferred in 2 parcels one, consisting of no more than 28 residential units, 12 months after the Council Works have commenced and the remainder of the land on completion of the Council Works. The residual purchase price will be paid on the transfer of the third parcel.
- 7.12 The land payment, once received, will be used to reimburse the Regeneration & Major Projects Department capital budget to the value of the total amount expended on the project to date.
- 7.13 The future costs associated with delivering the Willesden Green Redevelopment Project will be met from within existing Regeneration & Major Projects Department Budget allocations.
- 7.14 All future revenue costs associated with the management of the new cultural centre will be contained within the existing revenue budget allocations or less for the management of the WGLC.
- 7.15 If there was a requirement to repay HLF grant as referred to in paragraph 6.41 – 6.44 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. This remains a risk.

8. **LEGAL IMPLICATIONS**

- 8.1 The Development Agreement is being procured using a national framework agreement set up by the HCA, namely the HCA DPP Framework. The Public Procurement Regulations 2006 allow public bodies to set up framework agreements and prescribe rules and controls for their procurement.
- 8.2 Contracts can be called off under such framework agreements without the need for them to be separately advertised and procured through a full EU

process. However, the call off process is itself quite heavily regulated. The HCA and external lawyers have been involved in advising officers throughout on adherence to the rules contained in the Regulations and on the rules of the process established by the HCA.

- 8.3 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 recommended by the relevant Chief Officer. On 15 February 2011, the Executive endorsed the proposed use of the HCA DPP Framework to procure a developer partner
- 8.4 The estimated value of the proposed Development Agreement means that the proposal to call off the Development Agreement is subject to the Council's own Standing Orders in respect of High Value contracts and Brent's Financial Regulations.
- 8.5 It will be noted that Officers seek delegated authority to the Director of Regeneration & Major Projects in consultation with the Director of Legal and Procurement to award and enter into the Development Agreement as the intention is only to do so once all outstanding issues are resolved.
- 8.6 On exchange of the Development Agreement, the Council will, subject to satisfactory planning and approval of the Council Works Costs as mentioned above be bound to sell the Developers Works Land and allow the Developer to carry out the Council Works.
- 8.7 The Developer is required to carry out the Council Works and its own residential works, the Developer Works, within agreed timescales. These timescales can be extended by force majeure events (e.g. if there is inclement weather).
- 8.8 The transfer of the Developer's Works Land has been deliberately held back to ensure that the Council's Works are completed prior to the Developer getting the whole of the Developer's Works Land.
- 8.9 The Development Agreement contains provisions for the Council to determine it if the Developer is in breach of a material obligation or enters into insolvency and, as would be usual in the market, the developer's funder (if any) can step into the Developer's "shoes" to resolve the scheme.
- 8.10 It may be requisite to appropriate the land to planning purposes to override any covenants or rights which may affect the land (as detailed in Recommendation 2.3).
- 8.11 Appropriation removes the risk of an injunction but the Council retain the residual risk of a compensation claim in respect of overridden rights etc that are affected by development. These claims are dealt with under the Compensation Code.

- 8.12 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.
- 8.13 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 are overridden with those benefiting from such rights being entitled to compensation and as such which may exist do not delay or obstruct the development. In the Development Agreement the developer partner agrees to indemnify the Council in relation to cost and compensation resulting from the use of such appropriation powers. This provides effective assurance to the developer partner that it would have good title to the land.
- 8.14 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.

9. DIVERSITY IMPLICATIONS

Equality Act 2010 - Legal Advice

- 9.1 Members must bear in mind their duties under section 149 of the Equality Act 2010.
- 'Meeting the general equality duty requires 'a deliberate approach and a conscious state of mind'. R (Brown) v Secretary of State for Work & Pensions [2008] EWHC 3158 (Admin).*
- 9.2 Members must know and understand the legal duties in relation to the public sector equality duty and consciously apply the law to the facts when considering and reaching decisions where equality issues arise.
- 9.3 The Equality Act 2010 introduced a new public sector equality duty which came into force on 6th April 2011. The duty placed upon the council is similar to that provided in earlier discrimination legislation but those persons in relation to whom the duty applies have been extended.

9.4 The new public sector duty is set out at Section 149 of the Equality Act 2010 (“The Act”). It requires the Council, when exercising its functions, to have ‘due regard’ to the need to eliminate discrimination (both direct and indirect discrimination), harassment and victimization and other conduct prohibited 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.

9.5 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.

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.

9.6 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 minimize 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 encourage those who have a protected characteristic to participate in public life.

9.7 The steps involved in meeting the needs of disabled persons include steps to take account of the persons’ disabilities.

9.8 Having due regard to ‘fostering good relations’ involves having due regard to the need to tackle prejudice and promote understanding.

9.9 Complying with the duty may involve treating some people better than others, as far as that is allowed by the discrimination law.

9.10 In addition to the Act, the Council is required to comply with any statutory Code of Practice issued by the Equality and Human Rights Commission. New Codes of Practice under the new Act have yet to be published. However, Codes of Practice issued under the previous legislation remain relevant and the Equality and Human Rights Commission has also published guidance on

the new public sector equality duty. The advice set out to members in this report is consistent with the previous Codes and published guidance.

- 9.11 The equality duty arises where the Council is deciding how to exercise its statutory powers and duties, including those relating to the provision of library services and museums and archives under the Public Libraries and Museums Act 1964, and the provision of access to a wide range of other Council services via the Customer Contact Centre. The impact upon BIAS has also been considered since it is affected by the proposal. Members are being asked to consider short term interim plans and long term proposals and both are addressed in the equalities analysis.
- 9.12 The council's duty under Section 149 of the Act is to have 'due regard' to the matters set out in relation to equalities when considering and making decisions in relation to its statutory duties. Accordingly due regard to the need to eliminate discrimination, advance equality, and foster good relations must form an integral part of the decision making process. Members must consider the effect that implementing a particular policy will have in relation to equality before making a decision.
- 9.13 There is no prescribed manner in which the equality duty must be exercised. However, 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 details and statistics. The potential equality impact of the long term and interim proposals has been assessed, and that assessment is found at Appendix 15 and Annex 15.1 and a summary of the position is set out below. A careful consideration of this assessment is one of the key ways in which members can shown "due regard" to the relevant matters.
- 9.14 Where it is apparent from the analysis of the information that the proposals would have an adverse effect on equality then adjustments should be made to avoid that effect (mitigation). The steps proposed to be taken are set out below and in more detail at Annex 15.1.
- 9.15 Members should be aware that the duty is not to achieve the objectives or take the steps set out in s.149. Rather, the duty on public authorities is to bring these important objectives relating to discrimination into consideration when carrying out its public functions (which includes the functions relating to libraries and museums and archives). "Due regard" means the regard that is appropriate in all the particular circumstances in which the authority is carrying out its functions. There must be a proper regard for the goals set out in s.149. At the same time, Members must also pay regard to any countervailing factors, which it is proper and reasonable for them to consider. Budgetary pressures, economics and practical factors will often be important. The weight of these countervailing factors in the decision making process is a matter for members in the first instance.
- 9.16 The WGLC redevelopment project and the Interim Service Delivery Strategy have been closely examined for its impact on the local community (Appendix

15 - Impact Needs Requirement Assessment (INRA) and the supporting Annexes 15.1 Equality strand analysis, key issues and proposed mitigation; Annex 15.2 Active Borrowers April 2010).

- 9.17 The EIA draws from a wide range of sources including:
- The boroughs demographic information (recognising that it is now over 10 years since the census) including studies of indices of deprivation
 - Usage data within libraries, One-Stop Shops and the archives
 - Related surveys and research
 - The extensive LTP consultation and Equality Impact Assessment documents and in particular the issues raised that might affect specific communities
 - Other surveys and strategies, for example the Council's work to reduce transport related accidents.
- 9.18 A range of potential impacts were identified for analysis and possible mitigation in relation to the interim proposals. There were three potential impacts identified in relation to users of the WGLC during the redevelopment
- Accessibility and affordability of travel. Here, the key issues are that there will be less stock held in the building, a reduction in the number of PCs and study space with further to travel for some; current users of WGLC Customer Contact will need to travel further for face to face services.
 - Impact on educational standards. Here, the potential impact is a slight reduction in the number of study spaces available.
 - Impact on social cohesion. The issue is that there will be a temporary reduction in the availability of shared neutral space.
- 9.19 Detailed mitigation has been considered for these potential short term adverse impacts relating to the interim proposals. For library customers the mitigation will in part be provided by the library transformation plans such as increased outreach and home delivery services. Further mitigation including the location of a temporary library, improved reservation service and alternative study spaces are shown in detail in Annex 15.1.
- 9.20 The key study space issue is that some current customers will have to travel further to access study space. However, the alternatives are within a reasonable travel distance and affordability will not necessarily be a major issue as bus travel is free from under 5's, 5 -15 year olds and 16-19 year olds in full time education and or work based learning.
- 9.21 In relation to museum and archives the Grange Road site is as accessible as the current location and detailed outreach proposals will take the service to the residents rather than them travelling to the service. In addition to this innovative outreach service, online services will be improved, enabling residents to access more information from their own homes.
- 9.22 In relation to the Customer Contact Service the temporary location in Harlesden Job Centre Plus is quickly and easily accessible by public transport. In addition, all Customer Contact Services are available by phone,

internet and post. The residents of Harlesden will also benefit during the redevelopment by having easier face to face access to the Customer Contact Service

- 9.23 The financial constraints on the Council and the short term nature of the interim strategy do not permit even further mitigation, and introducing further bus services to aid access to the alternative study space is outside the Council's powers.
- 9.24 Officers have carefully considered if any adverse impacts remain after the mitigating measures have been taken into account. The potential adverse impact only affects a small group of current customers and relates to the temporary reduction in shared neutral space, and the slight reduction in car parking. Whilst these are not completely mitigated by other steps they are justified by the benefits of the Library Transformation Project and the redevelopment of WGLC. No other adverse impact was identified for any of the user groups in relation to the long term plan. Indeed the aim of the proposal is to improve the facilities for all service users.
- 9.25 There is no evidence to suggest any indirect discrimination arising as a result of the interim or long term proposals

10. STAFFING AND ACCOMMODATION IMPLICATIONS

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

Willesden Green Library & Museum Staff – 20 *ratio of 7 desks per 10 staff*
Willesden Green Locality Team – 18 *ratio of 7 desks per 10 staff*
Hot Desk – 6 *additional Spaces*
Customer Contact – 27 *Service Points*

Appendices

Appendix 1: Plan A, Plan B, Plan C

Appendix 2: Community Engagement Project

Appendix 3: Vision Statement

Appendix 4: Principle Structure

Appendix 5: Variant Bid Structure

Appendix 6: Sifting Brief Site Specific Questions

Appendix 7: Mini Tender Evaluation Matrix

Appendix 8: Mini Tender Submissions

Appendix 9: Variant Bid Options

Appendix 10: Mini Tender Evaluation Results: Price

Appendix 11: Mini Tender Evaluation Results: Quality

Appendix 12: Mini Tender Evaluation Revised Results: Price

Appendix 13: Mini Tender Evaluation Revised Results: Quality

Appendix 14: Variant Bid Financial Offer

Appendix 15: Willesden Green Impact Needs Requirement Assessment

Appendix 16: Occupation of the current Willesden Green Library site

Background Papers

Executive Report dated 15 February 2011

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