



## Executive

**Monday, 23 May 2011 at 7.00 pm**

Committee Rooms 1, 2 and 3, Brent Town Hall, Forty Lane, Wembley, HA9 9HD

### Membership:

#### Lead Member Councillors:

#### Portfolio

John (Chair)	Leader/Lead Member for Corporate Strategy and Policy Co-ordination
Butt (Vice-Chair)	Deputy Leader/Lead Member for Resources
Arnold	Lead Member for Children and Families
Beswick	Lead Member for Crime and Public Safety
Crane	Lead Member for Regeneration and Major Projects
Jones	Lead Member for Customers and Citizens
Long	Lead Member for Housing
J Moher	Lead Member for Highways and Transportation
R Moher	Lead Member for Adults and Health
Powney	Lead Member for Environment and Neighbourhoods

**For further information contact:** Anne Reid, Principal Democratic Services Officer  
020 8937 1359, [anne.reid@brent.gov.uk](mailto:anne.reid@brent.gov.uk)

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**The press and public are welcome to attend this meeting**

# Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members.

**Item** **Page**

**1 Declarations of personal and prejudicial interests**

Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.

**2 Minutes of the previous meeting** 1 - 14

**3 Matters arising (if any)**

**4 Deputations (if any)**

**Environment and Neighbourhood Services reports**

**5 Update on the implementation of the Libraries Transformation Project** 15 - 18

This report updates members on the implementation of the Libraries Transformation Project, including the closure of the six libraries.

**Ward Affected:**

All Wards;

**Lead Member:** Councillor Powney

**Contact Officer:** Sue McKenzie, Arts, Libraries and Heritage

Tel: 020 8937 3144 sue.mckenzie@brent.gov.uk

**6 Waste Strategy** 19 - 24

This report provides an update on procurement matters in relation to the Council's proposals to implement the new Household Waste Collection Strategy (2010), thus:

- The provision of new waste collection vehicles.
- The supply and distribution of various household waste containers, namely:
  - Kitchen caddies and food waste kerbside containers
  - Wheeled bins
- The use of the Chief Executive's Delegated Powers to complete this process.

**Ward Affected:**

All Wards;

**Lead Member:** Councillor Powney

**Contact Officer:** Chris Whyte, Environment

**7 Authority to award the contract for the provision of a managed service for the supply of staff services for Brent Transport Services (BTS)** 25 - 36

This report seeks authority in accordance with Contract Standing Orders 88 to award a contract for the provision of a managed service for the supply of personnel for Brent Transport Services. The report summarises the tender process undertaken by officers and following evaluations of tenders, recommends the tenderer that should be awarded the contract.

*Appendix also below*

**Ward Affected:** All Wards;  
**Lead Member:** Councillor Powney  
**Contact Officer:** David Shelley, Brent Transport Services  
Tel: 020 8937 6720 david.shelley@brent.gov.uk

### Children and Families reports

**8 Authority to invite tenders for a framework agreement for the provision of cleaning services to Brent schools** 37 - 42

This report concerns the procurement of a framework agreement for cleaning services for schools. This report seeks authority to invite tenders for a Cleaning Framework Agreement to commence on 2<sup>nd</sup> January 2012 as required by Contract Standing Orders 88 and 89.

**Ward Affected:** All Wards;  
**Lead Member:** Councillor Arnold  
**Contact Officer:** David Furse, Procurement  
Tel: 020 8937 1170 david.furse@brent.gov.uk

**9 Restructuring short break residential provision in Brent for children with disabilities** 43 - 64

This report proposes a restructure of the residential short break services currently provided at Crawford Avenue and Clement Close units. The proposals are in line with the longer term strategy for reducing residential provision and increasing more flexible options for families for short breaks which are community based.

**Ward Affected:** All Wards;  
**Lead Member:** Councillor Arnold  
**Contact Officer:** Krutika Pau, Director of Children and Families  
Tel: 020 8937 3126 krutika.pau@brent.gov.uk

**10 Authority to award a contract for the delivery of services at Stonebridge Adventure Playground and Special Educational Needs Afterschool Clubs in Brent** 65 - 68

This report requests authority to award a contract for the delivery of services at Stonebridge Adventure Playground and SEN Afterschool Clubs (including Manor School, The Village School and Middlesex House) in Brent to Brent Play Association on the basis that there are good operational and financial reasons for doing so.

**Ward Affected:** All Wards;  
**Lead Member:** Councillor Arnold  
**Contact Officer:** Krutika Pau, Director of Children and Families  
Tel: 020 8937 3126 krutika.pau@brent.gov.uk

### Housing and Community Care reports

**11 Authority to award a support and maintenance contract** 69 - 74

This report requests authority to award a support and maintenance contract in respect of "frameworki", the Council's Adult and Children Social Care Case Management IT System and seeks approval not to invite tenders in accordance with Contract Standing Order 86 (e)(i).  
*Appendix also below*

**Ward Affected:** All Wards;  
**Lead Member:** Councillor R Moher  
**Contact Officer:** Juan Murray  
Tel: 020 8937 1467 juan.murray@brent.gov.uk

### Regeneration and Major Projects reports

**12 The East Lodge, Paddington Cemetery, 93 Willesden Lane** 75 - 88

This report seeks the Executive's approval for the disposal by auction of the East Lodge located in the Paddington Cemetery, 93 Willesden Lane London NW6 7SD. The property has now become surplus to requirements after the previous occupier, an employee of the Environmental Health Unit vacated the property in February 2011.

**Ward Affected:** Queens Park;  
**Lead Member:** Councillor Crane  
**Contact Officer:** Howard Fertleman, Property and Asset Management  
Tel: 020 8937 1566  
howard.fertleman@brent.gov.uk

**13 Proposed Park Royal Partnership Business Improvement District** 89 - 106

This paper informs Members of Park Royal Partnership's intention to ballot eligible businesses within the Park Royal industrial estate for the

establishment of a Business Improvement District (BID) anticipated to take place on 30<sup>th</sup> June 2011. The paper includes background information about the BID, the progress Park Royal Partnership has made to date and outlines the implications for the Council.

**Ward Affected:** All Wards;  
**Lead Member:** Councillor Crane  
**Contact Officer:** Joanne Francis, Regeneration Policy Team  
Tel: 020 8937 1043 joanne.francis@brent.gov.uk

**14 Development of SEN Provision at Hay Lane and Grove Park Sites - 107 -  
The Village School including award of Design and Build contract 128**

This report summarises the procurement process undertaken by the Council to procure a Design & Build contractor for the temporary accommodation at The Village School and provides an update on the award of the contract for the appointment of a Design and Build contractor for that temporary accommodation.

*Appendix also below*

**Ward Affected:** Queensbury;  
**Lead Member:** Councillor Crane  
**Contact Officer:** Andrew Donald, Director of Regeneration and Major Projects  
Tel: 020 8937 1049  
andrew.donald@brent.gov.uk

### Central Reports

**15 Authority to award contract for supply of energy (Gas and Electricity) to the Council 129 -  
136**

This report relates to the procurement of both gas and electricity across the Council. The report requests approval to award two call-off contracts under flexible energy procurement frameworks operated by Kent County Council in accordance with Contract Standing Orders 88.

**Ward Affected:** All Wards;  
**Lead Member:** Councillor Butt  
**Contact Officer:** David Furse, Procurement  
Tel: 020 8937 1170 david.furse@brent.gov.uk

**16 Applications for Discretionary Rate Relief 137 -  
146**

**Ward Affected:** All Wards;  
**Lead Member:** Councillor Butt  
**Contact Officer:** Richard Vallis, Revenue and Benefits  
Tel: 020 8937 1503 richard.vallis@brent.gov.uk

## 17 Any Other Urgent Business

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

## 18 Reference of item considered by Call in Overview and Scrutiny Committee - 27 April 2011

The Call in Overview and Scrutiny Committee considered the report on the Libraries Transformation project and made the following recommendation:

“that the Executive be requested to ensure that the existing libraries or alternative local premises continue to be available for young people throughout the 2011 exam period.”

A related report from the Director of Environment and Neighbourhood Services is on this evening’s agenda.

## 19 Exclusion of Press and Public

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

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

### APPENDICES:

- Authority to award support and maintenance contract
- Authority to award the contract for the provision of a managed service for the supply of staff services for Brent Transport Services (BTS).
- Development of SEN Provision at Hay Lane and Grove Park Sites -The Village School including award of Design and Build contract

*(reports above refer)*

**Date of the next meeting: 13 June 2011**



- Please remember to **SWITCH OFF** your mobile phone during the meeting.
- The meeting room is accessible by lift and seats will be provided for members of the public.
  - Toilets are available on the second floor.
  - Catering facilities can be found on the first floor near The Paul Daisley Hall.

- A public telephone is located in the foyer on the ground floor, opposite the Porters' Lodge

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## LONDON BOROUGH OF BRENT

### MINUTES OF THE EXECUTIVE Monday, 11 April 2011 at 7.00 pm

PRESENT: Councillor John (Chair), Councillor Butt (Vice-Chair) and Councillors Arnold, Beswick, Crane, Jones, J Moher, R Moher, Powney and Thomas

APOLOGIES: Councillors

ALSO PRESENT: Councillors Adeyeye, Al-Ebadi, Mrs Bacchus, Beck, Brown, Cheese, S Choudhary, A Choudry, Gladbaum, Harrison, Hirani, Hossain, Kansagra, Long, Lorber, McLennan, Mistry, Moloney, Naheerathan, HB Patel, RS Patel and Sheth

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

None made.

#### 2. **Minutes of the previous meeting**

RESOLVED:-

that the minutes of the previous meeting held on 14 March 2011 be approved as an accurate record of the meeting.

#### 3. **Petitions and deputations - Libraries**

The Executive heard from representatives of residents who had signed a number of petitions in support of keeping libraries open. Whilst recognising the council's financial situation, speakers put forward the benefits of local libraries which were used by schools, were valued by local residents in particular the elderly, parents with young children and hard to reach groups. Proposals for 'mega libraries' were not seen as a suitable alternative as they were impersonal and parents with small children and disadvantaged groups were unlikely to travel either on foot or public transport.

Samantha Warrington spoke in support of Preston Library which she felt was convenient to longstanding users and parents and provided an excellent value for money service and a means of access for those without computers or whose first language was not English particularly single parents. Councillor Colwill (ward councillor, Preston) endorsed the views expressed in favour of the retention of Preston Library. He referred to correspondence received concerning an elderly resident in support of the campaign recalling the change from a mobile van to the current permanent premises and the vast array of choice that became available. Mr Pollock (local resident) spoke on behalf of petitioners in support of the retention of Cricklewood Library and the personal service staff were able to provide. Mr Pollock

reminded the Executive that under the terms of the lease, the library and land could only be used for such purposes. Maurice Cohen addressed the Executive concerning the petition calling for the retention of Neasden Library as resident of the locality for approximately 70 years. He referred to £400,000 spent in the recent past refurbishing the premises which was in a prime location soon to attract more visitors with the forthcoming supermarket. This was seen to be the only community facility in area and had played a key role in revitalising the area. Violet Steele (Chair of Brent Pensioners' Forum) spoke in support of Barham Park Library and which complemented the park within which it was situated. Local people were disappointed at the prospect of closure especially as the library had only recently been modernised and had been looking forward to celebrating its 60<sup>th</sup> anniversary in 2012. David Butcher addressed the Executive in support of Kensal Rise Library and handed in a petition at the meeting. He made reference to the consultation process. Groups that had made the effort to put forward alternative options in the absence of any clear criteria, felt their proposals had been rejected without due consideration. While accepting that they may not have experience in library service provision, they had transferable skills from their experience in other fields. He rejected comparisons with other unsuccessful efforts to have community run ventures as Kensal Rise Library was in a prime location, urged the council to consider the alternatives on offer, to talk to community groups and avoid enthusiasm turning into resentment.

Other local residents addressed the Executive against proposals to close local libraries. In support of Preston Library Jackson and Jasmine Warrington said that their local library at Preston Road was a wonderful place to which they as children could travel easily and independently. It had helped friends who previously had been unable to read or who did not have their own computers. The library was useful as a place where children could concentrate and do their homework as bookshops were far away and not everyone could afford to buy books. Jacky Bunce-Linsell expressed concern that proposals she had submitted had been omitted from the initial consultation response in error, information requested regarding costings had not been supplied and now community groups' proposals were being criticised for failing to address the information requested. She questioned whether due consideration had been given to obligations under the Equalities Act to consider the needs and wishes of the Jewish community and added that a community run library would save money. Linda Green argued that young children needed books with which they could physically interact which was not possible with on-line publications or other screen based technological innovations. Additionally, babies could not take advantage of school outreach services. The new Civic Centre would not be accessible by public transport on Wembley Stadium event days. She urged the council to find more imaginative ways of making budget savings and to defer a final decision until other ideas had been tested.

Other local residents addressed the Executive in support of Cricklewood Library. Graham Durham referred to the high number of library visits which he felt had contributed to the borough's improving schools. He was proud that as a former councillor, he had played a role in the development of Willesden Green Library. A high percentage used libraries for books to help studies and not for play and he highlighted the benefits to the environment of walking to a local library, particularly with young children. Finally, Mr Durham suggested that officer salaries be used to help meet budget shortfalls. Jack Sayers said that there had been previous efforts

over the years to close Cricklewood Library and he urged the community to use the library more and to get together to run it.

Mel Hacker stated that contrary to popular belief, areas such as Preston were undergoing demographic changes and a significant proportion of children were eligible for free school meals. Additionally, he felt that the consultation exercise should have been more open and drew comparisons with a neighbouring borough where residents were given choices and asked to express preferences for how savings could be made. Philip Bromberg referred to the thousands who had signed petitions both users and non-users and lack of public support for the proposals to close libraries in the face of which the council should reject the closure plans. He felt that the council would be called to account for the closures when other local authorities had been able to retain theirs.

Ward councillors were then invited to address the Executive. Councillor HB Patel (Preston ward) stated that the present and the future were built on the past and that the proposed closures were a temporary solution to current budget constraints. Funding received from the government that could have funded libraries been put to other uses. He felt that residents had not been given adequate information had not been taken seriously and did not support proposals for a 'mega-library' at the new civic centre. Councillor Lorber (Leader of the Opposition, Barham ward councillor) stated that during the previous Administration, he had resisted opportunities to close libraries and concentrated investment on a few. Investment in shared facilities had reduced costs and introduced new users. He paid tribute to campaigners who, in recognition of the financial realities, had offered help but he felt had been dismissed as naïve amateurs. Councillor Lorber stated that residents needed proper information and to be treated as professionals adding that he was still awaiting information on the premises costs of Barham Library and the financial contribution of the children's centre. Councillor Beck (ward councillor, Dollis Hill) drew attention to statistics in the report on walking times from Neasden Library to nearby alternatives and argued a more meaningful measurement would be from where people lived to Willesden Green or the Town Hall Library which at 40 minutes on foot he considered to be excessive. He stated that given the recent investment and number of users, the closure of Neasden was unjustifiable. Councillor Kansagra (ward councillor, Preston) stated that library closures had been a significant issue in the recent by election. He referred to funding contributed by central government that instead of being used to protect frontline services had instead been put into reserves. Councillor Kansagra felt that the council should have helped residents to prepare business plans but had already made decisions to reduce the libraries budget and once closed, libraries would not re-open. Councillor D Brown (ward councillor, Alperton) questioned whether the usage of the new libraries would be as high as that achieved with the shared service provision. He stated that residents' groups trying to put forward alternatives had been obstructed with a lack of information and wondered how the council could afford a new civic centre. Councillor Brown contributed that children would be denied the pleasure of walking to local libraries and urged the Executive not to agree the closure proposals.

On behalf the Executive, Councillor John thanked speakers for attending and for their contributions.

#### 4. **Library Transformation Project**

Councillor Powney (Lead member, Environment, Planning and Culture) thanked residents who had addressed the Executive earlier in the meeting in respect of proposals for the future of the library service as set out in the report from the Director of Environment and Neighbourhood Services. He drew attention to a supplementary report from the Director, circulated in advance of the meeting, which addressed a submission for a community library at Preston, inclusion and analysis of remaining consultation responses and a few errors, which were not referred to in the original report. In introducing the report, Councillor Powney referred to the context namely the council's financial situation, central government grant cuts, and the council's duty to provide a comprehensive and efficient service. He referred to the report into Wirral libraries which set out criteria on which library provision could be assessed and how these have been met in the proposals.

Councillor Powney then responded to points raised during the submissions earlier in the evening. Regarding equalities, he felt that age, convenience etc had been addressed in the proposals and he emphasised that the council had to take into account concerns that were wider than geography. He acknowledged the specific concerns relating to the Jewish population but felt that the seven day opening would mean that libraries were more accessible to this community and enhance the service provided. Councillor Powney commended the Equalities Impact Assessment to members and confirmed the importance of the assessment stating that it was thorough and comprehensive. He drew attention to the enhancements to the existing service such as outreach to schools and children's centres and visits to the housebound as evidence that the council was not simply reducing the budget. The council was also seeking to promote the service and to extend usage to those who were not current users and in addition to views expressed during the consultation had taken into account comments made in other arena such area forums and in emails, all of which were available on the council's website.

In terms of alternative proposals, Council Powney stressed the need for any business proposals to be of nil financial cost to the council and felt that to allow groups more time to develop bids would not be a good use of council tax payers' money. He was of the view that six libraries and the outreach work would allow the council to meet its responsibilities. Councillor Powney then set out the rationale for choosing the six libraries earmarked for closure making reference to the relative deprivation indices and maps included in the report and then went on to address in turn the alternative options that had been put forward. Willesden Green Library was being retained as it was associated with other services in addition to being the most successful. He also did not support the alternative of reducing opening hours across all 12 libraries as this would adversely affect the levels of current usage nor the proposal to use ward working funding for the library service as this was part of council's efforts for community engagement. Library sponsorship would take time to develop, and so was not possible as central government grant cuts were frontloaded. Councillor Powney invited subscribers to the view that it was possible to save funding without an adverse effect on services to come forward with their proposals in the conventional way.

On other points made during the debate, Councillor Powney commented that the new library service would be better placed to develop staff and would reach a wider proportion of the population. He also commented that the council's financial position

was substantially different to that which existed under the previous Administration when central government funding was increasing year on year and it was not feasible to use one-off sums of money for on-going services. Finally, any proposals to develop Willesden Green Library would be a self contained scheme, contingent on property sale. Councillor Powney set out recommendations in the report and submitted them to the Executive for approval.

Councillor Butt (Lead Member, Resources) then drew the attention of members of the Executive to the Equality Impact Assessment and, at members' request, the Borough Solicitor advised that the EIA was a thorough analysis which members had had the opportunity to consider. Regarding the consultation process, members heard from the Assistant Director Neighbourhood Services a summary of the meetings that had taken place, information that had been exchanged and research into practice in other areas. In inviting members of the public to come forward with alternatives, efforts had been made not to set parameters but rather to assess viability on a broad set of appraisal factors.

Councillor Crane (Lead Member, Regeneration and Economic Development) stated that the decision to close libraries which would result in job losses was a difficult one and acknowledged the deep concern felt by those affected however the council was required to make significant savings at the request of central government. There were positive aspects within the libraries programme and he hoped that these would come to light over the next few years. Councillor John then put the recommendations to the Executive which were agreed.

RESOLVED:-

- (i) that agreement be given to a transformed library service to residents as set out at paragraph 4 of the report from the Director of Environment and Neighbourhood Services, which contains detailed service proposals for:
  - Library Service Objectives
  - Services
  - Stock
  - Buildings
  - Online and digital services
  - Support for children, young people and families
  - Support for learners
  - Support for older people and people who find it difficult to access library services
  - Services for people with disabilities
  - Staff
  - Customer and Community Engagement
  - Partners and partnership working
  - The cultural offer
- (ii) that agreement be given to the continuation of the successful shared service approach and the further development of proposals to share functions with partners, including other London boroughs, as described in para 5.6 and Appendix 1 of the Director's report;

- (iii) that the following libraries be closed:
  - Barham Park
  - Cricklewood
  - Kensal Rise
  - Neasden
  - Preston
  - Tokyngton
- (iv) that Property and Asset Management undertake a detailed options appraisal on each of the six buildings being vacated by the Library Service with a further report to this Executive by the end of July 2011 and prior to any final decisions being made about possible disposals or changes of use;
- (v) that a report be submitted in one year's time reporting on the progress of implementing the Project.

#### **5. Arboricultural Services Contract**

The report from the Director of Environment and Neighbourhood Services sought authority to invite tenders for an Arboricultural Services Framework Agreement to commence on 1 April 2012 as required by Contract Standing Orders 88 and 89.

RESOLVED:-

- (i) that approval be given to the pre-tender considerations and the criteria to be used to evaluate tenders as set out in paragraph 4.1 of the report from the Director of Environment and Neighbourhood Services;
- (ii) that officers invite tenders and evaluate them in accordance with the approved evaluation criteria referred to in paragraph (i) above.

#### **6. Statement of Gambling Licensing Policy and Principles**

Councillor Powney (Lead Member, Environment Planning and Culture) introduced the report which set out revisions to the Council's Statement of Principles for dealing with applications and regulating gambling premises within the borough, previously agreed in January 2007. He advised that the approved final Statement of Principles would need to be put to Full Council in July 2011 for adoption.

RESOLVED:-

that approval be given to the publishing of the council's revised Statement of Gambling Licensing Principles and the submission of the statement to Full Council for final approval.

#### **7. Authority to allocate primary capital programme funding and approve the award of a construction contract for the rebuild of Islamia Primary School**

The report from the Director of Regeneration and Major Projects requested approval to support the award of a contract for construction works at Islamia Primary School. The contract was to be between Islamia Primary School/Trustees and the proposed contractor, Morgan Sindall, a contractor from the IESE

(Improvement and Efficiency South East) Buildings Work-stream Construction Framework. Councillor Crane (Lead Member, Regeneration and Economic Development) referred to the council's financial contribution, acknowledged that the school was currently overcrowded and that planning permission for the development had yet to be granted. He drew members' attention to the risks attached to the allocation of funding to the scheme as set out in the report including legal challenges and the possibility of clawback of grant allocation should monies not be spent in the absence of an extension of the deadline for expenditure.

The Executive had before them appendices to the report which were not for publication at they related to the following category of exempt information as specified in paragraph 3 of Part I of Schedule 12A to the Local Government Act 1972:

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

RESOLVED:-

- (i) that approval be given to the award of a contract by the Islamia School governing body to Morgan Sindall, with a maximum contract value of £6,581,839 for the construction works at Islamia Primary School, in order to provide a new-build 2FE primary school on the existing site. This approval to be conditional upon:
  - (a) the contract not being awarded until full planning permission having been granted for the scheme under Part 3 of the Town and Country Planning Act 1990; and
  - (b) formal agreement from Partnership for Schools to an extension of time for the Council to spend its proposed contribution to the scheme as set out in paragraph 2.3 below after August 2011.
- (ii) that the previous award of a contract between the school and Morgan Sindall for the pre-construction services in the sum of £17,000 be noted;
- (iii) that approval be given to the allocation of £2,932,000 to the scheme from the Council's Primary Capital Programme grant funding allocation, conditional upon the Islamia School governing body complying with the requirement referred to in paragraph (i) not to award the works contract until the two pre-conditions (a) and (b) in paragraph (i) have been satisfied, and entering into the funding agreement described in paragraph (v) below;
- (iv) that the risks attached to the allocation of funding to this scheme be noted;
- (v) that all Brent Council funding be subject to a funding agreement between the Council and the Governing Body of Islamia Primary School setting out:
  - (i) The respective contributions of the two parties;
  - (ii) In the event of any project overspend or shortfall in funding (including due to the clawback of grants by the Department for Education), the governing body will assume full liability for obtaining further funding to complete the works without further recourse to Brent Council;

- (iii) The works contract shall not be awarded by the governing body until the two pre-conditions described in paragraph 2.1 above have been satisfied;
  - (iv) Appropriate provisions to apply in the event that an application for judicial review is made;
  - (v) The Council funding contributions may only be spent on legitimate education facilities, as defined in government guidance, and not on ancillary facilities that form part of the project;
  - (vi) The spend of PCP monies is profiled against RIBA stages of Work, or against an alternate agreed timeline dependent upon what formal confirmation that Partnership for Schools (PfS) are able to give about when PCP monies need to be spent by;
  - (vii) The Council is not responsible for any shortfall in funding of the project, whether due to inability of the Council to hand over all of the PCP money according to the timeline because of PfS requirements as to when PCP money needs to be spent by, or otherwise. (For the avoidance of doubt, delays to the project such that the Council is not in a position to hand over all of the PCP money according to the timeline will mean that the governing body is liable to meet any resulting shortfall);
  - (viii) Full and proper governance arrangements, approved by Brent Council, are established for the project to ensure it is delivered to time and budget and providing for a senior Brent Council officer representation on the project board;
  - (ix) The Council reserves the right to review its financial support for the project if the resolution of any Judicial Review regarding the grant of planning permission for this scheme is not completed by an agreed date, or if in the Council's opinion, delays in commencing the project render Targeted Capital Funding at a high risk of clawback;
- (vi) that authority be delegated to the Director of Regeneration and Major Projects to agree a different award of contract to that outlined in paragraph (i) above in the event that the finalisation of contract sum by the contractor described in paragraph (i) above is not satisfactory.

## 8. **Park Lane Primary School**

The Executive were reminded that to address the shortage of school places agreement had been given on 11 August 2010, that the Council's allocation of Basic Need Safety Valve (BNSV) monies, supported by the School's Main Capital programme allocations to primary schools for expansion, be utilised and that In the November 2010 Park Lane Primary School had been identified as a recipient of a share of the BNSV monies to address expansion and remodelling proposals. The project costs had increased from an estimated £2.2m to an estimated £2.6m, due to necessary re-design and demolition costs and in order to meet tight timelines of BNSV spend, approval was now sought to delegate authority to the Director of Regeneration and Major Projects to appoint and award a contract to a contractor from the IESE (Improvement and Efficiency South East) Framework Agreement to undertake required new build and remodelling works at Park Lane Primary School.

The Executive also had before them an appendix to the report which was not for publication as it related to the following category of exempt information as specified in paragraph 3 of Part I of Schedule 12A to the Local Government Act 1972:

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

RESOLVED:

- (i) that the increase in scheme costs by £400,000 from £2.2m to 2.6m be noted, and that this will be funded from the Schools Main Capital Programme at £1m and £1.6m is to be resourced from BNSV monies;
- (ii) that authority be delegated to the Director of Regeneration and Major Projects to appoint and award a contract to the preferred 'Contractor A', who is named in Appendix 3 to the Director's report and is a contractor from the IESE Framework Agreement in relation to the construction works at Park Lane Primary School, to not exceed £2.35m, subject to an adjustment as considered necessary to the Main Capital Programme, in accordance with the needs of other schools expansion projects on this resource and with the agreement of the Director of Finance and Corporate Services.

#### 9. **Temporary primary school expansion schemes**

The Lead Members for Children and Families and Regeneration and Economic Development introduced a report which proposed eight temporary primary school expansions and the award of the contract for constructing the temporary accommodation and legacy works for the Village School within the grounds of Kingsbury High School in advance of the meeting of the Executive in May 2011 when a full report on that project would be considered. Councillor Arnold reminded that the proposals were designed to address the shortage of school places in the early years of primary schools. She drew attention to the list of schools that were considered and those selected for bulge classes. Councillor Crane referred to the required reallocation of the capital programme to provide the additional primary school places from September 2011.

RESOLVED:-

- (i) that approval be given to the allocation of £1.5m from the Council's Main Capital Programme for providing additional primary school places across Brent schools from September 2011, as set out in the table under paragraph 3.2.13 of the report from the Directors of Regeneration and Major Projects and Children and Families;
- (ii) that authority be delegated to the Director of Regeneration and Major Projects to appoint one or more works contractors using existing construction frameworks, for the recommended temporary school expansion schemes, in the event that any single works contract exceeds £1m in value;
- (iii) that authority be delegated to the Director of Regeneration and Major Projects to award the works contract for constructing temporary accommodation for the Village School, Decant and Legacy Scheme.

10. **Local Development Framework Site Specific Allocations SPD Adoption**

The report from the Director of Environment and Neighbourhood Services explained that the council had received an Inspector's report into the Examination of the Site Specific Allocations Development Plan Document (DPD) of the LDF and that the Inspector found the document to be sound subject to recommended changes being made. It asked the Executive to recommend to Full Council that the DPD be adopted with the changes incorporated.

RESOLVED:-

that Full Council be recommended to adopt, with the recommended changes, the Site Specific Allocations Development Plan Document.

11. **Former Alperton Cemetery Offices, Clifford Road - disposal in the open market**

The report from the Director of Regeneration and Major Projects invited the Executive to consider the impact of withdrawing office-based staff from the Alperton cemetery at Clifford Road. The Lead Member, Councillor Crane advised that approval was being sought to dispose on the open market of the surplus vacant former cemetery offices, after all due regard to planning and architectural considerations in connection with the resolution of access and separation issues so as to ensure the best price was achieved.

RESOLVED:-

- (i) that approval be given to the open market disposal of the vacant former cemetery offices building and suitable curtilage land which forms part of the cemetery offices, excluding the mess rooms building, yard and the toilet noting that the office building is now surplus to the council's operational requirements;
- (ii) that the Director Regeneration and Major Projects instruct auctioneers after all due regard to planning and architectural considerations in connection with resolution of access and separation issues so as to ensure that the best price is received on sale and to instruct Legal Services in the matter of the disposal.

12. **BACES - accommodation strategy**

Councillor Arnold (Lead Member, Children and Families) introduced the report which proposed a rationalisation of BACES provision across three main sites instead of the existing five. She stated that this was in response to the expected reduction in grant from the Skills Funding Agency from September 2011. Other options also under consideration were the delivery of adult and community education through the College of North West London or another provider. Councillor Arnold also drew attention to the analysis in the report of the usage and costs of the individual existing sites and assured that vulnerable clients and underrepresented groups would be catered for. Councillor Arnold proposed an amendment to the

recommendations adding that a reference to consultation with the users which was agreed.

RESOLVED:-

- (i) that based on the information provided, it be agreed that Ashley Gardens and the Carlton Centre were no longer required for the purposes of delivering the BACES adult learning programmes, and approval given to the closure of these sites with effect from 31 August 2011;
- (ii) that BACES continues to deliver adult learning programmes from three main sites: Harlesden Library Plus, Madison House and the Stonebridge Centre; as well as a range of community based venues in partnership with other council services providers and local community and voluntary sector organisations in consultation with the users.

**13. BACES fees and charges 2011-2012**

The report from the Director of Children and Families set out the proposals for the schedule of fees and charges for Brent Adult and Community Education Service effective from 1 September 2011 – 31 August 2012. Councillor Arnold (Lead Member, Children and Families) in introducing the report advised of predicted reductions in government grant.

RESOLVED:-

that approval be given to the schedule of fees and charges, including room hire and other charges, shown at Appendix 1 of the report from the Director of Children and Families.

**14. Brent Music Service fees and charges**

The report from the Director of Children and Families set out the proposals for the schedule of fees and charges for Brent Music Service effective from 1 September 2011 – 31 August 2012. The Executive heard that funding currently available from the government's new music grant would not be available next year.

RESOLVED:-

that approval be given to the schedule of fees and charges shown at Appendix A to the report from the Director of Children and Families.

**15. Amendment to committee report 15 November 2010: authority to invite tenders for the procurement and management of temporary accommodation**

The report from the Director of Housing and Community Care provided an update to the previous report considered on 15 November 2010 which sought approval to the invite of tenders to conclude a framework agreement for the Procurement and Management of Temporary Accommodation pursuant to the Council's Private Managed Accommodation Scheme (PMA). Members were now asked to approve an amendment to the evaluation sub-criteria and to the procurement process for the award of the contract.

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

“Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings”.

RESOLVED:-

- (i) that approval be given to the amendment of the original evaluation criteria as set out in the table at paragraph 3.5.3 of the report from the Director of Housing and Community Care to be used to evaluate tenders for appointment to the framework;
- (ii) that approval be given to the change in tender procedure in the call for competition;
- (iii) that officers be authorised to invite expressions of interest, agree shortlists, invite Tenders for a framework agreement for the Procurement and Management of Temporary Accommodation and evaluate them in accordance with the approved evaluation criteria referred to in (i) above.

**16. Supply and demand and temporary accommodation**

The report before the Executive sought approval of the lettings projections for 2011/12 and also provided an analysis of housing supply and demand issues, including performance in 2010/11 and challenges for 2011/12 onwards. Members asked that copies of the report be circulated to all members of the council for information.

RESOLVED:-

- (i) that approval be given to the lettings projections for 2011/12, as detailed in paragraph 3.3 and in Appendix D of the report from the Director of Housing and Community Care;
- (ii) that the analysis of housing supply and demand issues, including performance in 2010/11 and challenges for 2011/12 onwards be noted;

**17. Fortunegate Community Housing - transfer of engagements to CCHA**

The purpose of the report from the Director of Housing and Community Care was to seek approval to transfer the assets, obligations and liabilities of Fortunegate Community Housing (“Fortunegate”) to Catalyst Communities Housing Association Limited. Councillor Thomas (Lead Member, Housing and Customer Care) advised that ward councillors would be represented and residents would be playing a key role.

RESOLVED:

that Fortunegate Community Housing be authorised to convert from a registered charity to a registered society under the Industrial and Provident Societies Act 1965 and thereafter, to transfer its engagements to Catalyst Communities Housing Association Limited, which is a registered charity and which will be subsequently re-named Catalyst Housing Limited.

**18. Fuel Poverty and Health Task Group - final report**

Councillor Long (Task Group Chair) introduced the Executive to the findings and recommendations of the Fuel Poverty and Health Task Group that were presented to the Executive for approval. The report had been considered and endorsed by the Health Partnerships Overview and Scrutiny Committee. Councillor Long indicated that while central government policy on the future of health care was uncertain but it was felt that it was important to get the health authority on board in this work and the task group's work was only the beginning.

RESOLVED:

that approval be given to the the Fuel Poverty and Health Task Group's recommendations.

**19. Crest Academies - Any other urgent business**

A report was submitted to the Executive on 15 February 2010 updating on progress in establishing the Crest Boys' Academy and The Crest Girls' Academy in new accommodation and seeking approval to proceed with the submission of the Outline Business Case (OBC) for the construction of new buildings to Partnerships for Schools (Pfs) and the Department of Children and Families (DCSF). It also informed the Executive of the approach to engaging the Overall Project Manager (OPM) and the Technical Advisors. The recommendations in the report were split down into a number of sections namely the OBC submission, procurement construction and consultants and the council financial contribution to the development and delivery of the scheme. The Executive agreed all the recommendations but unfortunately only those relating to the OBC were included in the minutes. Members were now asked to record agreement to the previously agreed recommendations, subject to an amendment to allow delegation to the Director of Regeneration and Major Projects in place of the Director of Children and Families to select the preferred bidder for the Design and Build contract.

RESOLVED:

- (i) that it be noted that the minutes of the meeting of 15<sup>th</sup> February do not include all the decisions of the Executive in relation to the report "Crest Academies: the Next Steps including procurement and submission of Outline Business Case)" as attached to report from the Director of Legal and Procurement;
- (ii) that this Executive's agreement to the following matters as previously agreed be formally recorded (subject to minor amendment to allow delegation to the

Director of Regeneration and Major Projects instead of Director of Children and Families);

(iii) that:

#### Procurement: Construction

1. approval be given to the procurement route using the National Framework for the construction of the Crest Academies and the criteria to be used to shortlist tenderers and evaluate tenders as set out in paragraph 6.6 of the report.
2. subject to PfS approving the OBC, approval be given to the invite of expressions of interest, selecting a shortlist of two bidders and invite tenders for the construction of the Crest Academies and evaluating them in accordance with the approved evaluation criteria referred to in 2.1 above.
3. the Director of Regeneration and Major Projects, in consultation with the Borough Solicitor be authorised to agree the selection of the preferred bidder for the Design and Build Contract following evaluation of the tenders.

#### Procurement: Consultants

4. it be agreed that for the reasons set out in paragraphs 5.13 to 5.15 of the Director's report in the context of the Not for publication details in Appendix 6 to this report, there are good financial and operational reasons to appoint an Overall Project Manager (OPM) through to FBC of the Academies' newbuild without seeking quotes in accordance with the Council's Standing Orders.
5. it be noted that officers will appoint Technical Advisors (TA) to support the Academy Project as noted in paragraph 5.16 of the Director's report.
6. the risks of the scheme and the proposals set out for managing the risks as set out in appendix 7 of the report be noted.

#### Council Financial Contribution to the Development and Delivery of The Scheme

7. against the context set out in paragraphs 8.3 to 8.6 of the report, agreement be given to allocate £1.6M from the existing provision of £5M in the Capital Investment Plan to secure the delivery of the Academies and the corresponding new buildings.

The Chair certified this item as urgent as the minutes needed to be formally corrected to reflect the agreement given at the meeting as there is was urgent need to implement decisions taken.

The meeting ended at 9.35 pm

A JOHN  
Chair



**Executive**  
23 May 2011

**Report from the Director of  
Environment and Neighbourhood  
Services**

Wards affected:  
ALL

**Update on the implementation of the Libraries  
Transformation Project**

**1.0 Summary**

- 1.1 This report updates Members on the implementation of the Libraries Transformation Project, including the closure of the six libraries

**2.0 Recommendations**

- 2.1 That members note this report.

**3.0 Detail**

- 3.1 At its meeting of 11 April, Executive Committee decided to proceed with the Libraries Transformation Project. The extensive report and accompanying information are still available online. That decision was called-in by the Scrutiny Committee, who considered the matter on 27 April 2011.
- 3.2 A key issue in the original decision report is support to young people studying. This was raised as a major issue during the consultation, and as such was addressed in the extensive Library offer set out at paragraph 4 of that report.
- 3.3 That report did not contain detailed timescales on the implementation of the proposals, and the operational delivery is delegated to officers. Detailed planning is now underway.
- 3.4 At the Scrutiny Committee a number of delegations were heard, one of which was from the Youth Parliament. They expressed particular concern about study space during the 2011 exam season, and asked for reassurances about the availability of space. This resulted in a referral from the Scrutiny

Committee back to this Committee The Scrutiny Committee agreed the following recommendation:

*The Executive to ensure that the existing Libraries or suitable alternative local premises continue to be available for young people throughout the 2011 exam period*

- 3.5 This report is to confirm to members that no libraries will be closed until after the last 'A' Level exam, which will be on 1 July 2011. Accordingly, there is no need for the Executive to take any additional steps to address the Scrutiny Committee recommendation, as the existing libraries will continue to be available for young people throughout the 2011 exam period.
- 3.6 At the time of writing, it remains difficult to give a confirmed date of closure of the six libraries, due to management of variables including contractual notice periods for facilities, the profile of staff who are leaving and the potential legal proceedings (see para 5.2 below).
- 3.7 Members are reminded that on 11 April they decided to take a report detailing implementation of the Project at the meeting in April 2012.

#### **4.0 Financial Implications**

- 4.1 The financial implications of the Libraries Transformation project were set out in detail in the report of 11 April.

#### **5.0 Legal Implications**

- 5.1 The legal implications of the Libraries Transformation project were set out in detail in the report of 11 April.
- 5.2 Members are informed that the Council has very recently received a pre action protocol letter from solicitors on behalf of two library users in which they set out their grounds for challenging the Council's decision on the Library service. A response is being prepared by the Council. The library users may commence legal proceedings against the Council by way of Judicial Review. This could also have implications for the date of closure of the six libraries.

#### **6.0 Diversity Implications**

- 6.1 The diversity implications of the Libraries Transformation project were set out in detail in the report of 11 April.

#### **7.0 Staffing/Accommodation Implications (if appropriate)**

- 7.1 There are no direct staffing implications of this report

#### **Background Papers**

None additional to those cited in the report of 11 April

## **Contact Officers**

Sarah Tanburn  
Sue McKenzie  
Rashmi Agarwal

Sue Harper  
Director of Environment and Neighbourhood Services

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**Executive  
23 May 2011**

**Report from the  
Director of Environment and  
Neighbourhood Services**

Wards Affected:  
ALL

## **Waste Strategy**

### **1.0 Summary**

1.1 This Report provides an update on procurement matters in relation to the Council's proposals to implement the new Household Waste Collection Strategy (2010), thus:

- The provision of new waste collection vehicles.
- The supply and distribution of various household waste containers, namely:
  - Kitchen caddies and food waste kerbside containers
  - Wheeled bins
- The use of the Chief Executive's Delegated Powers to complete this process.

### **2.0 Recommendations**

- 2.1 That the Executive notes the revised means of acquiring 12 waste collection vehicles, by way of hire instead of purchase, to be implemented by way of a variation to the main waste contract with Veolia.
- 2.2 That the Executive notes the outcome of the procurement process for the supply and distribution of various household waste containers.
- 2.3 That the Executive notes the use (on the basis of 'urgency') of the Chief Executive's delegated powers to authorise the variation and award of contract described in paragraph 2.1 and 2.2. .

### **3.0 Detail**

- 3.1 The Executive formally adopted the new Household Waste Collection Strategy at its meeting in November 2010. This was subsequently endorsed at the December 2010 meeting following call-in. The intended benefit of the Strategy is twofold, an increase in the recycling rate to 60% and annual waste disposal savings in excess of £1m.

Officers are now working to implement the policies of the Strategy by introducing a new waste collection service. This process requires the procurement and distribution of various waste containers and the deployment of new waste collection vehicles. The new service will start in October 2011.

3.2 This report provides an update on the procurement process that has now been completed with respect to waste containers, and also updates on the method for procuring vehicles.

3.3 Importantly, this report also describes why Officers were compelled, by matters of financial urgency, to call on the delegated powers of the Chief Executive to complete this process, i.e. without recourse to the Executive as would normally be required.

#### 4.0 **Vehicles**

4.1 The November 2010 report proposed the variation of the waste contract with Veolia for them to procure 12 new waste collection vehicles, with a cost to the Council, including interest costs, spread over 7 years of £1.7m. This gives an annual cost of approximately £243,000.

4.2 However, subsequent research has shown that vehicle hire rather than purchase offers a better deal over the life of the existing contract, and will put the council in a stronger position at the point of tendering of the next contract in that the council will not be requiring tenderers to take on vehicles with a limited life, or retaining vehicles for which there would be no use.

4.3 For Veolia to hire vehicles over the remaining two and a half years of the contract, to be paid for by an increase in the contract price, the cost to the council is £1.1m. This gives an annual cost of approximately £440,000, £197,000 per annum more than buying and £493,000 more over the two and a half years of the remainder of the contract. However, it amounts to a reduction of around £600,000 in the total costs to which the council is committed in the long term, because the basis of the original contract variation with Veolia for purchase of vehicle was that the Council would take ownership of the vehicles at the end of the contract term.

4.4 An additional benefit will be greater flexibility with respect to vehicle ownership. Hiring will relieve the council of the burden of ownership at the end of the current contract in 2014, which will improve our ability to go to the market for the replacement contract and secure competitive prices.

4.5 The only disadvantage is the annual cost to the council over the remaining two and a half years which will be greater than had been set out in the November report as discussed above.

4.6 The additional annual cost is fully taken into account in the current negotiations with Veolia seeking to secure a reduction in the annual contract price of £2.071 million. Procurement officers have been leading a negotiation with Veolia to secure this saving and proposals are close to agreement but some further time is needed to conclude the negotiation and bring the proposals to a subsequent Executive for agreement.

4.7 Veolia will lease these vehicles but indicated that ordering deadlines from the manufacturers required an order needed to be placed by Friday 15 April to ensure the

vehicles are ready for the intended October start date. There was therefore a need to separate the decision on vehicle ordering from the decisions on the remaining negotiations. These negotiations all focus on the street cleaning regime rather than waste collection so separating the decisions in this way will not compromise the main negotiations.

4.8 The 15 April deadline gave Officers no time to seek formal approval from the Executive. In order to comply with Financial Standing Orders, Officers sought approval from the Chief Executive to vary the Veolia contract to allow the placing of this order without recourse to the Executive using his delegated powers in the case of extreme urgency. This was granted and Veolia have now arranged for the hire of these vehicles.

## 5.0 **Waste Containers**

5.1 The table below shows the types and quantities of containers that are needed.

Container	Capacity	Use	Colour	Quantity
Wheeled Bin	240L	Dry recycling	Body – Black Lid – Blue	87500
Wheeled Bin	140L	Dry recycling	Body – Black Lid – Blue	2500
Kerbside container	20-25L	Food waste	Green	30000
Solid kitchen caddy	5L	Food waste	Green	30000

## **Caddies / Kerbside Containers**

5.2 Officers had considered the best means of procuring these to be via a 'mini competition' through a Framework Agreement established by the Yorkshire Purchasing Organisation (YPO). This Framework provides a procurement service for public sector organisations and is the largest formally constituted local authority purchasing consortium in the UK.

5.3 Other means of procuring the contract were considered by officers but it was determined that the use of the Framework Agreement rather than procuring a contract by formal tender in accordance with Contract Standing Orders was best in terms of the reduction in timescales, costs and resources involved. The required authorisations were obtained from the Director of Environment and Neighbourhood Services, the Borough Solicitor and the Director of Finance.

5.4 The YPO had a general framework which covered the containers needed by the Council. A mini competition within the framework was conducted by the YPO on behalf of the Council. This sought quotes from successful suppliers nominated in the framework. Eight contractors operated within the Framework.

5.5 Of the 8 companies on the Framework, 3 submitted bids for the supply of caddies and kerbside containers. Officers completed an evaluation of the respective Bidders' proposals and verified that the prices submitted and other tender proposals complied with the specifications supplied by the Council.

- 5.6 The completed evaluation showed that Contenur's proposals offered best value and a contract for the supply of caddies and kerbside containers has now been awarded to them for their tendered sum of £96,300.
- 5.7 This is deemed a low value contract under Contract Standing Orders and Executive approval is not required.

### **5.8 Wheeled Bins**

Of the 8 companies on the YPO Framework described above, 5 submitted bids for the supply of wheeled bins –

- A – Otto
- B – SSSI Schaeffer
- C – Craemer
- D – Straight
- E – MGB

- 5.9 A similar evaluation was undertaken. However, it became clear that the prices quoted were considerably more expensive than had been anticipated. Only 1 price fell within the budget allowed for in the November report, and only marginally so. This bid was discounted on the basis it did not comply with the council's requirements with respect to bin distribution.,
- 5.10 On investigation, it was discovered that the other prices received were less favourable than had been anticipated due to high polymer prices as a result of increases in the price of oil.
- 5.11 In combination, these factors prompted an urgent re-assessment of the purchasing options.
- 5.12 Through subsequent research, Officers were eventually able to access a more favourable price through spot purchase (i.e. without mini-competition) via an alternative framework – the Eastern Shires Purchasing Organisation (ESPO). One supplier felt compelled to honour their advertised ESPO price. This was SSSI Schaeffer whose price of £1,693,250 represented a significant reduction of £182,000 on their YPO offer. The other suppliers could not honour their advertised prices, again citing the increasing cost of raw materials.
- 5.13 Officers therefore considered the comparative cost reduction now available through SSSI Schaeffer's ESPO offer to represent best value, particularly at a time of increasing prices.
- 5.14 Their total offer price, however, remained £58,000 over budget. Through application of the council's existing container revenue budget of £97,000 the deal will remain affordable and within budget.
- 5.15 In addition, SSSI Schaeffer were able to offer a 10 year guarantee with respect to the quality of their product and were best able to satisfy the council's requirements with respect to the logistics of supply and distribution.
- 5.16 Officers were therefore minded to recommend the award of contract to SSSI Schaeffer at this Executive. However, because of the continuing rise in oil prices, SSSI Schaeffer

indicated the council would need to commit more quickly in order to take advantage of the price. Also, Officers did not consider it prudent to commit to vehicle leasing, as described in Section 4, without a proper commitment in place for the supply of bins. Crucially, the two elements are interdependent and committing to one without proper arrangements in place for the other, particularly at a time of rising prices, was considered too much of a financial risk.

- 5.17 Officers saw value in concluding the arrangements for bins and vehicles simultaneously and therefore obtained Chief Officer authorisation to award the contract to Schaeffer using the ESPO Framework. Delegated authorisation from the Chief Executive to take advantage of SSSI Schaeffer's offer was sought via the same 'urgency' request on the 15 April.

## **6.0 Financial Implications**

- 6.1 Successful implementation of the council's new waste strategy will bring important financial benefits, most crucially annual waste disposal savings in excess of £1m.
- 6.2 The main costs, as described, relate to the deployment of new vehicles and the purchase of more than 100,000 new waste collection containers.
- 6.3 With respect to vehicles, a revised cost model has been developed to take account of the council's preference for leasing vehicles over outright purchase. The details are set out fully in Section 4 of this report. In essence, hiring vehicles over the remaining two and a half years of the contract will cost the council £1.1m. This gives an annual cost of approximately £440,000, £197,000 per annum more than buying and £493,000 more over the two and a half years of the remainder of the contract. However, it amounts to a reduction of around £600,000 in the total costs to which the council is committed in the long term.
- 6.4 With respect to waste containers, the cost model approved by the December Executive provided £1,635,100 for the purchase of wheeled bins. The accepted offer of £1,693,250 exceeds that by £58,150. The budget for caddies/kerbside containers was £107,400. The accepted offer was £96,300 - £11,100 within budget. The total cost for all containers, therefore, represents a net increase of £47,050 against the original cost model. Officers will utilise the existing container revenue budget to bring the overall cost within budget.

## **7.0 Legal Implications**

### **7.1 Vehicles –**

An increase in the cost, albeit in the short term only, of procuring vehicles, would ordinarily require Officers to seek approval from the Executive in order that Financial Standing Orders are complied with. However, for matters of urgency, i.e. the need to order vehicles in time to ensure their availability by October, Officers are permitted to seek delegated approval from the Chief Executive through urgency powers provided for under part iv, paragraph 2.3 of the Brent constitution. Veolia will lease these vehicles for the remainder of their contract term with reimbursement of Veolia through the contract price and this arrangement must be formalised as a variation to the existing waste services contract.

## 7.2 Waste Containers - Caddies / Kerbside Containers

This contract is deemed low value and approval of the Executive is not required.

### Wheeled bins

On the basis that such supply via a Framework Agreement is a High Value Contract for the purposes of the Council's Contract Standing Orders, officers would ordinarily seek Executive approval to award the contract now an award decision has been made. However, due to urgency, i.e. the need to secure a favourable price at a time of price volatility, and to synchronise the procurement with that of new vehicles, Officers were permitted to seek approval from the Chief Executive as provided for under his delegated powers to make decisions of extreme urgency set out in part iv, paragraph 2.3 of the Council constitution.

The supply of caddies/kerbside containers and wheeled bins will be formalised through the award of separate supply contracts.

## **8.0 Diversity Implications**

8.1 The proposals in this Report have been subject to screening by officers, who consider that there are no specific diversity implications.

## **9.0 Staffing/Accommodation Implications**

9.1 There are no staffing or accommodation issues arising from the recommendations in this Report.

## **10.0 Environmental Implications**

10.1 These proposals will directly support the Council's Household Waste Collection Strategy.

## **11.0 Background Papers**

11.1 Details of documents:

- (i) Report to Executive 13<sup>th</sup> December 2010 titled "Waste Collection Strategy."
- (ii) Chief Executive's Emergency Approval Request – waste strategy 15/04/2011

### **Contact Officers:**

Chris Whyte  
Head of Environmental Management

**Sue Harper**  
**Director of Environment and Neighbourhood Services**

	<p style="text-align: center;"><b>Executive</b> 23 May 2011</p> <p style="text-align: center;"><b>Report from the Director of Environment and Neighbourhood Services</b></p>
<p>For Action <span style="float: right;">Wards Affected: ALL</span></p>	
<p style="text-align: center;"><b>Authority to award the contract for the provision of a managed service for the supply of staff services for Brent Transport Services (BTS)</b></p>	

**Appendix 2 – Not for Publication as it falls under paragraph 2 of the Local Government Act 1972, Schedule 12A as - information relating to the financial or business affairs of any particular person (other than the authority).**

## **1.0 Summary**

1.1 This report seeks authority in accordance with Contract Standing Orders 88 to award a contract for the provision of a managed service for the supply of personnel for Brent Transport Services. The report summarises the tender process undertaken by officers and following evaluations of tenders, recommends the tenderer that should be awarded the contract.

## **2.0 Recommendations**

2.1 That the Executive agrees the award of the contract to Drake International for an initial period of three (3) years with an option to extend for a further one (1) year, with an estimated contract value over the four (4) year period of £7.6 million pounds.

2.2 That the Executive agrees that the BTS staff requirement be delivered through the contract described in paragraph 2.1 and is therefore a departure from the standard Council procedure for the procurement of temporary staff.

### 3.0 Detail

#### ***Background***

- 3.1 Brent Transport Services (BTS) provides passenger transport services for children and young people with Special Educational Needs (SEN) and for vulnerable adults on behalf of the Council. BTS currently operate approximately 92 daily routes with a mixed workforce of drivers and passenger attendants, mostly provided by 4 employment agencies, who operate as crews in BTS-provided vehicles.
- 3.2 Staff generally work on a 'split shift' basis to provide the flexibility for BTS to meet the daily (morning and afternoon), and seasonal (term time), requirements of its clients at optimum cost. Staff are provided on a continuous basis, as far as can reasonably be expected, in the interests of continuity for vulnerable clients. It is critical that the staff provision has the ability to meet the particular requirements of BTS in terms of operational flexibility and with appropriate qualifications and experience.
- 3.3 In 2010/11, BTS spend with current suppliers for driver and passenger attendants was £1.91 million which, exceeds EU thresholds for services thereby being subject to competition. In addition, there are no formal written contracts with any of the four current suppliers for their services.
- 3.4 The Agency Workers Directive (AWD) is to be enforced in October 2011. The main purpose of the AWD is to ensure the appropriate protection of temporary agency workers through the application of the principle of equal treatment and to address unnecessary restrictions and prohibitions on the use of agency work. The total number of driver and passenger attendants currently working for BTS are 103 and 141 respectively, only 8 and 11 (respectively) are employees of the Council. Further, with the introduction of the AWD in October 2011, the estimated financial effect on the Council shows an increase in excess of £600,000 in operational costs to BTS.
- 3.5 BTS is not able to make use of the corporate contract for the supply of temporary staff via Comensura as this contract will be subject to AWD and will not protect the Council from the additional costs.

#### ***Tender Requirements***

- 3.5 Tender documents were prepared by the Council's consultants Northgate Public Services (NPS) and BTS in conjunction with the Council's Legal and Procurement departments to take account of the requirements described above.
- 3.6 Specification. A detailed Specification was prepared taking into account the extensive operating knowledge of BTS drivers, passenger attendants and the broader experience contributed by NPS. Wherever possible the Specification was not prescriptive so as to enable and encourage tenderers to offer optimal

best-value solutions. Other requirements such as the need to demonstrate how their method for providing the service will mitigate the Council's exposure to the AWD were deemed necessary.

3.6.1 Further, the Specification required the contractor to adhere to service levels contained in a schedule of Key Performance Indicators to be agreed at the pre-contract stage.

3.7 Staff Continuity. The Specification stressed the importance of high staff continuity as familiar crewing is important for vulnerable service users and those with special needs. Therefore, the Service Provider is required to minimise changes in crews provided in so far as is practicable and changes in crewing are to be agreed by the Council as and when necessary.

3.8 Staff Requirements/ Checks & Compliance. The service provider was required to ensure that the staff provided to BTS meet certain requirements which were outlined, including UK National Insurance Number, satisfactory references covering five years and B, D and D1 valid driver's licences (where appropriate). The Specification and Evaluation Document also made it clear that the Service Provider must ensure that enhanced level criminal records checks are carried out on all staff and any replacements, before they are employed on this Contract. All staff must have a current (no more than 3 months old) enhanced CRB check which includes POVA /POCA checks.

3.9 Pricing. The current provision of BTS drivers, passenger attendants, and the current profile of hours worked, was supplied as an appendix to the Specification as an example to current requirements. However it was stressed that this was not an indication of on-going requirements.

Tenderers were required to complete the following pricing requirement for the three driver classifications (B, D, D1) and Passenger Attendants, separated into 'Monday to Friday' and 'Saturday, Sunday and Public Holidays' :

1. Hourly rate charged to the Council (£)
2. Hourly rate paid to employee
3. Percentage Mark up for staff under TUPE transfer

The third criterion, 'Percentage Mark up for staff under TUPE transfer', was added into the price evaluation as a clarification after the issue of the tender because the incumbent current suppliers were unwilling to provide the Transfer of Undertakings (Protection of Employment) ("TUPE") information to the tenderers during the tender process. This information is still not available to date; however the council, acting as facilitator with respect to gathering TUPE information, will be legally entitled to the information no less than two (2) weeks prior to the contract start date. Although the exact number of employees who will TUPE cannot be determined, it has been estimated that the net effect on the total cost of the contract is minimal and therefore, as described in 3.13, only a 5% weight was attributed.

## ***The tender process***

3.10 The tender was advertised as a three (3) year contract with an option to extend for a further one (1) year. The anticipated commencement date was 1st April 2011 however the start date has been pushed back. The tender was carried out using a two-stage restricted tendering process in accordance with the provisions of the Council's Contract Standing orders, Financial Regulations, and the provisions of the Public Contract Regulations 2006.

3.11 Advertisements were placed in the Official Journal of the European Community (OJEU) in August 2010, the trade press and the local paper shortly afterwards to seek initial expressions of interest. Pre-Qualification Questionnaires (PQQ), and an information pack containing the outline specifications and tender approach were sent out and eleven companies returned completed PQQs.

3.12 Short-listing was carried out on the basis of:

- Business Probity
- Economic and Financial Standing
- Ability and Technical Capacity including:
  - Staff and Training
  - Health and Safety
  - Quality Assurance
  - Relevant Experience and References
  - Equal Opportunities
- Environment and Sustainability

Four (4) companies were shortlisted in January 2011 and were invited to submit bids at the Invitations To Tender (ITT) stage. The seven (7) companies that were not short-listed to tender failed for a variety of reasons, five (5) failed both Finance and Health & Safety requirements whilst the other two (2) companies failed either Finance or Health and Safety requirements.

3.13 The tendering instructions stated that the contract would be awarded on the basis of the most economically advantageous offer to the Council and that, in evaluating tenders, the Council would have regard to the following:

- Price - weighting 60%
- Quality - weighting 40%

3.13.1 These criteria were further sub-divided as follows:

**Price:** Two aspects of price from the Pricing Schedule were evaluated: hourly charges and the percentage 'mark-up' to be applied to staff transferred from existing agency providers under the TUPE obligations. This is a slight change to the weightings agreed in the Authority to Tender report as initially it was anticipated that the incumbent agencies would supply details of staff liable for TUPE in advance of tender submissions, however three of the four agencies refused to do this and were within their legal rights to do so. Therefore 5% of the original 60% weighting for Price was attributed to 'mark up' of staff transferred to the preferred bidder under TUPE to give the final weighting for Price as:

- Hourly Charges - 55%
- 'Mark-Up' - 5%

TUPE may apply to one or two individuals per incumbent based on if a supervisory role is performed, however until such time as the contract is awarded and implementation is within four weeks, the incumbents are not obliged to supply information to the council.

3.13.2 Hourly charges were evaluated separately for each of the four (4) Job Categories with the weighting corresponding to the anticipated demand, that is to say that Passenger Attendants make up half the total deployed hours across the service, therefore half the available weighting, or 27.5% was attributable to this price. The hourly charges were therefore subdivided as follows:

- Driver D - 5.5%
- Driver D1 - 19%
- Driver B - 3%
- Passenger Attendant - 27.5%

3.13.3 **The Quality evaluation** requested Method Statements and proposals to cover the areas detailed below; the proportional weighting was also provided.

- |  |       |
|--|-------|
| 1. Account Management                            | - 4%  |
| 2. Operational Management                        | - 10% |
| 3. Staff Provision,                              | - 4%  |
| 4. Staff Management,                             | - 6%  |
| 5. Staff Competence,                             | - 8%  |
| 6. Risk Management,                              | - 4%  |
| 7. Timesheets/Invoicing.                         | - 2%  |
| 8. Complaints Handling & Continuous Improvement, | - 2%  |

### ***Evaluation process***

3.14 The tender evaluation was carried out by a panel of officers from the Council with representatives from Finance, Legal and Procurement as well as BTS and NPS.

- 3.15 All tenders had to be submitted no later than 15 February 2011. Tenders were opened on the same day and 4 valid tenders were received. Copies of the tender submission were made available to each member of the evaluation panel. Each member of the panel evaluated the qualitative aspect of the tenders in isolation using evaluation sheets (Appendix 1) to assess how well each of the award criteria was addressed.
- 3.16 Quality. The panel met on 24 February 2011 to review their individual scores and an average mark for each submission was provided by the whole panel against the Quality criteria using the table shown at Appendix 1.
- 3.17 Drakes scored highly on all aspects on the Quality detailed in 3.13.3 which involved providing method statements in relation to eight different aspects of the service provision. Drakes provided an indemnity to the council with regard to AWD later being applicable to the service during the life of the contract, in addition their contract management proposals offered a greater deployment of personnel on site as well as clear communication levels and regular management meetings. The competence and provision of staff response detailed an initial skills gap analysis and a variety of proposed training methods, their proposals for CRB checks, driving licence verification and right to work references were also robust and offered a greater degree of certainty. The overall consensus of the panel was that whilst all the bidders would be capable of providing the service, Drakes proposals offered added value.
- 3.17 Prices. The price evaluation was carried out by one member of the Evaluation Panel and the scores were verified by a member of the Finance Team. The hourly charges scores for each of the driver and passenger criteria submitted by the tenderers were added together according to the pre agreed weighting. The percentage mark-up score for each of the four criteria was added to the hour charge score, also according to the pre agreed weightings, to complete the Price Evaluation.
- 3.18 Scores. The final scores received by the tenderers are tabulated below

Supplier	TOTAL SCORE	POSITION
1	89.14	SECOND
2	98.79	FIRST
3	83.80	THIRD
4	75.63	FOURTH

- 3.19 The Executive is requested to approve the award of the BTS Managed Service for the supply of staff to Supplier 2, Drake International.
- 3.20 It is anticipated that the contract will commence on 1 September 2011 subject to the Council's observation of the requirements of the mandatory standstill period.

3.21 When requesting TUPE information, as detailed in 3.13.3, it also arose from more than one of the incumbents that a finder's fee would be expected upon cancellation of the current contracts and this issue is addressed within the Financial Implications of the report.

#### **4.0 Financial Implications**

4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval of the award of the contract.

4.2 The estimated value of this contract is £7.6 million over the four year period (3 years with an option to extend up to a further year)

4.3 A representative of Brent Financial Services evaluated the financial section of the tenders.

4.4 Finder's Fees The financial implication of the current provider seeking finder's fees is difficult to quantify as there are no formal terms and conditions for the provision of service from the four incumbents. In the event that TUPE does apply, it may be the case that the current providers who "lose" their staff to the successful bidder via TUPE then assert that they are owed a finder's fee from either the Council or the successful tenderer. It may also be the case that agencies whose staff choose to leave them and work for the successful tenderer then attempt to enforce a finder's fee. With hourly rates ranging from minimum wage up to £8 per hour and with up to 180 staff potentially switching to the new supplier, the total liability for finder's fees could approach £300,000.

4.4.1 Drake International, the preferred bidder, is the largest of the current providers with 52% of total BTS spend on Drivers and Passenger Attendants. As preferred bidder, if they were to be awarded the contract, finder's fees for this proportion of the current staff, would not apply (approximately £150,000). Another existing provider's (11.5% of total spend) terms and conditions have been reviewed; they do not comply with the Conduct of Employment Agencies Regulations, and it is the Council's position that a finder's fee would not be owed if sought after either.

4.4.2 The remaining two suppliers may consider they have a claim, but any such claim would be strongly resisted. .

4.5 The introduction of the Agency Workers Regulation in October 2011 indicates that BTS would be exposed to an estimated £600,000 of increased operational costs per year. Drake International has evidenced that moving to a Managed Service provider will not only bring BTS in line with OJEU regulations, but will avoid these increased charges.

4.6 Furthermore, Drake International has offered the Council an indemnity against the Agency Worker Directive being applied.

## 5.0 Legal Implications

- 5.1 The estimated value of the proposed managed service contract for the supply of personnel will, over its lifetime, exceed the EU threshold for Services. However such a service is categorised as a Part B service under the Public Contract Regulations 2006 (“the EU Regulations”) and as such the application of the EU Regulations to this procurement is limited. However as the Council chose to issue a voluntary contract notice in the OJEU, Part 6 of the Council’s Constitution – Financial Regulations – Paragraph 8.1.2 states that regard must be had to the Council’s Contract Procurement and Management Guidelines (the “Blue Book”). Paragraph 7.3.4 of the Blue Book states that once a voluntary choice has been made to advertise in the OJEU then the EU Regulations (as enacted in the Public Contracts Regulations 2006 [as amended]) must be followed in their entirety. The award of contract is subject to the EU Regulations and the Council’s Contract Standing Orders and Financial Regulations in respect of High Value contracts.
- 5.2 The revision to the original award criteria approved by the Executive on 26 July 2010 in relation to the price criterion sub-criteria and weightings relating to the TUPE percentage mark for transferred staff was communicated to all tenderers that were invited to tender and they were given sufficient time to submit their tender proposals.
- 5.3 The Council must observe the EU Regulations with respect to the observation of a mandatory minimum 10 calendar days standstill period **before** the contract can be awarded. Therefore once the Executive has determined which tenderer should be awarded the contract, all tenderers will be issued with detailed written notification of the contract award decision. The 10 day standstill period will begin the day after all tenderers are sent notification of the award decision – and additional debrief information will be provided to unsuccessful tenderers in accordance with the EU Regulations.
- 5.4 The standstill period provides unsuccessful tenderers with an opportunity to challenge the Council’s award decision if such challenge is justifiable. However, if no challenge or successful challenge is brought during the period, at the end of the standstill period the Council may issue a letter of acceptance to the successful tenderer and the contract may commence. Further in accordance with the EU Regulations the Council must submit a Contract Award Notice to the Office of Publication of the OJEU which serves as notification to the public of the award of contract to the successful tenderer.
- 5.5 In order for TUPE to apply, the outgoing agencies would have to show that their staff was engaged as employees, rather than as work-finders, or other such terms. The TUPE information would only be discoverable two weeks before the transfer. The terms for one of the existing agencies state quite clearly that their workers are not employees, so no transfer could take place from their employees. The status of any other employees would have to be determined on a case by case basis, looking at whether they are actual employees of the outgoing agency, and whether the majority of their contractual obligations lay with the work for the council (i.e. whether that was over half of their work through the agency). If both

of those criteria were satisfied, then those staff members may transfer to the new supplier via TUPE. The employees will not become the responsibility of the council, but of the new supplier. The new supplier will be given as much information as possible concerning this, to facilitate the transfer.

## **6.0 Diversity Implications**

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

## **7.0 Staff Implications**

7.1 For the current Council employees, TUPE will not apply as they will remain directly employed by the council and will not transfer to the new supplier.

7.2 The four current providers were advised that they should consider whether TUPE will apply in respect of the staff supplied exclusively or mainly for BTS work and that, if they determine that it does, they will be required to supply the necessary employment information to the Council's preferred bidder no later than 4 weeks prior to the commencement of the contract.

## **8.0 Background Papers**

8.1 Executive Report 26 July 2010: Authority to Invite Tenders for a Managed Service for the Supply of Staff Services for Brent Transport Services

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**QUALITY EVALUATION**

Scores were awarded against each criterion using the following general marking regime and taking into account the considerations described in the commentary for each criterion:

Assessment	Score	Interpretation
Unacceptable	0	Fails to meet requirement - major omissions/weaknesses
Weak	1	Limited evidence of ability to meet requirement - omissions/weaknesses in key areas
Adequate	2	Meets requirement but with some minor omissions/weaknesses
Good	3	Fully meets requirement
Excellent	4	Fully meets requirement demonstrating added value in proposals for delivery of service

	Criterion	Evaluation	Score	Weighting	Weighted Score
1	Account Management	Compliance with all aspects of the Specification with regard to account management, contract management and performance management as evidenced in Method Statement 01.		10	
2	Operational Management	Compliance with all aspects of the Specification with regard to operational management arrangements as evidenced in Method Statement 02.		25	
3	Staff Provision	Compliance with all aspects of the Specification with regard to staff provision arrangements as evidenced in Method Statement 03.		10	
4	Staff Management	Compliance with all aspects of the Specification with regard to staff management arrangements as evidenced in Method Statement 04.		15	
5	Staff Competence	Compliance with all aspects of the Specification with regard to staff competence as evidenced in Method Statement 05.		20	
6	Risk Management	Compliance with all aspects of the Specification with regard to risk management as evidenced in Method Statement 06.		10	
7	Timesheets/Invoicing	Compliance with all aspects of the Specification with regard to accounting as evidenced in Method Statement 07.		5	
8	Complaints Handling/Continuous Improvement	Compliance with all aspects of the Specification with regard to complaints handling and continuous improvement as evidenced in Method Statement 08.		5	

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**Executive  
23 May 2011**

**Report from the  
Director of Children and Families**

Wards Affected:  
ALL

**Authority to invite tenders for a framework agreement for  
the provision of cleaning services to Brent schools**

## **1.0 Summary**

- 1.1 This report concerns the procurement of a framework agreement for cleaning services for schools. This report seeks authority to invite tenders for a Cleaning Framework Agreement to commence on 2<sup>nd</sup> January 2012 as required by Contract Standing Orders 88 and 89.

## **2.0 Recommendations**

- 2.1 That the Executive gives approval to the pre-tender considerations and the criteria to be used to evaluate tenders as set out in paragraph 4.1 of this Report.
- 2.2 That the Executive gives approval to officers to invite tenders and evaluate them in accordance with the approved evaluation criteria referred to in paragraph 2.1 above.

## **3.0 Detail**

- 3.1 There are currently 82 schools in Brent of which 5 are Academies. The 77 maintained Schools are made up of 59 primary, 4 nursery, 10 secondary and 4 special schools. There is no formal overarching agreement in place for cleaning services for schools in Brent. Presently there are a number of in house operations, a large number of rolling contracts which in the majority of cases exceed both Contract Standing Order and EU thresholds for competitive tendering and also isolated examples of formal tendering processes compliant with EU Regulations.
- 3.2 In the majority of cases, schools have agreed arrangements with local or national suppliers on 12 month rolling contracts, however aggregation rules mean that when these arrangements have been in place for two or three

years, the threshold has been exceeded and formal tendering must be undertaken.

- 3.3 Where there is an in house operation, there is no formal requirement to tender, however the opportunity to outsource a non-core activity such as cleaning would reduce time spent by headteachers and Bursar's on supervision.
- 3.4 During 2010, as part of its national Value for Money ("VFM") programme the Department for Education funded workshops for schools nationwide to establish 'quick wins' in procurement of goods and services as well as opportunities for longer term contracts with the objective of realising savings.
- 3.5 The intention was to fund one day of free VFM consultancy for each school delivered by Tribal Avail Consultancy (Avail) in order to advise individual schools on possible opportunities for realising savings. However, Brent agreed a more strategic approach where instead of each school applying for their free day's allocation Avail would work with the council and facilitate a number of workshops for all schools. The objective was to identify opportunities for schools to collaborate on procuring goods and services thereby offering the potential to generate efficiencies and economies of scale. The result of these workshops was the identification of an opportunity for a collaborative procurement to develop a framework agreement for cleaning services that would be available to all schools within the Borough.
- 3.6 Officers therefore wish to proceed with the procurement of a framework agreement for cleaning services for schools. Presently two secondary schools, Kingsbury High School and Alperton Community School, have both agreed to take part in a joint exercise to combine their cleaning requirements and to call-off cleaning services from such framework agreement. The intention is then to make the framework available to any school thereafter. Through the Avail workshops it was clear that many other schools were interested in joint procurement and once the more difficult work of establishing the framework has been completed it is anticipated that other schools may want to join.
- 3.7 It is clear that even with a relatively short contract term, the value of a new framework agreement for cleaning services is above the threshold for High Value contracts and thus the procurement will need to be tendered in accordance with the Council's relevant Standing Orders and Financial Regulations as well as the EU Procurement Regulations.
- 3.8 As part of the preparatory process, Avail conducted 'soft market testing' without commitment interviews with a number of major suppliers in the cleaning market and requested estimates on contract price based on current requirements. Four of the five supplies approached provided indicative prices that were lower than current costs, however it should be noted that TUPE information could not be supplied at this time.
- 3.9 Based on this market testing, together with the council's Procurement Team's own knowledge of the market and the needs of the schools, officers

recommend the establishment of a framework agreement in accordance with the pre-tender consideration set out in paragraph 4.1 below.

#### 4.0 Pre Tender Considerations

4.1 In accordance with Contract Standing Orders 89 and 90, pre-tender considerations have been set out below for the approval of the Executive.

Ref.	Requirement	Response
(i)	The nature of the service.	A single provider framework agreement for the provision of cleaning services to schools located within the Borough.
(ii)	The estimated value of services purchased by Brent	The current combined expenditure of the two schools wishing to call-off under the framework is approximately £350k per annum giving a total value of £1.4m over a four year period, however this will be greatly increased as other schools call off under the framework agreement.
(iii)	The contract term	A framework agreement of four year duration from 2 <sup>nd</sup> January 2012.
(iv)	The tender procedure to be adopted.	A two stage restricted tender process in accordance with the Council's Standing Orders and EU Regulations.
(v)	The procurement timetable	<p>Adverts placed – 27 May 2011.</p> <p>Expressions of interest returned – 11 July 2011.</p> <p>Shortlist drawn up in accordance with the Council's approved criteria – by 27 July 2011.</p> <p>Invitation to tender – 29 July 2011.</p> <p>Deadline for tender submissions -12 September 2011.</p> <p>Panel evaluation and shortlist for interviews (if necessary) – by 19 September 2011.</p> <p>Interviews and contract decision – by 3 October 2011.</p> <p>Report recommending contract award circulated internally for comment - October 2011.</p>

		Executive approval - November 2011. Framework agreement and call-off contract start date - 2 <sup>nd</sup> February 2012.
(vi)	The evaluation criteria and process	The shortlist will be drawn up in accordance with the Council's Contract Management and Procurement Guidelines namely the prequalification questionnaire and thereby meeting the Council's financial standing requirements, health, safety and environmental standards and technical expertise. The panel will evaluate the tenders to establish the Most Economic Advantageous Offer based upon the following criteria: <ul style="list-style-type: none"> <li>❖ Approach to service delivery and approach to ensuring standards are achieved.</li> <li>❖ Development of good working relationship with the Council: Contract Management including organisation and management proposals.</li> <li>❖ Price</li> </ul>
(vii)	Any business risks associated with entering the contract.	No specific business risks are considered to be associated with entering into the proposed framework agreement and call-off contract, although if the contractor performs poorly this could cause delays and possible costs to the Schools. These risks will be reduced by employing a carefully managed and full procurement process, as set out in this Report.
(viii)	The Council's Best Value duties	The Council has a duty under Best Value to secure cost-effective and efficient services that meet the needs of the Borough's customers.
(ix)	Any staffing implications, including TUPE and pensions.	See section 8 of this Report.
(x)	The relevant financial, legal and other considerations.	See sections 5, 6 and 7 of this Report.

## 5.0 Financial Implications

5.1 The market testing carried out by Avail suggested that when both schools collaborated suppliers' would reduce their prices by up to 5%. The lowest price indication suggested that a combined contract could save the two schools £50,000 pa. Further VFM savings/efficiencies would be available to one school as direct management and supervision would be outsourced. The financial benefits would increase as more of Brent schools took advantage of the framework agreement. Cleaning costs are met directly by schools from

their delegated budgets and any savings achieved would potentially release funds that schools could then direct towards learning and teaching.

## **6.0 Legal Implications**

- 6.1 The estimated value of the framework agreement for cleaning services over its lifetime is in excess of £500k and therefore the procurement and award of the framework agreement is subject to the Council's Contract Standing Orders and Financial Regulations in respect of High Value Contracts.
- 6.2 The estimated value of the framework agreement over its lifetime is higher than the EU threshold for Services under the Public Contracts Regulations 2006 ("the EU Regulations"). Cleaning services are classed as Part A Services under the EU Regulations and therefore the framework agreement must be procured fully in accordance with the EU Regulations, to include advertising the framework agreement in the Official Journal of the European Union. The EU Regulations also require that the duration of a framework is no more than 4 years save in exceptional circumstances.
- 6.3 Once the tendering process is undertaken, Officers will report back to the Executive in accordance with Contracts Standing Orders, explaining the process undertaken in tendering the framework agreement and recommending award.

## **7.0 Diversity Implications**

- 7.1 Officers have screened the proposals set out in this Report and consider that there are no significant diversity implications.

## **8.0 Staffing/Accommodation Implications (if appropriate)**

- 8.1 If a provider is appointed to the framework and schools calling off from the framework are currently using a different provider, this may require staff to transfer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 from the current contractor to the contractor appointed under the framework.
- 8.2 A subsequent report to the Executive seeking authority to award the framework agreement and call-off contract will advise further on any potential staffing or accommodation implications in the future.

### **Background information:**

- i. DCSF Report: "Securing our Future: Using our Resources Well", which can be located at:  
<http://publications.teachernet.gov.uk/eOrderingDownload/Securing-our-future.pdf>
- ii. Brent Council's Improvement and Efficiency Action Plan.

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**Krutika Pau**  
**Director of Children and Families**



**Executive  
23 May 2011**

## **Report from the Director of Children and Families**

Wards Affected:  
ALL

### **Review of short break residential provision for children with disabilities in Brent**

#### **1.0 Summary**

**1.1** This report proposes a restructure of the residential short break services currently provided at Crawford Avenue and Clement Close units. The proposals are in line with the longer term strategy for reducing residential provision and increasing more flexible options for families for short breaks which are community based. This is being achieved through promoting the take up of direct payments and working in partnership with families and providers to develop skills and increase community provision. The move to direct payments is reflected nationally and is central to the Council's Aiming High Joint Commissioning Strategy. The eligibility criteria for the provision of short breaks has been reviewed in consultation with parents and remains unchanged. If it is not possible to provide the assessed level of short breaks provision through Brent's in house residential provision, alternative short break arrangements will be made.

#### **2.0 Recommendations**

That Members agree;

**2.1** To cease to provide short breaks for children with disabilities at 24 Crawford Avenue short break unit from 1<sup>st</sup> October 2011.

**2.2** To restructure the staffing arrangements at Clement Close and Crawford Avenue in order to deliver an effective service at Clement Close to meet the full range of children's needs.

#### **3.0 Detail**

**3.1** Brent currently manages two registered short break (respite care) centres for disabled children at 24 Crawford Avenue and 1 Clement Close. Both units have the capacity to provide overnight and day care for up to 5 severely disabled

children however in practice, each unit normally accommodates between 3-4 children per session.

- 3.2 Crawford Avenue unit is located in Wembley in a large residential property leased from Barnardos at an annual rent of £32,250. This unit caters for children with severe behaviour difficulties including children on the autistic spectrum. This unit has a higher staff establishment than Clement Close and offers short break care to 67 children of whom 44 receive overnight stays. The building is not fit for purpose and due to its age and condition is expensive to maintain. There is no lift in the property and it is therefore not able to accommodate children with mobility difficulties. Some recent improvements have been made to the garden following recommendations from OFSTED.
- 3.3 Clement Close unit is located in Willesden on a residential estate and is owned by the council. The unit currently caters for children with significant health and physical disabilities. The unit currently provides support to 16 children of whom 15 receive overnight and 1 child receives just day and after school care. Included in this data is one child who is currently placed at the unit as a short term placement whilst a search is being undertaken for a permanent foster home placement and another child who currently receives Court directed weekly weekend care. A search is in progress to find alternative carers for these children. The property although not ideal is fully accessible to disabled children and was improved last year through a Youth Opportunity Fund grant with a sensory room and garden play equipment.
- 3.4 Both units require considerable maintenance to ensure that they are able to continue to meet children's home regulations and provide a safe and suitable environment to severely disabled children. A decision was made by the Executive on 12<sup>th</sup> April 2010 to improve and develop the service through relocating both units into one new Short Break Centre. This is to be built on the Grove Park/ Hay Lane site and is included in the new Village school development programme.
- 3.5 The new Short break provision at the Village school is due to be completed by the summer of 2012 subject to any changes at the tender stage. It is planned that the new unit would be registered and open for admissions by December 2012. The new centre will offer a state of the art facility for disabled children in Brent. Options as to the management and commissioning of the new unit have yet to be finalised and could involve partnership with other local authorities through the West London Alliance. The transfer of the current service to the new centre will require consultation with staff and parents. A new staffing structure will also be required to take advantage of the new facilities and to be able offer a more community "outreach approach" to short breaks with a greater emphasis on child centred day care and after school breaks. It is planned that the new unit located on the Village school site will be able to provide overnight care for between 6-8 children and be able to offer a service to children with all types of need. There will be 4 places available for short breaks for Brent children and the remaining places would be available to other local authorities who would be charged for this service.

- 3.6 The recommendation to reconfigure the current short break provision and provide a service from one base is in keeping with the long term plans for the service and the national drive for the more efficient use of resources through increased use of personal budgets and a reduction in the use of residential care. Personal budgets will allow parents the ability to manage their own care packages which may include overnight provision. Officers will be considering guidance from the Department of Education based on the outcome of several children's services personalisation projects that are being piloted nationally and will then be working closely with parents to develop an appropriate model in Brent.
- 3.7 A review of services, including short break services was carried out as a result of the Government's spending review which reduced local authority funding. The proposal to close Crawford Avenue was made in order to protect and increase alternative more cost efficient short break services and was in keeping with the Council's long term strategy to reduce residential provisions by offering more community based alternatives.
- 3.8 Many local authorities do not provide their own residential short break services and nationally there is a drive to increase personal budgets (direct payments) and reduce the time that children spend in residential care away from their families and communities. Under the recommended proposals the Council will still retain an in house residential option at Clement Close which will continue to provide overnight care for the majority of the most vulnerable of the client group. Furthermore, having regard to the costs of maintaining Crawford Avenue, shortcomings in its sustainability and the longer term plans to transfer all the respite provision from both Crawford Avenue and eventually Clement Close, the proposal to close Crawford Avenue is a cost efficient option and consistent with the wider policy objectives.
- 3.9 Alternative cost saving options could include revised criteria for services such that fewer families would receive a service, and the nature of the service would be more limited. Such steps would affect more families and would be more likely to have an adverse impact upon them. Such options could increase the demand for out of borough residential schools and permanent placements. This is neither cost effective, nor in the interests of children and their families.
- 3.10 Clement Close is not currently designed to accommodate children with challenging behaviour. Some adaptations will therefore be necessary as well as a training programme for staff to ensure that all staff are able to support and care for both groups of children. The unit will also need to have a revised statement of purpose as it is subject to Children Homes regulations and inspections. A Health and Safety risk assessment has been carried out by the Council's Health and Safety Officer and requirements have been identified that will cost an estimated £50,000.
- 3.11 The number of children using the Clement Close unit has been declining as many parents prefer the more flexible option of obtaining short breaks through the use of direct payments. These are payments made directly to families to purchase their own care and support. There has not been a corresponding

decline in the demand for places at Crawford Avenue for children with significant challenging behaviour although there has been a reduction in the number of parents requesting overnight care, preferring day care support. The consistent demand is because there are a limited number of providers and carers with the appropriate skills and training, available to parents of children with challenging needs, in the community. There is however an indication that the market is beginning to grow to meet these needs. Brent has been supporting this growth through its Aiming High programme and by actively engaging with providers.

- 3.12 There are currently 105 families receiving direct payments in Brent which represents an 80% increase over the last three years. It is anticipated that the take up of direct payments and the move towards personal budgets for families will further reduce the demand for overnight short breaks in residential units for the majority of children. There, however, will always be a small group of children who will require such residential breaks.
- 3.13 Further growth in the direct payment budgets was considered as part of the 2011/12 budget setting process and the Service benefited from growth of £300k which will be used to meet the growing demand for direct payments.
- 3.14 Brent is one of a declining number of local authorities that still manage their own residential provision. In other authorities when overnight provision is required this is either provided through commissioned placements in residential units, foster homes or by direct payments to families where they can purchase their own overnight care.

#### Impact of the proposal

- 3.15 It is not safe or practical to mix children with severe physical disabilities many of whom are wheelchair users in the same building and space as more boisterous children with challenging behaviour. In the planned new building on the Village school site, separate play and sleeping areas have been designed to manage this. The only safe way that this can be managed in Clement Close will be to offer separate sessions. It is proposed at this point to offer alternative weeks to each group of children. The final arrangements of how the children will be safely managed in one unit will be agreed after consultation with staff and parents as part of the managing change process, following Members' decision on these proposals.
- 3.16 With the implementation of these proposals there will be an overall decrease in the hours available for in house short break care of approximately 25-30%. Clement Close will be able to increase its occupancy through an increase in staffing levels which will enable the unit to offer overnight care to 4 children every night. The children who currently receive overnight care will be given priority over children who currently only receive day care. This will mean that the main reduction in in-house respite care will be for children receiving day and after school provision. These families will, however, be provided with alternative short break arrangements through an increase in direct payments, enabling them to directly commission support from private and voluntary groups or by domiciliary care at home. Where it is not possible to provide overnight

stays and where such provision is assessed as necessary, an alternate overnight placement out of borough will be sought. These situations are unpredictable but may result in additional cost to the local authority.

- 3.17 Parents are offered a number of hours of short breaks at the unit which is dependant on their needs which is identified through an assessment. Families are normally offered 472 hours if they are assessed as requiring overnight stays, which is equivalent to 28 nights each year. For families requiring day care breaks there is normally an allocation of 260hrs which is equivalent to 5 hrs per week. The actual booking of the breaks is then agreed between the unit manager and the parent and is dependant on the capacity of the unit, needs of the child, the time that the parent wants and the age and ability of other children booked in during that period.
- 3.18 Although there may be a loss of flexibility for some families, all families will be offered alternative short breaks provision based on their allocation of hours. This would be provided through direct payments or care at home. Where parents who have been assessed for overnight short breaks do not wish to take up these alternative options other overnight options such as foster care or out of borough resources will be considered.
- 3.19 Both units are currently able to take children in an emergency however this will not be possible when the service is provided from Clement Close as a child with physical disability could not be accommodated safely if the emergency happened in a challenging behaviour week. In this event provision would need to be made through the Commissioning team for an emergency placement with a foster carer or in an out of borough residential resource. Similarly there have been times when children have had to be accommodated for an interim period as is the current situation at Clement Close due to a family emergency. In these situations an alternative provision will have to be commissioned at additional cost to the local authority.

#### Consultation with service users

- 3.20 A targeted consultation was carried out between 3<sup>rd</sup> March and 8<sup>th</sup> April 2011 with
- families who currently use the service
  - families who would be eligible i.e. had a child with a disability that following an assessment would be eligible to take up this option (approximately 400 families)
  - organisations and stakeholders who work with families and children with disabilities in Brent.
- 3.21 These families and organisations were individually sent letters and questionnaires and invited to return them or complete an on line consultation questionnaire on the Councils' web site. A choice of three meetings with senior managers was offered to current users of the service and an open morning to view Clement Close was arranged during this period. In total 10 families attended these sessions.

3.22 There were 16 responses from parents and carers and 24 responses from service users who would be eligible to use the service. The analysis is attached as Appendix 2. There was a 19% response rate from parents and carers who currently use the service and a 6% response for the potential service users. Those families who responded had the following concerns:-

- a) the mixing of the different groups of children
- b) the ability of their child because of the nature of their disability to cope with the change and then to have to move again the following year to another new building.
- c) the loss of flexibility of provision and reduction in hours available at Council residential respite units
- d) did not think that they would be offered emergency care if required
- e) Clement Close would not be suitable for the needs of children with challenging behaviour as it is too small
- f) did not think that alternative provisions will meet their family's need i.e. because of poor experience of care packages, preference for their child to be cared for in a residential setting rather than with carers in their own home, lack of trained carers in the community.

A Summary of the consultation responses can be found in Appendix 2a and 2b

### 3.23 Mitigation of concerns

- a) It had never been the intention to allow the different groups of children to be offered a service at the same time. This is referred to in the report and was explained in the information given to parents and at the consultation meetings. Children would be offered a place when there is peer group suitability i.e. children with physical health needs and mobility difficulties would not be offered a session with children with more complex behavioural challenges.
- b) It is appreciated that any move for a disabled child could pose challenges, however, staff are sensitive to the needs of the children and will work at the individual child's pace with planned introductions and careful monitoring.
- c) There should not be any loss of short break hours as alternative provision would be provided to meet a family's assessed allocated hours. In order to ensure the careful matching of a child during its stay with a peer group and meet the needs of the family there will inevitably need to be some negotiation around times and flexibility. The only fully flexible option for parents are direct payments when parents are in control of when and where they have their break.
- d) Emergency care would still be provided but it may not be possible within the unit.
- e) Clement Close is a smaller unit with less garden space, however the unit has its mini bus and is close to parks and Willesden Green leisure centre. Staff would make better use of community facilities and outside spaces to compensate for the more limited accommodation.

- f) Support will be given to parents if they choose alternative provision whether this is through direct payments or care at home. The local authority use a number of care providers and have quality standards and will attempt to assist, negotiate and/or resolve problems with care providers and or change providers if families are dissatisfied. Officers are currently working with providers to support the training and recruitment of carers. There will, however, always be a small number of parents whose preference is for a residential unit and in exceptional cases based on assessed needs alternative residential short break provisions will continue to be commissioned.

#### **4.0 Financial Implications**

- 4.1 The proposed savings from this proposal are £190K in 2011/12 and full-year savings of £327K in 2012/13. The savings will arise from staffing reductions of approximately 8 full-time equivalent posts. These savings form an important element of the total savings planned by Children and Families to meet its departmental budget set for 2011/12 and should they not be realised then other compensating savings would need to be identified to stay within that budgetary limit. There will potentially be redundancy costs incurred which would need to be accurately assessed during the staff restructuring process. These costs will be borne by the service. In addition there is a risk of additional costs if in an exceptional emergency situation a child who previously would have been offered an emergency bed in one of the units would have to be placed in an out of borough provision .
- 4.2 The savings identified in paragraph 4.1 are revenue savings and will arise from the reduction in staff. There will be other non-staffing savings in relation to the rent but these have been factored into the financial plan set out in the Executive report for developing the new unit at the Village School site and cannot therefore be counted as savings contributing to the Department's savings for 2011/12.
- 4.3 As set out in paragraph 3.10 adaptations to Clement Close will be required to meet health and safety requirements. The costs are estimated as £50,000 and will need to be met from existing capital budgets.

#### **5.0 Legal Implications**

##### The Children Act 1989

- 5.1 Section 17 of the Children Act 1989 provides that the Local Authority has a general duty to safeguard and promote the welfare of "children in need" in their area. A child shall be taken to be a "child in need" if he/she is disabled. The duty is to provide an appropriate level and range of services for "children in need". Assessment must be undertaken, and eligibility criteria can be used to determine provision of service. Services under S17 may include cash and accommodation.

- 5.2 Paragraph 6 of Schedule 2 to the Children Act 1989 imposes a duty on the Local Authority, as part of the range of services they provide for families, to provide breaks from caring to assist parents and others who provide care for disabled children.
- 5.3 The Breaks for Carers of Disabled Children Regulations 2010 came into effect on 1<sup>st</sup> April 2011. These regulations provide that in the performance of the duty under the Act the Local Authority must have regard to the needs of the carers who would be unable to continue to provide care unless breaks were given and the needs of carers who would be able to care for their disabled children more effectively if breaks were given to enable them to undertake training, education or leisure activities, carry out day to day tasks and meet the needs of other children in the family. The Regulations provide that a Local Authority must so far as is reasonably practicable provide a range of day care, overnight care, and services available to assist carers.
- 5.4 By 1<sup>st</sup> October 2011 the Council is required to prepare and publish a short breaks services statement setting out the range of services, eligibility criteria and how the service is designed to meet the needs of carers in their area.
- 5.5 The proposals set out in the report are consistent with the Council's powers and duties set out in the Children Act 1989 and the Regulations.

#### The Equalities Act 2010

- 5.6 The decision to be made by members in relation to the services to be provided to children and families under the Children Act 1989 involves the exercise of the Council's functions and accordingly the Council is required to comply with the duties set out in the Equality Act 2010.
- 5.7 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.
- 5.8 Section 149 Equality Act 2010 introduces a new public sector equality duty which came into force on 5<sup>th</sup> 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. It requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, 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.
- 5.9 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.

- 5.10 The previous public sector equalities duties only covered race, disability and gender.
- 5.11 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.
- 5.12 The steps involved in meeting the needs of disabled persons include steps to take account of the persons' disabilities.
- 5.13 Having due regard to 'fostering good relations' involves having due regard to the need to tackle prejudice and promote understanding.
- 5.14 Complying with the duty may involve treating some people better than others, as far as that is allowed by the discrimination law.
- 5.15 In addition to the Act, the Council should to have regard to any statutory Code of Practice issued by the Equality and Human Rights Commission. A new Code of Practice relating to the new public sector equality duty under the new Act has yet to be published. However the Equality and Human Rights Commission has published guidance on the new public sector equality duty. The advice set out to members in this report is consistent with the published advice.
- 5.16 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 on the provision of services for children and families. 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 the decision to close Crawford Avenue and provide other services for children and families will have in relation to equality before making a decision
- 5.17 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 families who use or are eligible to use the service and other interest groups, and by gathering details and statistics on who uses the respite service and how the service is used. A consultation exercise has been undertaken in relation to the proposals and information about its impact on the families has been provided through this process. The service is one which by its nature directly affects those children with disabilities and their families. The potential equality impact of the proposed changes to short break respite service for children with challenging behaviour and disabilities has been assessed, and

that assessment is found at Appendix 1 and a summary of the position is set out in the paragraph in this report on Diversity Implications. A careful consideration of this assessment is one of the key ways in which members can show “due regard” to the relevant matters.

- 5.18 Where it is apparent from the analysis of the information that the policy would have an adverse effect on equality then adjustments should be made to avoid that effect. The steps proposed to be taken are set out in the body of this report and in the attached equality impact assessment.
- 5.19 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 children and families). “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.

## **6.0 Diversity Implications**

- 6.1 An equality impact assessment was completed for service users and the views of current and eligible users of the service were sought by a range of consultation mechanisms.
- 6.2 The service at Crawford Avenue and Clement Close is specifically provided to meet the needs of children who have disabilities to offer short term respite care for them and their families. The units which are the subjects of this report have a diverse ethnic representation as over 70% of the children who currently receive a service from the units are from ethnic minority communities. There will be an impact on this client group by the closure of Crawford Avenue in that there will be less in house provision of residential short break respite care places by approximately 25-30%. However, there is no reduction in the number of hours respite provision made available to the service users, and where the reduced number of places in the units results in a shortfall of places alternative means of respite care such as direct payments to commission respite provision, care at home, foster care and in some circumstances residential placement in non council owned units will be provided. Children and Families will actively assist families in the identification of alternative respite arrangements.
- 6.3 It is recognised that the flexibility currently offered to families will be more difficult to achieve although this will be progressively improved with the development of personal budgets. The Council will therefore mitigate as far as possible the adverse impacts by offering families alternative provisions as detailed in the body of this report.

- 6.4 While members must have proper regard to the equalities duties – and on the facts of this matter particularly the need to eliminate discrimination, advance equality of opportunity and to give due regard to the steps to meet the needs of those with disabilities, members may also pay regard to countervailing factors including the current financial constraints on the Council. Savings are needed and the alternative service review options would have a greater impact on service users than those currently proposed. The proposals set out in this report are also consistent with national objectives and council objectives to move towards commissioning arrangements and community provision and the Council's plans to move towards a new residential unit at the Village school.
- 6.5 An Equality Impact Assessment will be completed for staff as part of the Council's managing organisational change procedures.

## **7.0 Staffing/Accommodation Implications (if appropriate)**

- 7.1 As it is proposed to deliver the service from one building there will be a reduction in the management structures and need for ancillary staff. However as the service will be providing for two different cohorts of children additional care staff will be required to manage the more challenging children who may find a smaller unit more difficult to access. These children often require 1:1 support. The new combined service at Clement Close will require a restructuring of current staff, with new job descriptions to reflect these changes. It is likely that there will be a loss of 8 full time equivalent posts. This will be subject to consultation under the Council's managing organisational change procedures.

### **Background Papers (essential)**

- i) Refer to the Hay Lane/ Grove Park Executive report – 12<sup>th</sup> April 2010
- ii) Equality Impact assessment
- iii) Aiming High Joint Commissioning Strategy 2009-2011

### **Contact Officers:**

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## Impact Needs/Requirement Assessment Completion Form Appendix 1

Department: Children and Families	Person Responsible: Marion Rodin
Service Area: Integrated team for Children with disabilities and SEN	Timescale for Equality Impact Assessment :
Date:20/2/2011	Completion date: 13/04/2011
Name of service/policy/procedure/project etc: <b>Review of short break residential provision in Brent</b>	Is the service/policy/procedure/project etc: New <input checked="" type="checkbox"/> Old <input type="checkbox"/>
Predictive Yes <input checked="" type="checkbox"/> Retrospective <input type="checkbox"/>	Adverse impact <input type="checkbox"/> Not found <input type="checkbox"/> Found <input checked="" type="checkbox"/> Service/policy/procedure/project etc, amended to stop or reduce adverse impact Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Is there likely to be a differential impact on any group? Yes <input checked="" type="checkbox"/> <input type="checkbox"/>	Please state below:
1. Grounds of race: Ethnicity, nationality or national origin e.g. people of different ethnic backgrounds including Gypsies and Travellers and Refugees/ Asylum Seekers  <input checked="" type="checkbox"/> No <input type="checkbox"/>	2. Grounds of gender: Sex, marital status, transgendered people and people with caring responsibilities  Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
3. Grounds of disability: Physical or sensory impairment, mental disability or learning disability  Yes <input checked="" type="checkbox"/> <input type="checkbox"/>	4. Grounds of faith or belief: Religion/faith including people who do not have a religion  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5. Grounds of sexual orientation: Lesbian, Gay and bisexual  No <input checked="" type="checkbox"/> <input type="checkbox"/>	6. Grounds of age: Older people, children and young People  Yes <input checked="" type="checkbox"/> <input type="checkbox"/>
Consultation conducted Yes <input checked="" type="checkbox"/> <input type="checkbox"/>	
Person responsible for arranging the review: Marion Rodin	Person responsible for publishing results of Equality Impact Assessment: Marion Rodin
Person responsible for monitoring: George Riley	Date results due to be published and where: Council Web site
Signed: 	Date: 27 <sup>th</sup> April 2011

## Impact Needs/Requirement Assessment Completion Form Appendix 1

Please note that you must complete this form if you are undertaking a formal Impact Needs/Requirement Assessment. You may also wish to use this form for guidance to undertake an initial assessment, please indicate.

### 1. What is the service/policy/procedure/project etc to be assessed?

The policy to be addressed is a review of the short break residential provisions for children with disabilities.

The proposals are to close Crawford Avenue short break unit and transfer services to its sister unit at Clement Close. The proposals will reduce the access to and frequency of short breaks provided for disabled children and their families in the two short break units.

#### Background

The authority currently manages two registered short break (respite care) centres for disabled children at 24 Crawford Avenue and 1 Clement Close. Both units have the capacity to provide overnight and day care sessions for up to 5 severely disabled children however in practice, each unit normally accommodate between 3-4 children per session.

Crawford Avenue unit is located in Wembley in a large residential property leased from Barnardos at an annual rent of £32,250. This unit caters for children with severe behaviour difficulties including children on the autistic spectrum. This unit has a higher staff establishment than Clement Close and offers short break care to 67 children of whom 43 receive overnight stays. The building is not fit for purpose and due to its age and condition is expensive to maintain. There is no lift in the property and is therefore not able to accommodate children with mobility difficulties.

Clement Close unit is located in Willesden on a residential estate and is owned by the council. The unit currently caters for children with significant health and physical disabilities. The unit currently provides support to 16 children of whom 15 receive overnight and two receive day and after school care. The property although not ideal is fully accessible to disabled children and was improved last year through a Youth Opportunity Fund grant with a sensory room and garden play equipment.

The average overnight stay for a child is 2 nights a month, allocated to parents as an annual 472 hours allocation which is then used at times suitable to the parent and the unit. Some families will only want day or after school care and would have a reduced allocation.

### 2. Briefly describe the aim of the service/policy etc? What needs or duties is it designed to meet? How does it differ from any existing services/ policies etc in this area

The aim of the proposals is to realise savings of £190k 2011/12 and £327,000 in 12/13 for the children with disability service as a whole to ensure that there is sufficient funding to enable other elements of the service to continue. This will allow growth and the expansion of alternative short breaks options for families e.g. Direct Payments and care in the home. As a result of the government autumn spending review which reduced funding to the Council an internal review of all expenditure in the service was carried out. A number of options were considered and priority given to retaining services that provided the most cost effective service and those that were the most highly valued by the majority of children with disabilities and their families i.e. holiday play scheme provision. One of the options considered was to restructure the way residential short break services are currently provided.

Brent's two short break units are not fit for purpose and require considerable maintenance to ensure that they are able to continue to meet children home regulations and provide a safe and suitable environment to severely disabled children. A decision was made in 2009 to relocate both units into one new short break Centre which is to be located on the Grove Park/ Hay Lane site as part of the new Village school development programme. This was supported by a capital grant from Aiming High programme for the last financial year 2010/11.

## Impact Needs/Requirement Assessment Completion Form Appendix 1

The residential units are the most costly of all the council's short breaks services and this was why this service was identified for an early review. The council appreciated that this proposal would have an impact on the flexibility and amount of residential short breaks that could be provided for children and their families and took into consideration that

- Children with disabilities have different needs and required different types of care and support. E.g. children and young people who have autistic spectrum disorders and learning disabilities who currently use Crawford Avenue cannot safely use the same facilities at the same time as children who have physical disabilities and complex medical needs and as catered for in Clement Close.
- Some minor changes would be necessary to the building to accommodate both groups of children. The capacity of the new building would remain the same however occupancy rates will be increased.
- The staffing structure would need to be reconfigured and staff given extensive training so that the remaining unit could be fully staffed and be able to cater for both cohorts of children.

The short break centre building under construction on the Village school site in Kingsbury is due to be completed by the summer of 2012 subject to any changes at the tender stage and should be fully operational by December 2012. This proposal to close both units and provide a service from one base is in keeping with the long term plans for the service.

### 3. Are the aims consistent with the council's Comprehensive Equality Policy?

The aims of the review are consistent with the Council's Equality Policy in that it is still the intention to offer a residential short break service in Brent. Families will continue to have a choice of short breaks and alternative non residential provisions will be expanded to meet the additional demands for those families who want this. Residential short break provision will be targeted to those most in need and would be consistent with the services eligibility criteria and the Council's equality policy. The eligibility criteria has recently been reviewed in consultation with parent carers and is sent to all parents who request an assessment. It is based on a matrix of need.

The local authority will continue to provide residential care under its Child Act 1989 duties for children and families in need.

### 4. Is there any evidence to suggest that this could affect some groups of people? Is there an adverse impact around race/gender/disability/faith/sexual orientation/health etc? What are the reasons for this adverse impact?

The change in residential service provision for children with disabilities will have adverse effects. It is anticipated that there may be some loss in hours at the unit for some families who currently use the units. In order to mitigate these effects the local authority will work with families to minimise them by offering children and their families affected by the changes alternative short breaks options for example direct payments, care at home and overnight stays with approved foster families and for the most vulnerable overnight accommodation in out of borough provisions e. g hospices or residential schools with short breaks facilities. Residential out of borough provision is more costly but the local authority has a duty to provide accommodation when there are significant concerns about the welfare of a child. As many of the current users are single parent families consideration will be given through full assessment of needs of any specific impact brought about through a reduced overnight service at the unit.

It is not possible to determine the number of families who will be negatively impacted at this stage as individual consultation is necessary to determine whether alternative short breaks options will meet their needs.

## Impact Needs/Requirement Assessment Completion Form Appendix 1

An analysis of the equality data for each unit is provided below.

4. Please describe the evidence you have used to make your judgement. What existing data for example (qualitative or quantitative) have you used to form your judgement? Please supply us with the evidence you used to make your judgement separately (by race, gender and disability etc).

The data used is collated by the residential units from information supplied by the parent and contained in the individual child's file held within the unit.

### **Ethnicity**

Clement Close -the largest proportion of users Asian 35% , Black African 30%, other white 20%, Caribbean 10% , other 5%

Crawford Avenue the largest proportion of users are of an Asian 26%, 14% Caribbean, 19% Black African , 11% White British

### **Gender**

Clement Close 55% male 45 % female

Crawford Avenue 70% male 30% female

**Age** All the young people receiving services are aged from 6yrs (1 child ) to 19yrs ( 2)

### **Disability**

#### Clement Close

There is no one diagnosis that predominate however 75% have learning disabilities /global development delay as their stated condition 40% of users have spastic quadriplegia, and 20% have cerebral palsy and 25% have some form of epilepsy

Crawford Avenue -the largest proportion of users are on the Autistic Spectrum 58% , the remainder have a number of different diagnosis and conditions including severe learning disability and Downs Syndrome

6. Are there any unmet needs/requirements that can be identified that affect specific groups? (Please refer to provisions of the Disability Discrimination Act and the regulations on sexual orientation and faith, Age regulations/legislation if applicable)

The proposals may effect the flexibility of service that is currently offered to families in that short break sessions will be limited to specific times when the unit will be able to accommodate the needs of their child as there will be designated sessions for each group of children as careful matching will need to take place .It is recognised that it would not be safe to offer the same session to physically frail children with those who have challenging behavioural needs.

Similarly it may not be possible to offer emergency care at the unit when this is required, the local authority however has a duty under the Children Act 1989 to provide emergency accommodation and would in such situations provide an alternative provision for example foster carers or an out of borough residential placement.

It is intended that the unit at Clement Close will be able to offer full overnight occupancy (4 bedrooms) which is a higher occupancy that is achieved currently. A limited historic budget has meant that both units have rarely been able to achieve fully occupancy on a regular basis. The average occupancy is around 70 % for Clement Close and 80% for Crawford. Crawford Avenue has been closed for 2 nights a week since November 2010 to reduce its budget overspends. The number of children who could be offered an overnight service in the future will depend on their care package, these will vary dependant

## Impact Needs/Requirement Assessment Completion Form Appendix 1

on the assessed needs of the child and their family. Based on an average of 2 nights per month the unit at Clement Close if adequately staffed could offer 58 children an overnight service. Families will also be individually consulted with about using alternative short breaks services This could include increased direct payments, care at home and breaks in family or for the most vulnerable other out of borough residential settings.

7. Have you consulted externally as part of your assessment? Who have you consulted with? What methods did you use? What have you done with the results i.e. how do you intend to use the information gathered as part of the consultation?

A targeted consultation was carried out between 3<sup>rd</sup> March and 8<sup>th</sup> April with families who currently use the service and with families who would be eligible .i.e. had a child with a disability that following an assessment would be eligible to take up this option (approximately 400 families) and with organisations and stakeholders who work with families and children with disabilities. These families and organisations were individually sent letters and questionnaires and invited to return them or complete an on line consultation questionnaire on the Councils' web site. A choice of three meetings with senior managers was offered to current users of the service and an open morning to view Clement Close was arranged during this period. In total 10 families attended these sessions

To date there were 16 responses from parent and carers and 24 responses from service users who would be eligible to use the service. See attached analysis. This represented a 19% response rate for parent carers who currently use the service and 6% response from other stakeholders.

A full staff consultation will occur through the Council's managing change policy and a separate EIA will be produced to cover this.

8. Have you published the results of the consultation, if so where?

The results will be communicated to current users of the service by the individual units and the data analysis is now available on the Councils' consultation web site.

9. Is there a public concern (in the media etc) that this function or policy is being operated in a discriminatory manner?

There is public concern and media interest that the proposal will result in a reduction in choice and service for families with disabled children. The council has received letters from the two local Members of Parliament who had been approached by parents, several individual letters from parents and an article appeared in the local press Wembley and Kingsbury Times 24/02/11

10. If in your judgement, the proposed service/policy etc does have an adverse impact, can that impact be justified? You need to think about whether the proposed service/policy etc will have a positive or negative effect on the promotion of equality of opportunity, if it will help eliminate discrimination in any way, or encourage or hinder community relations.

The impact of the closure of Crawford Avenue can be justified in that there is a need to make financial savings in the order of £517,000 over the next two years in order to achieve a balanced budget and that there were already long term plans in place( Executive decision 12<sup>th</sup> April 2010) to move to one unit. The proposal will mitigate the impact on the provision of residential short breaks for families by ensuring that there are alternative short breaks options for families. The council has increased its budget for 2011/12 for direct payments and care at home support Care at home and Direct payments which are used by many more families than those who use the short break units. Direct payments are currently used by 105 families and are cash payments made available

## Impact Needs/Requirement Assessment Completion Form Appendix 1

directly to parents following an assessment of needs. These can be used to purchase breaks which includes the employment of personal carers and other services. Care at Home are services provided directly by the Council by agency workers who support the parents in carrying out personal care and also provide short breaks .

11. If the impact cannot be justified, how do you intend to deal with it?

See above

12. What can be done to improve access to/take up of services?

The Council has introduced a new eligibility criteria and guidance to service which is sent out to all parents who wish to have a service; this is also available on the Council's web page [www.Brent.gov.uk/disabilities](http://www.Brent.gov.uk/disabilities) and at information points around the borough. The Council's Disability teams have very close working relationships with the voluntary sector and community organisations and with internal council departments who provide also information and services to children with disabilities e.g. Brent Carers, Brent Mind, Asian Disabled People's Service, Child Development Service, SENAS ,Parent Partnership. The Council will continue to maintain these links which will ensure that "hard to reach" families will receive information and be signposted to the appropriate Council service.

13. What is the justification for taking these measures?

A review of services was carried out and alternative service reduction were considered however the closure of Crawford Avenue was considered the most cost efficient reduction and would effect numerically the least number of families as the majority could be offered alternative provisions. The effect of not closing the unit would be to make savings from current packages of care which will numerically affect more families and would not be consistent with their assessed needs.. With reduced support many more families would have had difficulties managing and would be more likely to suffer health and adverse effects which would increase the demand for out of borough residential schools and permanent care placements.

The Council is also aware that many local authorities do not provide their own residential short break services and that nationally there is a drive to increase personal budgets (direct payments) and reduce the time that children spend in residential care away from their families and communities.

The Council by the proposal will still retain a residential option for families which with increased and better trained staff and an effective and efficient management will continue to be able to provide overnight care for the most vulnerable families in Brent.

14. Please provide us with separate evidence of how you intend to monitor in the future. Please give the name of the person who will be responsible for this on the front page.

The Council will closely monitor the use and take up of the changed provision at Clement Close quarterly through :-

- regular analysis of Data of the service users' i.e. category of disability , ethnicity, gender age, emergency usage
- individual care plan reviews
- regular parent meetings
- monitor of ethnicity data of take up and use of service

## Impact Needs/Requirement Assessment Completion Form Appendix 1

15. What are your recommendations based on the conclusions and comments of this assessment?

To agree the proposal that Crawford Avenue short break unit is closed and its services are transferred to Clement Close

Should you:

1. Take any immediate action?
2. Develop equality objectives and targets based on the conclusions?
3. Carry out further research?

16. If equality objectives and targets need to be developed, please list them here.

Equality objectives and targets will be developed and analysed in relation to the take up of residential provision by ethnicity, age, gender and to identify any unmet needs that arise because of this recommendation.

17. What will your resource allocation for action comprise of?

No additional resources are identified

If you need more space for any of your answers please continue on a separate sheet

Signed by the manager undertaking the assessment:



Full name (in capitals please): Marion Rodin

Date: 27th April 2011

Service Area and position in the council:

Head of integrated Services for Children with Disability and SEN

Details of others involved in the assessment - auditing team/peer review:

George Riley, Nedra Saparamada, Maureen Donoher

Once you have completed this form, please take a copy and send it to: **The Corporate Diversity Team, Room 5 Brent Town Hall, Forty Lane, Wembley, Middlesex HA9 9HD**

## APPENDIX 2 A

### Review of short break residential provision (potential service users) Topline Summary as at 21 April 2011

1. Are you answering as an individual, a carer or parent of someone who currently receives services from Brent's Integrated Services for children with disability and SEN department, or answering on behalf of a group or organisation? (Tick one answer only)

Responses	count
A carer or parent of a disabled children or young person:	24
An individual with an interest in disability services in Brent:	0
Organisation:	0
Total Responded to this question:	24
Total who skipped this question:	0
Total:	24

2. Do you currently use a service provided or funded by Brent's Integrated Services for children with disability? (Tick all that apply)

Responses	count
Overnight stays:	1
Day care:	0
After school:	3
Play scheme i.e summer play schemes at Resources for Autism, Mencap, Summer University and others:	13
Short break domiciliary (care in the home):	2
Direct payment:	10
If other, please specify:	2
Total Responded to this question:	22
Total who skipped this question:	2
Total:	24

3. Do you have any comments you would like to make?

Total Responded to this question:	23
Total who skipped this question:	1
Total:	24

## APPENDIX 2 B

### Review of short break residential provision (service users) Topline Summary as at 18 April 2011

#### 1. Which centre do you use? (Tick one)

Responses	Count
Crawford Avenue:	12
Clement Close:	4
Total Responded to this question:	16
Total who skipped this question:	0
Total:	16

Name of child or young person (you do not have to provide this):

Responses:	Count
Total Responded to this question:	12
Total who skipped this question:	4
Total:	16

#### 2. Are you aware of the following schemes? (Tick one in each row)

Responses:	Yes	No
Direct payment scheme:	13	2
Short break domiciliary (care in the home) scheme:	8	8

#### 3. Which service do you currently use? (Tick all that apply)

Responses:	Count
Overnight stays:	11
Day care:	9
After school:	5
Play scheme:	7
Short break domiciliary (care in the home):	2
Direct payment:	6
Other, please specify:	3
Total Responded to this question:	16
Total who skipped this question:	0
Total:	16

4. Of the services you currently use, which ones would you like to continue in its current form? (Tick all that apply)

Responses:	Count
Overnight stays:	12
Day care:	10
After school:	7
Play scheme:	9
Short break domiciliary (care in the home):	2
Direct payment:	5
Other - Holiday play scheme	1
Total Responded to this question:	16
Total who skipped this question:	0
Total:	16

5. Would you consider moving to a direct payment scheme as an alternative to using the short break unit and manage your own care support package? (Tick one)

Responses:	Count
Yes:	7
No:	9
Total Responded to this question:	16
Total who skipped this question:	0
Total:	16

6. If no, please tell us why you would not consider this:

Responses:	Count
Total Responded to this question:	9
Total who skipped this question:	7
Total:	16

7. Would you consider moving to a short break domiciliary (care in the home) service? (Tick one)

Responses:	Count
Yes:	5
No:	9
Total Responded to this question:	14
Total who skipped this question:	2
Total:	16

8. If no, please tell us why you would not consider this:

Responses:	Count
Total Responded to this question:	9
Total who skipped this question:	7
Total:	16

9. What support would your child need to adjust to the proposed changes?

Responses:	Count
Total Responded to this question:	10
Total who skipped this question:	6
Total:	16

10. What support would you need to manage the proposed changes?

Responses:	Count
Total Responded to this question:	13
Total who skipped this question:	3
Total:	16

11. Do you have any comments you would like to make?

Responses:	Count
Total Responded to this question:	11
Total who skipped this question:	5
Total:	16

	<p style="text-align: center;"><b>Executive</b> 23 May 2011</p> <p style="text-align: center;"><b>Report from the Director of Children and Families</b></p>
<p style="text-align: right;">Wards Affected: All</p>	
<p style="text-align: center;"><b>Authority to award a contract for the delivery of services at Stonebridge Adventure Playground and Special Educational Needs Afterschool Clubs in Brent</b></p>	

## 1.0 Summary

- 1.1 This report requests authority to award a contract for the delivery of services at Stonebridge Adventure Playground and SEN Afterschool Clubs (including Manor School, The Village School and Middlesex House) in Brent to Brent Play Association on the basis that there are good operational and financial reasons for doing so.

## 2.0 Recommendations

- 2.1 The Executive award a contract for the delivery of services at Stonebridge Adventure Playground and SEN Afterschool Clubs in Brent to Brent Play Association for the period 1<sup>st</sup> June 2011 to 31<sup>st</sup> March 2012, such award being exempted from the normal requirements of Brent's Contract Standing Orders in accordance with Contract Standing Order 84 (a) on the basis that there are good financial and operational reasons as set out in paragraph 3.7.

## 3.0 Background

- 3.1 In November 2008 following a full tendering process a contract to deliver Play Services in Brent was offered to a contractor called Kids. Kids subsequently indicated that it would not be able to proceed with the contract. Owing to the need to ensure continuity of delivery of play services during the period of tendering, the existing arrangements with Brent Play Association (BPA) have been extended on a number of occasions. Initially the extension was authorised under delegated powers but more recently extensions have been authorised by the Executive on 17 November 2008 and 14 July 2009. The Executive on 14 July 2009 agreed to extend the existing arrangements with BPA to 31 August 2010.

- 3.2 Following Executive authority to retender play services in July 2009, officers advertised the contract on 7 October 2009 in both national and local publications. This resulted in eight organisations expressing an interest in the procurement. Pre-qualification questionnaires were submitted by four organisations and these were assessed. The Play Services contract was funded through a number of funding streams and at the time of finalising the specification and prior to inviting tenders it became clear that some of this funding was not likely to be available throughout the contract period. Until such issues were resolved, officers did not consider it was appropriate to progress the procurement.
- 3.3 Given the lack of certainty over future budgets, officers sought Executive approval in August 2010 to extend the BPA contract to 31 March 2011. Further, officers did not consider it appropriate to seek Executive approval to further extend the BPA contract in its current form and therefore the BPA contract expired on 31 March 2011.
- 3.4 Whilst the budget for Play Services remained uncertain, officers considered it appropriate to procure the following specific services, some of which were previously supported by the Big Lottery Funding from the Service's core budget:
- a) Stonebridge Adventure Playground – term time After School Clubs
  - b) Stonebridge Adventure Playground School Holiday Play services
  - c) Manor School Special Needs After School Club.

Officers considered provision of services at Stonebridge Adventure Playground should be maintained as failure to provide these services could trigger repayment of Big Lottery Funding in respect of the Playground. Officers therefore used delegated powers to award a two month contract to BPA for the period 1<sup>st</sup> April to 31<sup>st</sup> May 2011.

- 3.5 Future contractual arrangements with BPA, if any, and the duration of the contract is likely to be different from that for which Executive authority was obtained in July 2009. Future play provision is likely to be targeted at supporting the most vulnerable children. In the circumstances, officers consider that the most appropriate way forward is to award an interim contract to BPA for the period 1<sup>st</sup> June 2011 to 31 March 2012 to ensure continuity of service. It is also unlikely another organisation would be interested in taking over provision of the services for a limited period of 10 months given the likelihood that the Transfer of Undertakings (Protection of Employment) Regulations 2006 applying. As a result, Officers consider that there are good operational and financial reasons for not seeking 3 quotes as ordinarily required by Contract Standing Orders.
- 3.6 During the summer term officers will consider options for the most appropriate future service delivery models for providing play services in Brent. This will include working more closely with schools and full integration with children's centre activities. Officers will report to the Executive in the near future with intended details of procurement if appropriate. Within a reduced budget it is likely this service will be increasingly targeted to those in greatest need.

#### **4.0 Financial Implications**

- 4.1 The extension of this contract is within existing budget allocations for the financial year 2011- 2012. The budget for this service is £150k in total, including all running costs listed in 7.2. If Stonebridge is not utilised in accordance with the conditions on which the Big Lottery Funding was provided, there will be a need to pay back funding; awarding this short term contract would remove the risk of having to pay back this funding.

#### **5.0 Legal Implications**

- 5.1 As detailed in section 3, a contract with BPA ran for the period April 2007 to 31<sup>st</sup> March 2011. Following expiry of the contract, Officers used delegated powers to enter into a 2 month contract with BPA in respect of the delivery of services at Stonebridge Adventure Playground.
- 5.2 Officers seek authority to award a 10 month contract to BPA. This contract is valued at £150k and is therefore classed as a Low Value contract under Brent's Contracts Standing Orders. This would ordinarily require Officers to obtain 3 quotes in accordance with Brent Standing Orders and Financial Regulations, unless the Executive grants an exemption in accordance with Standing Order 84(a). A request for an exemption under Standing Order 84(a) can be approved by the Executive where there are good operational and / or financial reasons, and these reasons are set out in paragraphs 3.7 above.
- 5.3 The Council entered into a deed of dedication on 22<sup>nd</sup> July 2008 with the Big Lottery Fund to receive lottery funds for the Stonebridge Playground Project. This included requirements that the site only be used for the purposes of the Project and not to dispose of the site without the consent of the Fund. There are in addition standard terms of conditions applicable to all funded projects. The standard terms and conditions provide that the Fund can withdraw /require repayment of funds at its discretion if the recipient does not comply with any term.
- 5.4 There is an intention to report back to the Executive in the near future with intended details of procurement options for future delivery of play services.

#### **6.0 Diversity Implications**

- 6.1 There are no equalities or diversity implications arising from the award of this interim contract with BPA for 10 months.

## **7.0 Staffing/Accommodation Implications**

- 7.1 There are no staffing implications should an interim contract be awarded.
- 7.2 BPA operates after-school clubs and holiday play schemes at the Stonebridge Adventure Playground. Parents and carers pay fees to BPA for attendance. The interim agreement with BPA will include provision that the Council shall provide BPA with financial support which shall require the Council:
- To pay the running and utility costs relating to the BPA's use and occupation of the Stonebridge Centre for the running of Play Schemes (with BPA paying for the phone charges relate to such use and occupation).
  - BPA would continue to occupy the Stonebridge Adventure Play Ground during the period of this interim agreement to ensure the councils duty to provide services as specified by the Big Lottery are continued

## **8.0 Background Papers**

- Report to the Executive 12 February 2007 Review of Play Services Ref: C&F-06/07-019
- Ofsted Registration of childcare providers from September 2008
- Report to the Executive 17 November 2008 Authority to Extend the Existing Contract and Award a New Contract for the Delivery of Play Services in Brent Ref: C&F08/09-008
- Report to the Executive 16 March 2009 Authority to Extend the Existing Contract for the Delivery of Big Lottery Funded Play Services in Brent Ref: C&F08/09-021
- Report to the Executive 14 July 2009 Authority to extend the existing contract and invite tenders for the delivery of play services in Brent. Ref: C&F-09/10-002
- Report to the Executive 11 August 2010 Authority to extend the existing contract

### **Contact Officers**

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**KRUTIKA PAU**  
**DIRECTOR OF CHILDREN & FAMILIES**

	<p><b>Executive</b> 23 May 2011</p> <p><b>Report from the Director of Housing and Community Care</b></p>
Wards Affected: [ALL]	
<p><b>Authority to Award Support and Maintenance Contract</b></p>	

**“Appendix 1 of this report is Not for Publication”**

**1.0 Summary**

1.1 This report requests authority to award a support and maintenance contract in respect of “frameworki”, the Council’s Adult and Children Social Care Case Management IT System and seeks approval not to invite tenders in accordance with Contract Standing Order 86 (e)(i).

**2.0 Recommendations**

2.1 The Executive award a support and maintenance contract in respect of frameworki to Corelogic Ltd for a term of five (5) year with an optional two (2) year extension from 1 June 2011.

2.2 The Executive give approval to tenders not being invited in accordance with Contract Standing Order 86 (e) (i) for the reasons detailed in paragraph 3.7

**3.0 Detail**

3.1 The frameworki system (“framework”) is the Case/Care Management and Workflow Database IT System used by both Adult Social Care and Children Social Care in both the Housing & Community Care and Children & Families Departments respectively.

3.2 Frameworki was procured via an EU compliant tender process. The contract for the supply, the implementation of the software and the ongoing support and maintenance was awarded to Corelogic Ltd (“Corelogic”) on 1<sup>st</sup> April 2003. The contract period was for an initial five (5) years plus optional three (3) years. In the event the contract was extended for the optional 3 years and therefore the support and maintenance element of the contract ended on the 31<sup>st</sup> March 2011.

- 3.3 Prior to expiry of the support and maintenance contract in respect of frameworki on 31 March 2011, Officers looked at the market for Adult and Children Social Care management systems. Officers concluded that the frameworki Care Management system continues to meet the functionality requirements of the H&CC Adult Social Care Service as well as that of the Children & Families' Social Care Service.
- 3.4 Officers consider the benefits to Brent of continuing to use the frameworki system are:
- The System meets current Social Care business requirements
  - The System's future system software functionality roadmap has been developed in partnership with the National User Group of which Brent is a member.
  - Continuity with no disruption or training to 400 staff (bringing in a new system would be extremely disruptive to staff and costly to the Council particularly when it is not required).
  - The Council is currently in the process of implementing new functionality within frameworki which is part of a One Council Tranche 1 Project (Adult Social care Transformation – Customer Journey) to commence from 1<sup>st</sup> April 2011. Any change of system would seriously undermine the success of this One Council project.
  - There are financial advantages in maintaining frameworki – the avoidance of cost, both in terms of cash and officer resource time. Costs can be excessive and include the cost of the tendering process as well as the cost to build or set up a new system, which could be £500,000 as well as costs for implementation, training and migration costs for which there is no identified budget.
- 3.5 Having determined that it is not in the Council's interests to replace the existing frameworki system, Officers considered whether the existing system could be adequately maintained and supported by other organisations as Brent Council have a non-exclusive license to use frameworki in perpetuity under the terms and conditions of the original contract entered into on April 1<sup>st</sup> 2003.
- 3.6 Corelogic own 100% of the Intellectual Property Rights (IPR) in the software solution known as frameworki. Therefore only Corelogic have access to the source code and the ability to make changes to that source code thereby maintaining the operational integrity of the system in the process. Corelogic do not allow other organisations access to the source code as it is indicated this would impact on the operational integrity of the system and undermine Corelogic's ability to make changes frameworki in a controlled and manageable way that enables it to meet their obligations to its 50,000 end user across the UK and globally. Any third party access could have a severe and potentially devastating impact on the quality of the code and consequently upon user's ability to offer a support & maintenance service at all.
- 3.7 Despite Corelogic's unwillingness to allow other organisations access to the source code Officer's looked at whether it would be possible for support for the frameworki system to nevertheless be provided by some other maintenance and support provider without access to the source code. Whilst third parties could theoretically provide maintenance and support for the current frameworki system, there is concern that without access to the source code, an alternative provider would not be able to guarantee the functionality of the system which would pose an unjustifiable risk to Adult and Children Social Care management systems. The Council would also not benefit from the on-going revisions made to frameworki by Corelogic and whilst a third party could potentially develop frameworki functionality by writing layers of code on top of the code base, no third party would be able to guarantee that changes would not break without access to the source

code. Officers therefore concluded that Corelogic was the only organisation in a position to provide the necessary support to the frameworki software.

- 3.8 In view of the Council's wish to maintain its frameworki system and the inability of third parties to provide maintenance and support that would guarantee the integrity of the frameworki system, Officers discussed with the Council's Legal and Procurement Department whether there were grounds that may justify negotiating a contract with Corelogic. The advice received was that there was a potential exemption under Regulation 14 (1) (a) (iii) of the Public Contracts Regulations 2006 on the basis that the contract could only be awarded to a particular economic operator for reasons connected with the protection of exclusive rights. Therefore, with assistance from the Procurement Team, negotiations were held with Corelogic to explore the possibility of a new contract.
- 3.9 The 2010/11 support & maintenance costs of the Corelogic contract to the Council was £144,955. This included the core frameworki support plus the additional support and maintenance costs of system add-ons and interfaces. The breakdown of this was as follows:

Framework i support	107,992
Oracle Support	8,963
Report pack Support	28,000
<b>TOTAL</b>	<b>144,955</b>

- 3.10 With discussions between the Council and Corelogic on-going, the existing contract with Corelogic expired on 31 March 2011. In order to ensure continuity of support therefore, Officers entered into a short term contract with Corelogic of two month duration using delegated powers.
- 3.11 A new five year contract extension based on current cost plus inflation (RPI) is outlined in Appendix 1 below resulting in a total cost of £868,865 over the 5 years. Following negotiations between Corelogic and Council Officers, an improved offer has been received from Corelogic which over 5 years results in a total contract cost of £694,779 which Officers believe offers future savings and a value for money support & maintenance. Further details regarding this proposal are contained in Appendix 1. In addition, fifty (50) additional user licenses have been included at no extra cost.
- 3.12 Officer consider that the proposals detailed in paragraph 3.11 offer the Council value for money and given the reasons outlined in paragraph 3.7, recommend the award of a contract to Corelogic for a term of 5 years with an optional two (2) year extension from 1 June 2011.

#### **4.0 Financial Implications**

- 4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval to invite tenders and in respect of other matters identified in Standing Order 90.
- 4.2 The estimated value of this support & maintenance contract is £694,779 over 5 years; a full breakdown of the cost is included in Appendix 1 and is 'below the line'
- 4.3 It is anticipated that the cost of this contract will be funded from existing resources.

## **5.0 Legal Implications**

- 5.1 The value of this contract over its lifetime is higher than the EU threshold for Services and the award of the contract is therefore governed by the Public Contracts Regulations 2006 (the “EU Regulations”). Given the breakdown between the different elements of the contract, it is regarded as a contract for Part A Services and is therefore subject to full application of the EU Regulations.
- 5.2 Whilst the contract is subject to full application of the EU Regulations, Regulation 14 (1) (a) (iii) of the EU Regulations does permit a contracting authority to use a negotiated procedure without the prior publication of a contract notice when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the public contract may only be awarded to a particular economic operator. Paragraph 8.7 details Officer’s reasons why for technical and for the protection of exclusive rights the Council is justified in using a negotiated procedure under Regulation 14 (1) (a) (iii).
- 5.3 The estimated value of the contract is above the Council’s Standing Orders threshold for High Value Service Contracts (of £500k), and the procurement and award of the contract is consequently subject to the Council’s own Standing Orders and Financial Regulations in respect of High Value contracts. High Value contracts are subject to formal tendering procedures but Contract Standing Order 86 (e)(i) provides that subject to complying with EU Regulations, contracts are not subject to full tendering requirements:

“where for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the services, supplies or works may only be provided by a particular provider or where there is only one provider who would be able to provide the services, supplies or works, provided that advice is sought from the Director of Legal and Procurement and in the case of High Value Contracts approval is sought from the Executive (or if appropriate, the General Purposes Committee);”

As indicated above, paragraph 8.7 details reasons why for technical and for the protection of exclusive rights Officers consider that full tendering is not appropriate and following liaison with the Director of Legal and Procurement seek approval pursuant to Contract Standing Order 86 (e) (i) not to tender the contract. Further, officers seek approval pursuant to Contract Standing order 88 to award the contract.

- 5.4 In accordance with the EU Regulations, the Council is required to publish a Contract Award Notice following the award of the contract.

## **6.0 Diversity Implications**

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

## **7.0 Staffing/Accommodation Implications**

- 8.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from retendering the contract.

## **9.0 Background Papers**

### **Contact Officer(s)**

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	<p style="text-align: center;"><b>Executive</b> <b>23 May 2011</b></p> <p style="text-align: center;"><b>Report from the Director of Regeneration and Major Projects</b></p>
For Action/Information	Ward Affected: Queens Park
<p style="text-align: center;"><b>Proposed Disposal by Auction of the East Lodge, Paddington Cemetery 93 Willesden Lane London NW6 7SD</b></p>	

## 1.0 SUMMARY

- 1.1 This report seeks the Executive's approval for the disposal by auction of the East Lodge located in the Paddington Cemetery, 93 Willesden Lane London NW6 7SD. The property has now become surplus to requirements after the previous occupier, an employee of the Environmental Health Unit vacated the property in February 2011.

## 2.0 RECOMMENDATIONS

- 2.1 That the Executive authorises the Assistant Director, Regeneration & Major Projects, (Property & Asset Management), to dispose of the property by way of auction on such terms that he considers appropriate, after all due regard to planning and architectural considerations so as to ensure that the best price is received on sale and to instruct Legal Services in the matter of the disposal.
- 2.2 That the Executive authorise the Assistant Director, Regeneration & Major Projects, (Property & Asset Management), to commence and comply with the procedure, as set out in Section 123(2A) of the Local Government Act 1972 (LGA 1972), of the Council's intention to dispose of the public open space comprising the East Lodge and the land within its cartilage.

## 3.0 DETAIL

- 3.1 The East Lodge is a Grade II listed house built circa 1870's, located to the left hand front entrance of the Paddington Cemetery and situated within its grounds. The building is located within the Paddington

Cemetery Conservation Area. The Paddington Cemetery is also a Registered Park and Garden.

- 3.2 The property is located within a half mile of the A5 Kilburn High Road which is a major arterial route into the West End of London. It is also situated within 10 minutes walk of Queens Park Underground Station and Kilburn Underground Station. Brondesbury and Brondesbury Park railway stations are also located within close proximity. Maida Vale, St John's Wood and West Hampstead are also located nearby. This makes the property very attractive to potential purchasers looking to live within easy commuting distance of the West End and the City.
- 3.3 The property is a two storey detached house constructed with a natural slate roof and the external walls are formed from a brickwork inner leaf, with a painted stone outer leaf to the original section of the house. It has a rear addition constructed of solid brick work. The property has a front garden which is accessible from Willesden Lane and the front door is located at a side entrance which is accessed from within the cemetery grounds. The house comprises two upstairs bedrooms with two ground floor reception rooms with a toilet and bathroom located adjacent to the ground floor kitchen. The property also has a separate ground floor toilet. The property has an out house and a side patio area.
- 3.4 Externally, the property is in poor condition and the costs associated with the external repair and maintenance that is needed to the building has been judged to be in the order of £140,000 plus fees and VAT. Work is also required to the internal parts.
- 3.5 Due to the fact that the East Lodge is a Grade II Listed Building it may restrict the type of purchaser who may be interested in buying it, due to the extent of the internal and external works that will need to be carried out on the property and the permissions and approvals needed for those works. This will mean that the sale price achieved may not be as substantial had the property been in a better condition. It is envisaged that it will be of interest to a particular type of purchaser who will be attracted to it, through careful marketing, due to the property's uniqueness and because of its historical significance, location and style of construction. It is considered that the auction method of property disposal will be more effective in achieving the highest possible capital receipt for this sale than other methods of disposal, such as a tender or private treaty. The particular type of purchaser that may be interested in purchasing the property would only be aware of its availability to purchase through the specific marketing of an auction house, which has a wide ranging list of potentially interested parties throughout the country.
- 3.6 The freehold of the Paddington Cemetery was transferred from the Lord Mayor and Citizens of The City of Westminster to the Mayor and Burgesses of the London Borough of Brent on the 16th December 1985. At the time of the transfer of the freehold, a lease was granted by

Brent Council to the City of Westminster in respect of the East Lodge, for 125 years from the 16<sup>th</sup> December 1985.

- 3.7 The Charges Register contains a covenant that if the purchaser of the Paddington Cemetery, (i.e. The London Borough of Brent), disposes of the property or part of the property, (in this case the East Lodge), then the London Borough of Brent will have to pay the City of Westminster a half of the net profit of such a disposal, after deducting any capital debt in respect of capital expenditure by the Purchaser on the property or part thereof.
- 3.8 The boundary of the demise to be disposed of is bordered green on the lease plan, (please see Appendix 1). The Council is proposing to install a railing and plant shrub, as shown between points A, B and C on this enclosed lease plan, to separate the demise of the East Lodge from the rest of the Paddington Cemetery. As the property is located in the Paddington Cemetery Conservation Area and the East Lodge is a Grade II Listed Building, the Council is in the process of establishing whether formal permission is required, or whether certain statutory requirements are needed to be fulfilled for the implementation of these proposals.
- 3.9 It is therefore proposed to place this property into auction as soon as any required permissions or statutory requirements are implemented and the boundary railing and shrubbery has been installed.
- 3.10 The sale of this property will not affect the Council's right, or the general public's right of access to the cemetery. The long leasehold interest of the East Lodge will be subject to restrictive covenants in relation to the nature and the amount of vehicles that will be allowed to be parked in the cemetery and within the boundary of the East Lodge.

#### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 It is anticipated that the sale will achieve a gross capital receipt in excess of £400,000, from which contractual payments to Westminster City Council must be deducted. The sale of this property is in line with the Corporate Strategy of selling surplus property to realise a capital receipt
- 4.2 The payment to the City of Westminster is based on 50% of the net profit after deducting any capital debt in respect of capital expenditure that has previously been spent on the property. The cost of installing the boundary railing and the planting of the shrubbery will also be deducted from the net profit that will be paid to the City of Westminster.
- 4.3 The net capital receipt retained by Brent Council is therefore likely to be of the order of £180,000.
- 4.4 It is proposed that an auction reserve price be agreed with the appointed auctioneer at a figure considered by the Assistant Director, Regeneration & Major Projects (Property & Asset Management) to reflect a realistic market value for the property.

4.5 Provision will be made from the sale proceeds for the disposal costs including Auctioneers commission, legal costs, and the administrative costs of Property and Asset Management.

4.6 The capital receipt generated from this sale will help meet the resource forecasts for this year's capital programme.

## **5.0 LEGAL IMPLICATIONS**

5.1 The property is to be sold on a leasehold basis for a term of 999 years at a peppercorn rent.

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.

5.3 Disposals on the open market by way of auction, after proper marketing, will satisfy this best consideration requirement.

5.4 The value of this property is in excess of the value of properties which can be sold under the delegated authority of the Assistant Director, Regeneration & Major Projects, (Property & Asset Management). As such the Executive needs to agree to this disposal before this can be undertaken.

5.5 A Covenant contained in the Transfer, dated 16<sup>th</sup> December 1985, requires the Council, in the event of the Council disposing of the East Lodge, to pay Westminster City Council one half of the net profit after deducting any outstanding capital debt in respect of capital expenditure by the Council on East Lodge.

5.6 In order to dispose of the East Lodge on a 999 year lease it is necessary to publish a notice of the proposed disposal in a local newspaper. The procedure to follow in order to bring this about is set out in Section 123 of the LGA 1972. Under Section 123(2A) of this Act, the Council cannot dispose of any land consisting of, or forming part of public open space unless, before disposing of the land, they cause notice of their intention to do so. The Council has to specify the land in question, to be advertised for two consecutive weeks in a newspaper circulating in the area in which the land is situated and allow 21 days for objections. The Council then has to consider any objections to the proposed disposal, which may be made.

5.7 If the East Lodge is in a consecrated area it will need to be deconsecrated prior to disposal. In that event the Council will apply to the Diocese for a Church faculty or consent to deconsecrate the land.

## **6.0 DIVERSITY IMPLICATIONS**

6.1 Please see the attached Impact Needs/Requirement Assessment-

Equality Impact Assessment in Appendix 2.

## **7.0 STAFFING/ACCOMMODATION IMPLICATIONS**

7.1 None.

## **8.0 BACKGROUND PAPERS**

Papers held in Regeneration & Major Projects

### **Contact Officers**

Howard Fertleman Estates Surveyor Property and Asset Management  
ext 1566.

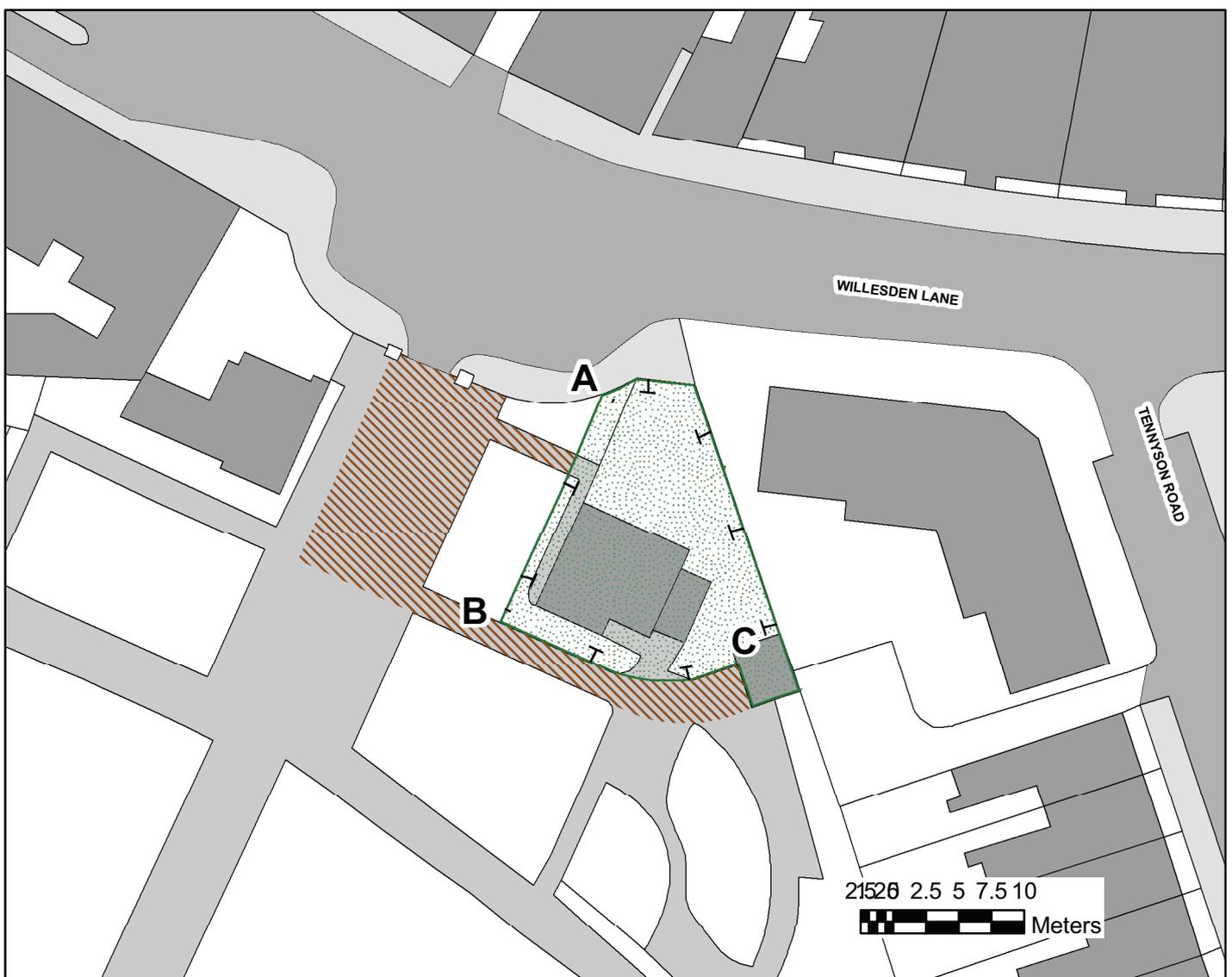
ANDREW DONALD

Director of Regeneration and Major Projects

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**APPENDIX 1**  
**East Lodge, 93 Willesden Lane,**  
**Kilburn, London, NW6 7SD.**

**Leasehold demise edged and stippled green.**  
**Right to pass and repass hatched brown.**  
**Purchaser to maintain boundaries marked**  
**with an inward facing "T".**  
**New boundary wall between points A, B and C.**



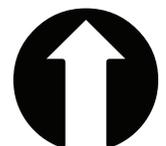
**1:500**

Plan to stated scale if printed at A4.

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**NORTH**



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## Appendix 2

### Impact Needs/Requirement Assessment Completion Form

<b>Department:</b> Regeneration and Major Projects.	<b>Person Responsible:</b> Howard Fertleman
<b>Service Area:</b> Property and Asset Management.	<b>Timescale for Equality Impact Assessment :</b>
<b>Date:</b> 5 <sup>th</sup> April 2011.	<b>Completion date:</b> 5 <sup>th</sup> April 2011
<b>Name of service/policy/procedure/project etc:</b>  This is a transaction for the sale of a two bedroom detached house located in the Paddington Cemetery.	<b>Is the service/policy/procedure/project etc:</b>  New <input type="checkbox"/> Old <input checked="" type="checkbox"/>
Predictive <input checked="" type="checkbox"/>  Retrospective <input type="checkbox"/>	Adverse impact <input type="checkbox"/> Not found <input checked="" type="checkbox"/> Found <input type="checkbox"/>
Is there likely to be a differential impact on any group? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Service/policy/procedure/project etc, amended to stop or reduce adverse impact Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
1. Grounds of race: Ethnicity, nationality or national origin e.g. people of different ethnic backgrounds including Gypsies and Travellers and Refugees/Asylum Seekers Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Please state below: 2. Grounds of gender: Sex, marital status, transgendered people and people with caring responsibilities Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3. Grounds of disability: Physical or sensory impairment, mental disability or learning disability Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	4. Grounds of faith or belief: Religion/faith including people who do not have a religion Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5. Grounds of sexual orientation: Lesbian, Gay and bisexual Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	6. Grounds of age: Older people, children and young People Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Consultation conducted Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Person responsible for publishing results of Equality Impact Assessment: There will be no Equality Impact to society from this transaction.
Person responsible for arranging the review: Howard Fertleman	Date results due to be published and where: No results will be published
Person responsible for monitoring: Howard Fertleman	Date: 14 <sup>th</sup> April 2011
Signed: 	

## Appendix 2

### Impact Needs/Requirement Assessment Completion Form

Please note that you must complete this form if you are undertaking a formal Impact Needs/Requirement Assessment. You may also wish to use this form for guidance to undertake an initial assessment, please indicate.

#### 1. What is the service/policy/procedure/project etc to be assessed?

The sale of the East Lodge, Paddington Cemetery, 93 Willesden Lane London NW6 7SD by auction. This 2 bedroom house was originally occupied by an employee of the Brent Council's Environmental Health Unit. They have subsequently moved out of the property and the property has been declared surplus and is to be sold. She is still an employee of Brent Council and does not have any unmet needs.

2. Briefly describe the aim of the service/policy etc? What needs or duties is it designed to meet? How does it differ from any existing services/ policies etc in this area

To sell Council owned surplus property to obtain a capital receipt to meet the resources forecasts for the Council capital programme.

#### 3. Are the aims consistent with the council's Comprehensive Equality Policy?

Yes as anybody, regardless of age, creed, religion, sexuality, ethnicity and gender will have an opportunity to bid for this property in an open and transparent way.

4. Is there any evidence to suggest that this could affect some groups of people? Is there an adverse impact around race/gender/disability/fairness/sexual orientation/health etc? What are the reasons for this adverse impact?

The property will be sold, subject to the Executive Committee's approval, by auction. This is an open and transparent method for the sale of property assets and allows all sections of society to purchase the property in an open and transparent way. It ensures that there is no discrimination to any potential bidder and by any bidder. There has been no adverse effect on the previous tenant as she has been rehoused in a flat in Nottinghill and does not have any unmet needs. She is still a Brent Council employee.

5. Please describe the evidence you have used to make your judgement. What existing data for example (qualitative or quantitative) have you used to form your judgement? Please supply us with the evidence you used to make your judgement separately (by race, gender and disability etc).

The evidence used to justify this assertion is the results of previous property auction transactions and the nature of the method of disposal itself.

6. Are there any unmet needs/requirements that can be identified that affect specific groups? (Please refer to provisions of the Disability Discrimination Act and the regulations on sexual orientation and faith, Age regulations/legislation if applicable)

There are no unmet needs or requirements that can be identified that could affect specific groups. Any group of any ethnicity, sexual orientation, faith or age can make a bid for this property.

7. Have you consulted externally as part of your assessment? Who have you consulted with? What methods did you use? What have you done with the results i.e. how do you intend to use the information gathered as part of the consultation?

## Appendix 2

### Impact Needs/Requirement Assessment Completion Form

I have not consulted externally as part of my assessment because due to the nature of this transaction and the reasons for this transaction such an assessment is not possible or verifiable.

8. Have you published the results of the consultation, if so where?

No, because none has been undertaken.

9. Is there a public concern (in the media etc) that this function or policy is being operated in a discriminatory manner?

No as this method of disposal is open and transparent and anybody is able to place a bid, there will not be any public concern as to this method of sale being discriminatory.

10. If in your judgement, the proposed service/policy etc does have an adverse impact, can that impact be justified? You need to think about whether the proposed service/policy etc will have a positive or negative effect on the promotion of equality of opportunity, if it will help eliminate discrimination in any way, or encourage or hinder community relations.

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

11. If the impact cannot be justified, how do you intend to deal with it?

N/A

12. What can be done to improve access to/take up of services?

The property will be advertised in the auctioneers brochure, in the press and on the Council's website, this will ensure that any interested party will be made aware of the proposed sale.

13. What is the justification for taking these measures?

To ensure that there is a sufficient amount of publicity to ensure that those individuals who may be interested in purchasing the property will receive due notification and details of the property in advance of the auction.

## Appendix 2

### Impact Needs/Requirement Assessment Completion Form

14. Please provide us with separate evidence of how you intend to monitor in the future. Please give the name of the person who will be responsible for this on the front page.

I will be responsible for the monitoring of the results of this auction and for monitoring the amount of enquiries received regarding the property prior to the auction. I will monitor the types of people who make bids for the property on the day of the auction.

15. What are your recommendations based on the conclusions and comments of this assessment?

That the Council be able to sell this property by way of a public open auction.

Should you:

1. Take any immediate action? No.
2. Develop equality objectives and targets based on the conclusions? Ensure that the details of the auction reach the widest areas of society in practical terms.
3. Carry out further research? None needed.

16. If equality objectives and targets need to be developed, please list them here.

N/A.

17. What will your resource allocation for action comprise of?

No resources needed.

If you need more space for any of your answers please continue on a separate sheet

Signed by the manager undertaking the assessment:

  
Full name (in capitals please):

Date: 14<sup>th</sup> April 2011

HOWARD FELTZEMAN  
Service Area and position in the council:

Property and Asset Management - Estates Services  
Details of others involved in the assessment - auditing team/peer review:

Once you have completed this form, please take a copy and send it to: **The Corporate Diversity Team, Room 5 Brent Town Hall, Forty Lane, Wembley, Middlesex HA9 9HD**

Appendix 2

**Impact Needs / Requirement Assessment Completion Form**





**Executive**  
23 May 2011

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

For Action

Wards affected:  
Alperton, Stonebridge

### **Proposed Park Royal Partnership Business Improvement District**

#### **1.0 Summary**

- 1.1 This paper informs Members of Park Royal Partnership's intention to ballot eligible businesses within the Park Royal industrial estate for the establishment of a Business Improvement District (BID) anticipated to take place on 30<sup>th</sup> June 2011. The paper includes background information about the BID, the progress Park Royal Partnership has made to date and outlines the implications for the Council.

#### **2.0 Recommendations**

- 2.1 It is recommended that the Executive:
- 2.2 Notes that an 'industrial' Business Improvement District (BID) is being proposed in the Park Royal area across three boroughs: Brent, Ealing and Hammersmith and Fulham.
- 2.3 Delegates authority to the Director of Regeneration & Major Projects, in consultation with the Director of Finance and Corporate Resources, to decide whether to approve the Park Royal Partnership BID proposals and business plan such that a ballot will be held.
- 2.5 Notes that the Park Royal Partnership has asked the three Councils to run BID ballots on 30<sup>th</sup> June 2011 and that the cost of running the ballot to be funded by the three Local Authorities, is estimated to be less than £3,000 in total.

- 2.6 Notes that it is proposed that the three ballots be run by Ealing and that the Council's Returning Officer proposes to appoint Ealing to undertake the ballot on behalf of the Council
- 2.6 Delegates authority to the Director of Regeneration and Major Projects, in consultation with the Director of Finance and Corporate Resources the power of veto in respect of the ballot including the authority to exercise such power should those Officers consider such action appropriate
- 2.7 Authorises the Head of Revenue & Benefits to establish and administer the BID revenue account and to provide for the introduction, administration, recovery and application of the BID levy in accordance with the BID Regulations in the event that the Park Royal BID successfully proceeds at ballot.
- 2.8 Delegates authority to the Director of Regeneration & Major Projects in consultation with the Director of Finance and Corporate Resources to complete any necessary legal agreements and other arrangements required for the operation of the BID Levy, BID ballot and service arrangements including the Baseline and Operating Agreements with the newly formed BID company should the ballot be successful in June.

### **3.0 Detail**

#### **3.1 Background**

- 3.1.1 Park Royal Partnership (PRP) was formed in 1992 to promote economic sustainability on the Park Royal industrial estate that falls within the three local authority boundaries of Brent, Ealing and Hammersmith and Fulham. It supports the estate and its businesses through the development of a sustainable business environment and activities to encourage business growth. Twenty-five per cent of the businesses on the estate pay a membership fee to PRP for their services.
- 3.1.2 The organisation's aims and activities have generally been in alignment with Brent Council's own regeneration priorities. In recognition of this, the Council made a modest annual financial contribution to the PRP, between 2007 and 2009, the Council's Regeneration team worked with PRP to deliver a £7.9 million London Development Agency (LDA) Area Programme covering Park Royal and Wembley to achieve employment, business start up and business growth outcomes.
- 3.1.3 However, following the well documented reduction in public funding for regeneration programmes, including the end of most LDA programmes and the withdrawal of Local Authority financial support, PRP are facing an unprecedented and unsustainable reduction in their revenue. The organisation has significantly reduced its workforce and streamlined its activities but it now needs to identify alternative funding streams to continue to support economic growth, inward investment and improvement of the public realm in the Park Royal industrial estate. PRP views the creation of a Business Improvement

District (BID) as offering the most sustainable solution to meeting these needs.

3.1.4 PRP has been provided with some financial “seed funding” support from the LDA to launch a BID proposal for local businesses with the intention of moving directly to a formal ballot on 30th June 2011.

### 3.2 **The Business Improvement District**

3.2.1 A BID is a special purpose organisation set up by business ratepayers to commission projects which will lead to improvements in their local trading environment, funded through a local increase in business rates. The funding cannot be used to support or pay for services already provided by the public sector, is ring fenced locally and can only be used to commission and deliver projects or services demanded by local companies. It is an arrangement under which local businesses plan how to improve their own business and trading environment. Businesses identify projects or services that will add value and agree on the level of funds which they will pay to make it happen. The duration of the BID is not more than five years.

3.2.2 Since 2004, over 30 commercial and industrial areas have voted for a BID in their locations. Another 100 BIDs are in the pipeline in the UK. In the BID areas that have gone to a vote in the UK there has been an average turnout of 60 per cent with 75 per cent voting in favour.

3.2.3 The proposed Park Royal BID will cross the three London borough boundaries of Brent, Hammersmith & Fulham and Ealing and the extent of the area is shown in the map attached as appendix 1. There are currently no BIDs in Brent although both Ealing and Hammersmith and Fulham Councils have successful BIDs operating in their main town centres. However, there are only two cross boundary BIDs in operation across England to date and none that have covered three different local authority areas.

3.2.4 PRP has identified six key benefits for the establishment of a BID within the industrial estate and these are outlined below:

1. The Park Royal BID will be set up and governed by a board of locally elected Park Royal business leaders.
2. All businesses, other than those in small premises, will make a contribution into a ring fenced fund to spend within the Park Royal estate. A BID empowers businesses to take control and shape the future of Park Royal by determining what action needs to be taken to maintain the area’s competitiveness and to ensure its sustainable growth.
3. Collective investment will enable cost savings to individual businesses within the BID area, e.g. through group purchasing.

4. All projects undertaken by the Park Royal BID company will be additional to existing public services. The objective of the Park Royal BID is to improve service delivery for the benefit of businesses.
5. A real business voice will be created to influence change in the Park Royal BID area. The BID will become the link between local businesses, the three boroughs, London Government and other public sector stakeholders. This will ensure that the needs of businesses are heard.
6. A Park Royal BID significantly increases the chances of securing additional funding in order to provide for example, support to business start-ups, training and infrastructure projects.

### **Governance**

- 3.2.5 A steering group has been formed to oversee the development of the BID prior to the formal ballot in June. The group is lead by the Acting Chief Executive of Park Royal Partnership and includes representation from the three boroughs and fifteen businesses. The group meets monthly.
- 3.2.6 This group has taken decisions as to the eligibility criteria to vote in the ballot, has overseen an extensive consultation process with businesses on the estate to gauge voting intentions and is informing the development of the BID business plan.
- 3.2.7 If the BID ballot is successful a new BID company would be formed. This would be owned by the business ratepayers and controlled by them through an elected Board of Directors. A small team would be employed to run the company and undertake the work set out in the business plan, including a part time director and one full time project manager. The BID would be in place for a period of five years after which another ballot would take place.
- 3.2.8 The Board of the BID company would be made up of 12 members, including a Chair. This would include 11 representatives of the levy payers and the executive Director of the BID company. Board members would be chosen by secret ballot conducted by the BID company. Each Board member would serve a term of three years. Each local authority would be granted a place as an observer.

### **Business eligibility and the ballot**

- 3.2.9 For the ballot to be successful in Park Royal, there needs to be a majority vote on the turnout. This means at least 51% of the eligible turnout voting in favour of the BID. Following BID regulations, a separate ballot has to be under taken in each of the local authority areas. However it has been agreed that Ealing Council will undertake the management of the process on behalf of both Brent and Hammersmith & Fulham Councils.
- 3.2.10 There are an estimated 2,500 business within the Park Royal boundary with a National Non Domestic Rateable (NNDR) value of £136million per annum. Park Royal has decided to hold the ballot on the basis that a one per cent levy would apply for businesses within the BID area. In line with other BIDs, and to

minimise the fiscal impact on smaller businesses, the BID company will introduce a threshold under which businesses do not need to contribute. This threshold is set at a rateable value of £50,000 per annum.

3.1.11.1 Applying this rule, the number of companies eligible to vote in the ballot is reduced from 2500 to around 600.

3.2.12 It should be noted that businesses on the estate occupying more than one property, each with a rateable value over £50,000, will be allowed a vote for each of these properties and yet they will be subject to a levy cap as detailed in section 3.2.16 below.

3.2.13 The BID regulations allow for a 28 day challenge period after the ballot on specific grounds of “material irregularity”. A BID proposer, at least 5 per cent of the voters or the billing authority, can write to the Secretary of State to request him to declare a ballot void.

### ***BID Revenue***

3.2.14 The draft business plan states that the total net revenue to be raised from the levy is estimated at £975,000 per annum. This is based on a total rateable value of all eligible properties of £130m, a levy rate of 1%, less adjustment for multiple premises, a cap on the maximum payment and potential non-payment. Within the Brent boundary of Park Royal there are 264 properties with a rateable value of £50,000 or more, raising £509,469 of the total revenue each year. The levy rate of 1 per cent is on the rateable value, not the actual bill, which would increase by around 2.25 per cent (up to the £1million rateable value). It should also be noted that properties with a rateable value of over £55,000 already pay an additional 2p in the pound levy to fund Crossrail.

3.2.15 It is planned that the levy be increased each year by two percent or CPI, whichever is the lower, in order to maintain the value of the levy in real terms, ie the levy would rise to 1.02% in the second year.

3.2.16 Businesses occupying premises with a combined rateable value of £1m to £2.5m will be subject to a cap of £10,000. Thus a business with three premises, valued at; £500,000; £625,000 and £75,000 will pay a levy of £10,000, rather than £12,000 which is the equivalent of 1% on £1.2m. For those businesses occupying premises with a rateable value greater than £2.5m will be subject to a cap of £20,000.

3.2.17 An outline budget is included within the draft business plan that indicates that only 10 per cent of the revenue is planned for management and administration and a further 10 per cent for contingency. Working from this budget, it is questionable whether the budget is large enough to cover the levy collection charges by each of the local authorities (Brent’s estimate alone is over £17,000). This will be clarified with the Park Royal team.

### ***The business plan - key themes and activities***

3.2.18 Prior to the ballot taking place, a BID business plan will need to be sent to the businesses so that they are clear on the basis on which they are voting and

are able to make an informed decision. The business plan will not be specific to Brent and will cover the BID area in its entirety.

3.2.19 The business plan will set out the key activities to be undertaken by the BID company, governance arrangements and budget breakdown. It will also include the Operating and Baseline Agreements for each Borough.

3.2.20 The activities undertaken by the BID are still to be confirmed and therefore the business plan is still some-way from being finalised. However, two recent phases of consultation with businesses eligible to vote on the estate have revealed a number of key areas of need to ensure Park Royal retains and enhances its position as the industrial heart of the capital. These include:

- Security - Install extra lighting in vulnerable areas,
- Transport - Improve access for goods vehicles, measures to unblock traffic flow.
- Environment - Provision of recycling services, provision of alternatives to car use.
- Area Management - Graffiti and fly tipping removal services.
- Value Added Services - Marketing and promotion of Park Royal to attract investment.

3.2.21 It is proposed that PRP will develop alternative measures to continue a high level of engagement with what would predominantly be a large Small to Medium Sized Enterprise (SME) business community on the estate to ensure consultation and improvement planning is inclusive and reflects the collective needs of the area for all organisations trading in Park Royal.

3.2.22 However, there is no further detail at this stage and the final business plan does not need to be sent to eligible voting businesses until 42 days prior to the ballot. As a result, there will not be sufficient time to bring the final business plan to the Executive for final approval by the Council. Under these circumstances, it is requested that the Executive delegate final approval of the proposals and business plan to the Director of Regeneration & Major Projects in consultation with the Director of Finance and Corporate Resources who will then inform the Executive of the decision.

### 3.3.0 **Progress to date**

3.3.1 Brent Council, along with both Ealing and Hammersmith and Fulham Councils have been providing support for the development of the Park Royal BID since September 2010.

3.3.2 Brent Council is represented on the BID steering group by the Head of Regeneration Policy. Attendance at the group by the businesses has been fairly low although written responses are made by some of the non attendees to specific questions that are raised by PRP.

- 3.3.3 Consultation has been carried out will all local businesses within the proposed BID area. This has included information events about the BID, steering group members speaking directly to businesses about the potential benefits of the BID and two postal surveys to gauge voting intentions and understand the needs of businesses on the estate.
- 3.3.4 As of April 2011, 78 responses had been received from businesses within the Brent boundary of the BID with 54 per cent stating they would vote yes in a ballot. It should be noted that the response rate only represents 37 per cent of the eligible Brent votes. However, if the ballot proceeded on this basis with fifty-four per cent of the turn out voting in favour, then the BID would proceed in Brent.
- 3.3.5 As mentioned, PRP are currently in the process of developing a detailed business plan upon which they will base the BID manifesto. It was originally intended that this business plan would be presented within this report so that Members would be fully informed about the proposed future BID activities and its impact on the Brent part of the industrial estate and businesses. An outline of the key themes for activities has been outlined in section 3.2.20.
- 3.3.6 With regards the ballot, each local authority has submitted details of all organisations liable to business rates - National Non Domestic Rates (NNDR) and occupying premises within the BID area with a rateable value of at least £50,000 who are eligible to vote and pay the levy, to the London Borough of Ealing. PRP are working with each borough to establish both a series of baseline agreements, an operating and complementary services agreement. These are outlined in more detailed in section 3.4 below.

#### 3.4.0 **Involvement of Brent Council**

3.4.1 As well as attendance at the steering group, the Council has a number of formal roles that it needs to undertake to develop the BID and ensure it is able to operate throughout its five year lifetime. These include:

- Providing data for the baseline agreement and assisting with other aspects of all legal agreements, such as the operating agreement and complementary services agreement;
- Approval of the BID proposal;
- Managing and carrying out all aspects of the BID ballot;
- Billing and collection of the levy.

Each of these roles, and their implications for the Council are explored in more detail below.

#### 3.4.2 **Baseline Agreements**

The baseline agreement covers the existing services provided by Brent Council in the Park Royal area and will detail the additional services provided by the BID company that must be over and above those already provided by the Council. Templates of current baseline services have been completed by

each of the relevant service areas within the Council including Streetcare and Highways Maintenance and are awaiting sign off by PRP.

The final agreement will need to accommodate any changes to the level of service provided by the Council, particularly in light of budget and service reductions over the anticipated five years the BID is in operation.

### **3.4.3 *Operating Agreements***

This agreement will set out and ensure that there is an effective ongoing relationship between the BID company and Brent Council in terms of collecting and enforcing payment of the BID levy to the BID.

The Council's Legal team shall review the Operating Agreement template so as to ensure it reflects the specific requirements of the Park Royal BID.

The final agreement will also need to closely reflect the agreements drawn up in the other two boroughs to ensure there is consistency of approach with regards levy collection rules within the BID area.

### **3.4.4 *Approval of the BID proposal***

The BID requires formal approval from the local authority before the ballot can take place. In considering the BID proposal, Brent Council will need to consider; the proposals; details of the consultation that has taken place with those liable for the levy; the business plan; financial arrangements including estimated income and expenditure over the duration of the BID and contingency margin and; whether the BID proposer has sufficient funds to cover the ballot costs. If there is a no vote, the Council is able under the BID Regulations to claim back the costs of holding the ballot from the ballot proposer.

As mentioned earlier, at this stage it is felt that the Council has insufficient information available, not least the fact that there is no final business plan, from PRP to be able to ask the Executive to formally approve the BID proposal at this stage.

### **3.4.5 *Managing and carrying out the ballot***

It is proposed that Ealing Council undertake the ballot on behalf of Brent and Hammersmith & Fulham Councils. There will be three separate ballots held in each of the local authority areas.

The Revenue and Benefits team have worked with the Council's GIS team and Electoral services to produce a list of all properties within the defined BID boundary that have a rateable value of £50k and above, including the main rate payers' names and addresses. This information was passed to Ealing Council at the end of March 2011.

The ballot will cost the Council a share of £3000 between the three eligible boroughs. Under the BID Regulations, the Council is obliged to pay the ballot costs. However, as mentioned above under paragraph 3.4.4, if a no vote is returned the Council is able to claim these costs back.

### **3.4.6 Billing and collection of the levy**

This aspect needs to be agreed and set out in the Operating Agreement and as explained, the Council is currently waiting on information from Park Royal to progress this. If the BID ballot is successful, it will be the responsibility of the Council to collect the additional levy and ensure this is incorporated into the existing business rates collection system. There will be an expectation that the BID bills will be sent out as soon as reasonably possible after securing a successful ballot in order for the BID company to start receiving funds. A BID revenue account needs to be set up within Brent Council and regular transfers made into the BID's bank account.

The Revenue and Benefits team have already entered discussions with Capita to extend their current NNDR service to collect the additional levy in Park Royal on behalf of the Council. While the detail of the agreement will need to set out in the Operating Agreement, Capita are able to undertake the work for an annual cost of £17,050 per year. While this does include set-up costs, it clearly does not include Brent Council staff resource from Revenues & Benefits or from Finance to manage the accounts and bank reconciliation which together could add a further £2000 . These costs are fully recoverable from the Park Royal BID company.

The Council will need to maintain a list of payment and non-payment and make this available to the BID company and will also need to monitor changes to the property database and advise the BID company of any amendments.

### **3.5 Benefits of the Park Royal BID**

3.5.1 As well as the six key benefits highlighted in section 3.2.4, the Park Royal BID, if successful, could provide a number of opportunities for both Brent Council and the area as a whole.

For example, the BID would almost guarantee a self sustaining future for the management and improvement of the Park Royal industrial estate as it would no longer be dependent on grants from Government or the Local Authority.

3.5.2 As the BID would be owned and driven by the businesses themselves, the BID company is likely to be more effective, both in terms of costs and actions, at implementing change in the area that addresses real business need. This can only be positive for the industrial estate and has the potential to attract more businesses into the area at a time when this is will become increasingly important for the Local Authority.

3.5.3 The establishment of BIDs are encouraged by the current Government and the Park Royal BID could therefore be an effective mechanism and lobbying voice to attract more Government funding into the area. There are few business-led lobbying groups within Brent and if the relationship with the BID company is managed well, could become an important partnership for the Council.

### **3.6 Issues to be considered**

While the benefits of the proposed BID are undeniable and contribute to the wider regeneration of the Borough, the Executive need to be aware that there are a number of issues that need be considered before Council approval of the final business plan is granted, not least the fact that an Operating Agreement has yet to be developed and agreed between Brent Council and the Park Royal BID team. These include:

- As the Council's funding regime is likely to become increasingly dependent on business rates, the Council needs to consider the impact of the additional levy. If not managed well and ratepayers do not see any tangible benefits within a short period of time, the BID could have a detrimental impact on the general collection of business rates particularly if businesses struggle to distinguish between the business rates and the additional levy.
- There has never been a BID that covers three borough boundaries. There needs to be careful consideration as to how the BID company will manage three different service levels within the estate and manage business expectations. For example, the street cleaning service in Hammersmith & Fulham could be undertaken less frequently than in Ealing but how would business in the Ealing boundary feel if part of their levy pays for additional street cleaning in Hammersmith & Fulham?
- With one generic business plan, how will the BID company ensure their business plan has a positive impact for each of the levy payers and addresses the issues that are pertinent to the individual's business across borough boundaries? Again, the issues facing a ratepayer in the Alperton area could be very different to those in Hammersmith & Fulham.
- There is a very real possibility that a no vote could be returned in Brent. The consultation results show that only 54 per cent of eligible businesses in the Borough will vote yes with a significant proportion undecided. Again, this could pose a reputational risk for the Council that will need to be carefully managed through communications with the business community. There is a possibility that some businesses may perceive the BID to be led, or at least strongly supported, by the Council.
- There needs to be more information provided to outline how the SME businesses on the estate will be consulted on an ongoing basis throughout the lifetime of the BID. The BID company will need to demonstrate how the needs of the SME community will be addressed as they form a substantial proportion of the ratepayers on the estate.

## **4.0 Financial Implications**

- 4.1 It is anticipated that the costs of running the PRP BID ballot will be less than £3,000 and, in accordance with legislation, responsibility for funding these costs falls to the local authorities involved. As the proposed Park Royal BID crosses three local authority boundaries, Ealing, Brent and Hammersmith and

Fulham, it is proposed that any ballot cost be split between the three local authorities. Brent's share of the ballot will need to be met by existing budgets

- 4.2 The Council will need to establish a BID Revenue account and will be responsible for the collection of the BID levy and enforcement of payment. Under legislation, the Council is able to claim back all administrative and enforcement expenses from the BID company. The estimated costs associated with this are anticipated at just under £20,000 a year and more detail is given in section 3.4.6.
- 4.3 The Council would pay over to the BID all amounts actually collected from the levy, rather than the notional amount due, less the administrative and enforcement expenses chargeable to the BID. The Council would not be responsible for any uncollected amounts or liable for any additional costs or losses in recovery. This will be explicit within the Operating Agreement.

## **5.0 Legal Implications**

- 5.1 The Local Government Act 2003 sets out the legal framework for setting up and operating a BID. The Business Improvement Districts (England) Regulations 2004 ("the BID Regulations") provide details of precisely how BIDs should be set up; they detail the voting procedures, the conduct of the ballots, the application of the veto, the revenue arrangements and other issues needed to enable the BIDs to operate successfully.
- 5.2 The Local Government Act 2003, made reference to the possibility that the Government would regulate for 'joint arrangements' where a BID crossed a local authority boundary. However, the BID Regulations did not deal with these joint arrangements explicitly. The Department for Communities and Local Government advise that the arrangements should be treated as individual BIDs within each local authority area. Therefore, separate ballots must be organised and the BID proposal must provide information split by borough and take account of the possibility of only winning in part of an area. In addition, separate BID Revenue accounts would need to be set up for each borough operating a portion of the BID.
- 5.3 The Regulations provide that before a ballot is held the proposer (in this case PRP) must provide the Council with a variety of documents relating to the proposal. The local authority must consider the BID proposal to ensure that it meets the requirements of the BID Regulations prior to issuing the notice of ballot. The Regulations also provide that the Council can veto the proposals after the ballot on two grounds only:
- (i) that the BID arrangements are likely to conflict to a material extent with any policy formally adopted by the Council; or
  - (ii) the BID arrangements are likely to place a significantly disproportionate financial burden on any person or class of persons compared to other non-domestic ratepayers in the geographical area of the BID through manipulation of the geographic boundary or by the structure of the BID levy and that burden is inequitable.

- 5.4 The BID Proposal becomes legally binding once approved by ballot and becomes the framework within which the BID will operate. An Operating Agreement is entered into between the BID and the Council governing how the BID levy monies are collected, administered and passed over to the BID. Where a BID proposes to use its levy to supplement existing services, BIDs enter into baseline agreements with the Council and other third party providers (as the case may be) to ensure that any services the BID provides are additional to those that the Council currently provides in the BID area.
- 5.5 There are provisions in the Regulations enabling the Council to terminate a BID in prescribed circumstances including where the BID authority has insufficient funds to meet its liabilities, and where the Council is unable due to any cause beyond its control, to provide the services needed for the BID to continue.

## **6.0 Diversity Implications**

- 6.1 An INRA has been completed for the proposed BID by Brent Council. However, at this stage no diversity information relating to the businesses to be balloted has been made available to the Council.

## **7.0 Staffing & Accommodation Implications**

- 7.1 The Council needs to be aware of the additional resource in terms of staff time that the BID may consume. This will have a particular impact on Revenue and Benefits staff in relation to setting up and administering the Capita contract. It is also likely that through the Operating Agreement, Revenue and Benefits/Finance staff will have to attend at least two operating meetings a year to review the effectiveness of collection.

### **Background Papers**

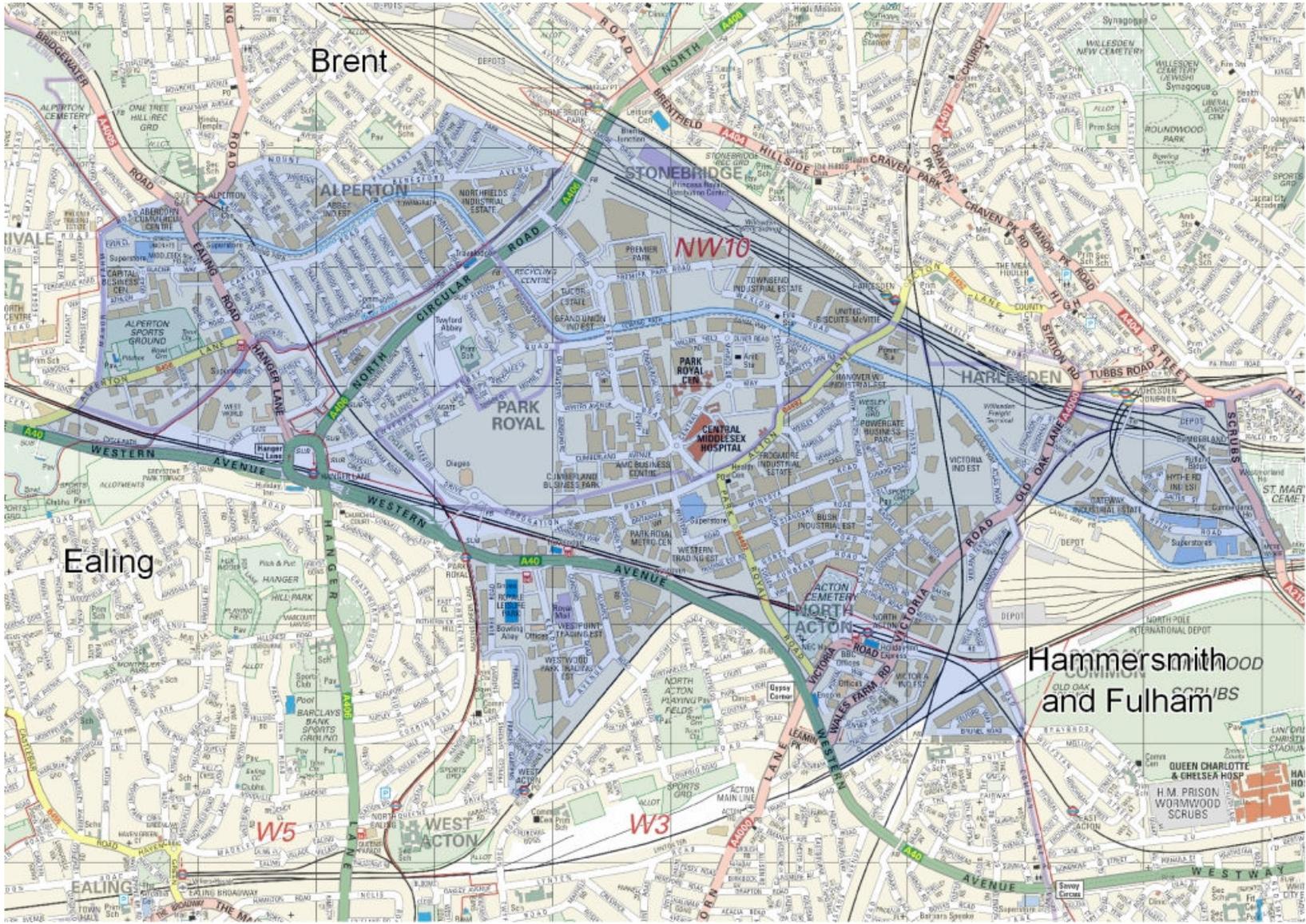
Appendix 1: Map of the Park Royal BID boundary

### **Contact Officers**

Jo Francis  
Head of Regeneration Policy  
Joanne.francis@brent.gov.uk

**Andy Donald**  
**Director of Regeneration and Major Projects**

Appendix 1: Park Royal Business Improvement Area



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## Impact Needs/Requirement Assessment Completion Form

Department: Regeneration & Major Projects	Person Responsible: Joanne Francis
Service Area: Regeneration Policy Team	Timescale for Equality Impact Assessment :
Date: 3 May 2011	Completion date: 3 May 2011
Name of service/policy/procedure/project etc: Proposed Park Royal Partnership BID	Is the service/policy/procedure/project etc: New <input checked="" type="checkbox"/> Old <input type="checkbox"/>
Predictive <input checked="" type="checkbox"/> Retrospective <input type="checkbox"/>	Adverse impact Not found <input type="checkbox"/> Found <input type="checkbox"/> Service/policy/procedure/project etc, amended to stop or reduce adverse impact Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Is there likely to be a differential impact on any group? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Please state below:
1. Grounds of race: Ethnicity, nationality or national origin e.g. people of different ethnic backgrounds including Gypsies and Travellers and Refugees/ Asylum Seekers Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	2. Grounds of gender: Sex, marital status, transgendered people and people with caring responsibilities Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3. Grounds of disability: Physical or sensory impairment, mental disability or learning disability Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	4. Grounds of faith or belief: Religion/faith including people who do not have a religion Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5. Grounds of sexual orientation: Lesbian, Gay and bisexual Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	6. Grounds of age: Older people, children and young People Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Consultation conducted Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Person responsible for arranging the review: Joanne Francis	Person responsible for publishing results of Equality Impact Assessment:
Person responsible for monitoring: Joanne Francis	Date results due to be published and where:
Signed:	Date: 4 <sup>th</sup> May 2011

## Impact Needs/Requirement Assessment Completion Form

Please note that you must complete this form if you are undertaking a formal Impact Needs/Requirement Assessment. You may also wish to use this form for guidance to undertake an initial assessment, please indicate.

1. What is the service/policy/procedure/project etc to be assessed?

The proposed Park Royal Partnership Business Improvement District (BID). If approved, the BID will be independent to the Council and managed by elected local businesses on the Park Royal industrial estate.

2. Briefly describe the aim of the service/policy etc? What needs or duties is it designed to meet? How does it differ from any existing services/ policies etc in this area

If approved, the BID will oversee the management of the Park Royal industrial estate covering the three boroughs of Brent, Ealing and Hammersmith & Fulham. It is likely that the BID will focus on delivering public realm and infrastructure improvements and enhancing security on the estate over and above that which is already delivered by the Council. It allows businesses to have a greater role and influence in how the estate is managed and which priorities are delivered.

3. Are the aims consistent with the council's Comprehensive Equality Policy?

Yes

4. Is there any evidence to suggest that this could affect some groups of people? Is there an adverse impact around race/gender/disability/faith/sexual orientation/health etc? What are the reasons for this adverse impact?

There is no evidence that the BID would adversely impact on certain groups of people. However, the businesses that are eligible to vote in the ballot for the BID do have to have an annual rateable value of £50,000 which means smaller businesses will be excluded. This could have an impact on their ability to influence the decision making process of the BID and it will be important for the Council to ensure that there is an equitable process in place ensure the smaller businesses are consulted with and their views taken into account when establishing priorities for the BID.

5. Please describe the evidence you have used to make your judgement. What existing data for example (qualitative or quantitative) have you used to form your judgement? Please supply us with the evidence you used to make you judgement separately (by race, gender and disability etc).

No evidence with regards the background of the businesses included and excluded from the ballot has yet been provided by Park Royal Partnership although a request was made for this information. It appears that the relevant diversity information is not collected at present. The Council has been assured that this information will be collected once the BID is established as it will help inform the development of programmes, ensure a full and equal reach to all the businesses on the estate.

6. Are there any unmet needs/requirements that can be identified that affect specific groups? (Please refer to provisions of the Disability Discrimination Act and the regulations on sexual orientation and faith, Age regulations/legislation if applicable)

This can only be ascertained once the diversity data has been supplied.

7. Have you consulted externally as part of your assessment? Who have you consulted with? What methods did you use? What have you done with the results i.e. how do you intend to use the information gathered as part of the consultation?

There has been no consultation by the Council although Park Royal Partnership has undertaken extensive consultation with the eligible businesses on the estate. This has included postal, e-mail and face to face contact. There has also been a number of wider consultation events that all businesses were invited to attend including the Small to Medium sized enterprises on the estate. **Page 104** Results from the consultation will be used to produce a business plan for the BID and a manifesto to inform voters. It will set out a number of priorities to be tackled by the

## Impact Needs/Requirement Assessment Completion Form

BID company in alignment with the consultation results.

8. Have you published the results of the consultation, if so where?

No

9. Is there a public concern (in the media etc) that this function or policy is being operated in a discriminatory manner?

There is a risk that the businesses that are not eligible to vote will be unhappy with the ballot process and that the larger businesses will making decisions about the management of the estate according to their needs and not necessarily those relating to smaller businesses. There could also be a risk that if a yes ballot is returned in Brent, those businesses voting "no" will also be unhappy with the process and the fact that they will have to pay the levy regardless of the way they voted.

10. If in your judgement, the proposed service/policy etc does have an adverse impact, can that impact be justified? You need to think about whether the proposed service/policy etc will have a positive or negative effect on the promotion of equality of opportunity, if it will help eliminate discrimination in any way, or encourage or hinder community relations.

The BID offers the only sustainable solution to continuing some form of management and area improvement for the Park Royal industrial estate. Other public funding streams have now been cut. If successful and managed well, the BID will provide an opportunity to deliver improvements in the area that are priorities for the businesses and will encourage economic growth that are in line with the Borough's regeneration priorities.

Park Royal Partnership have confirmed that they will establish a mechanism to maintain an ongoing dialogue with the smaller businesses on the estate to ensure that they have some degree of input into the actions of the BID company.

11. If the impact cannot be justified, how do you intend to deal with it?

N/A

12. What can be done to improve access to/take up of services?

N/A

13. What is the justification for taking these measures?

N/A

14. Please provide us with separate evidence of how you intend to monitor in the future. Please give the name of the person who will be responsible for this on the front page.

The Council will be part of a shadow board and has been told by Park Royal Partnership that they will start to collect diversity data once the BID company is formed. It is anticipated that the information would be monitored through this group.

## Impact Needs/Requirement Assessment Completion Form

15. What are your recommendations based on the conclusions and comments of this assessment?

That if the BID achieves a yes vote in Brent, the Council uses its position on the shadow board to ensure that the diversity data is collected and monitored through the Board. To also ensure there is a specific mechanism to allow the views of small to medium sized enterprises to be incorporated and considered in the development of the BID activities throughout its five year lifetime.

Should you:

1. Take any immediate action?
2. Develop equality objectives and targets based on the conclusions?
3. Carry out further research?

16. If equality objectives and targets need to be developed, please list them here.

These will need to be determined by the BID company which if it goes ahead, will be an independent body with no reporting line to the Council.

17. What will your resource allocation for action comprise of?

N/A

If you need more space for any of your answers please continue on a separate sheet

Signed by the manager undertaking the assessment:

Full name (in capitals please):  
JOANNE FRANCIS

Date:  
4<sup>th</sup> May 2011

Service Area and position in the council:  
Head of Regeneration Policy, Regeneration & Major Projects

Details of others involved in the assessment - auditing team/peer review:

Once you have completed this form, please take a copy and send it to: **The Corporate Diversity Team, Room 5 Brent Town Hall, Forty Lane, Wembley, Middlesex HA9 9HD**

*An online version of this form is available on the Corporate Diversity Team website.*



**Executive**  
23 May 2011

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

Wards affected:  
All

### **Development of SEN Provision at Hay Lane and Grove Park Sites –The Village School including award of Design and Build contract**

Appendices 3, 4 and 7 are not for publication

#### **1. Summary**

- 1.1. This report summarises the procurement process undertaken by the Council to procure a Design & Build contractor for the temporary accommodation at The Village School and provides an update on the award of the contract for the appointment of a Design & Build contractor for that temporary accommodation.
- 1.2. This report also summarises the procurement process undertaken by the Council to procure a Design & Build contractor for the main works contract for The Village School and requests authority to award the contract for the appointment of a Design & Build contractor for this scheme.
- 1.3. Finally a general update and overview of the project is provided which shows that all pieces are now in place to hand over a new Village School in September 2013.

#### **2. Recommendations**

- 2.1. That the Executive awards the Design & Build Contract for the main works for The Village School to JB Leadbitter & Co Ltd, trading as Leadbitters, in the sum of £18,856,721.00.

### 3. Background

- 3.1. The Executive, at their meeting of 15th March 2010, agreed to proposals to reorganise the hitherto separate Hay Lane and Grove Park special schools as one school with effect from 1<sup>st</sup> September 2010, to be known as The Village School.
- 3.2. On 12 April 2010 the Executive approved the rebuilding of The Village School incorporating the existing recently completed 16+ Centre, a new Short Break Centre on site and the provision of the necessary temporary accommodation during the construction period on the site of adjacent Kingsbury High School. This decision was taken in part because of the poor condition of the former Hay Lane and Grove Park buildings and because rebuilding the schools as one school had been shown in the 26 May 2009 report to the Executive to be the most cost effective option for their improvement.
- 3.3. The Village School is an all age special school located in Grove Park off Stag Lane in Kingsbury. The school caters for a wide range of special educational needs including profound and multiple learning difficulties, severe learning difficulties, autism with associated learning and behavioural difficulties and physical disabilities.
- 3.4. The existing school buildings are facing major suitability and condition problems. Given the current state of the buildings it is becoming increasingly difficult for the Council to meet its statutory obligations towards these children.
- 3.5. Due to the condition of the existing buildings The Village School will be unable to remain open on this site after July 2011 without significant upgrading (with the exception of the recently built post 16 building).
- 3.6. On 12 April 2010 the Executive received a report from Children and Families requesting authority to procure a Design & Build contractor for two schemes:
  - 3.6.1. Constructing the new Village School on the site of Hay Lane and Grove Park including a new Short Break Centre on the site and enabling works to the existing 16+ block so it can remain occupied during the works (The Village School – Main Scheme).
  - 3.6.2. Constructing temporary accommodation for the Village School on the site of Kingsbury High School including a legacy for Kingsbury High School consisting of a new games area and a new classroom block (The Village School - Decant and Legacy Scheme).
- 3.7. The Executive accordingly gave approval to proceed with two separate procurement processes for a Design & Build contractor for the main works contract and a separate Design & Build contractor for

the temporary accommodation project. At the same time the Executive approved pre-tender issues including the nature of the contract and the tender process including the evaluation criteria. The form of contract selected for both procurements was the JCT Design and Build contract 2005 with further bespoke amendments.

#### **4. Award of Design & Build Contract for Decant and Legacy Scheme**

- 4.1 Following Executive approval of April 2010, a tender process was followed in accordance with the EU public procurement regime for works in order to let a contract for the Decant and Legacy Scheme. Following a pre-qualification phase in response to a contract notice in the European Journal, six contractors were invited to tender. Four tenders were submitted and evaluated. A summary of the evaluation results is set out in Appendix 1.
- 4.2 On 11 April 2011 the Executive authorised the recommendation that delegated powers be given to the Director of Regeneration and Major Projects to approve the award of the contract for the appointment of a Design & Build contractor for the temporary accommodation for The Village School on the Kingsbury High School site.
- 4.3 Accordingly the contract for the Design & Build contractor for temporary accommodation was awarded by delegated authority to Henry Brothers (Magherafelt) Ltd on 05<sup>th</sup> May 2011 for a contract sum of £4,618,670.10.
- 4.4 Henry Brothers were agreed by the panel to have provided one of best written submissions; they scored particularly highly under the section “design quality and its contribution to raising standards of achievement”. The Contractor took a positive, creative but realistic position on ways to improve design quality; they had a clear understanding of SEN provision and the constraints of working to a tight timescale. The Contractor had a well designed programme with some built in tolerance and some good ideas for ways to condense the programme if required.

#### **4 Tender Process for the Village School Main Scheme leading to recommendation for award of contract**

##### **5.1. Stage One - Pre – Qualifying Stage**

- 5.1.1. On 30 July 2010 the contract notice was placed in the Official Journal of the European Union (OJEU) to seek initial expressions of interest. The notice specified the Council’s requirement to procure a Design & Build contractor and that the scope of works were to finalise the design and construct The Village School.

5.1.2. Organisations expressed an interest in response to the OJEU notice and they were issued with an information pack and prequalification questionnaire (PQQ) to complete. 21 PQQs were returned in accordance with the deadline.

5.1.3. The following assessment process was followed to decide prequalification:

Stage 1: All applicants were initially assessed against the PASS/ FAIL criteria to filter out non-compliant tenders. These were agreed at a joint workshop with procurement adviser present.

Stage 2: Individual scoring on the relevant sections of the PQQ was undertaken by the assessment team.

Stage 3: This involved a group review of the collated scores. The final score for each prospective bidder was achieved by consensus with procurement adviser present.

Stage 4: A recommendation on the short listed prospective bidders was prepared and submitted to Children and Families for approval.

5.1.4. The six organisations that had scored the highest were then invited to tender.

## 5.2. **Stage Two – Invitation to Tender – Works contract**

5.2.1. Prior to issue of the Invitation to Tender (ITT) pack, a combined meeting for both the temporary accommodation and main scheme was held with the invited organisations. The session on 22 November 2010 was led by a procurement officer with representatives from Beeden Consultancy and the Council's officers from Children and Families. The purpose was to give tenderers an opportunity to understand the vision for the project.

5.2.2. An ITT pack was issued to the six organisations to invite them to tender. The tendering instructions stated that the contract would be awarded on the basis of the most economically advantageous tender to the Council and that in evaluating the tenders the Council would use the evaluation criteria set out in the Evaluation Matrix at Appendix 2 of this report. Overall 40% of the marks were awarded for price, divided into Fixed Lump Sum Offer and Cost Profile and 60% for quality.

5.2.3. All tenders had to be returned by 5pm on 12 April 2011.

5.2.4. A mid-tender information session was held on 17 March 2011.

5.2.5. Tenders from five organisations (Appendix 3) were submitted on time, and these were opened and logged in accordance with the Council's Contract Standing Order 100.

### **5.3. Evaluation Process – Works Contract**

- 5.3.1. Evaluation of all parts of the tender submission and presentation was carried out by a panel of officers and consultants; technical advice was provided by the Council's Health and Safety Officers and an officer from Planning to give advice on Sustainability, also Frankhams provided technical support as design advisors and CDM consultants. In addition, redacted information of relevant sections was provided to the existing design team for comment as to whether the tenderers met the design requirements.
- 5.3.2. Panel members met on 4 May 2011 to score the quality section of the evaluation.
- 5.3.3. The financial evaluation, which carries a maximum percentage of 40% of the available score was carried out by the Council's Cost Consultant from EC Harris, with officers from Finance and Corporate Resources.
- 5.3.4. The detailed evaluation results are set out in Appendix 4 (price – not for publication) and Appendix 5 (quality).
- 5.3.5. Accordingly it is recommended to Executive that the contract for the Design & Build contractor for the main works contract is awarded to Tenderer D namely Leadbitter for a contract sum of £18,856,721.00.
- 5.3.6. Leadbitter were agreed by the panel to have provided one of the best written submissions; they showed a good understanding of the aims and ambitions of the scheme and put forward a very good team who clearly had the appropriate skills and resources to deliver the project successfully. The Contractor scored particularly well on their proposals for stakeholder engagement and working with the project team to ensure that all sections of the development are delivered to programme.

## **6. Project Update**

- 6.1. The Village School project has been progressing steadily since the last full report to Executive on 12 April 2010. As part of the One Council restructure the project was transferred to Major Projects and Regeneration from Children and Families in December 2011. The following provides a brief update on other relevant aspects of the project.

#### Appointments and fees:

- 6.2. EC Harris were appointed in November 2010 as Project Manager / Quantity Surveyor/ Contract Administrator/ Employers Agent and technical adviser services (M&E/ Structures/ Architectural) for the Main Scheme, following a mini-competition exercise using the OGC Buying Solutions Multi-disciplinary services framework. This did not require Executive approval because the value was less than £500,000.
- 6.3. A subsequent variation to this agreement was made to include Project Manager / Quantity Surveyor/ Contract Administrator/ Employers Agent for the temporary accommodation. As this variation was less than 20% of the agreed fee then delegated authority under part 4 of the Constitution to authorise this was exercised by the Assistant Director of Property and Assets.
- 6.4. The contract with Frankham Consultancy (Architects with Landscape Architects as subconsultants) will be novated to the successful Contractor for the Main Scheme. Frankham Consultancy will remain consultants to Brent Council as technical/ design advisors on the Decant and Legacy Scheme.
- 6.5. Planning Approval was given for both projects at Planning Committee on 2 February 2011.
- 6.6. Major Projects and Regeneration have been actively engaging residents and stakeholders around the two construction sites and in particular representatives from Stubb Close Alms Houses and Holy Innocents Hall on Bacon Lane, Roe Green Resident Association and Bacon Lane Residents Association. The project team is working with all stakeholders to ensure that disruption caused by the project is kept to a minimum.

#### Third Party Agreements:

- 6.7. A Licence has been agreed between the Governing Body of Kingsbury High School and Brent Council as to temporary use of land at Kingsbury High School (Bacon Lane Site) to erect and provide a temporary school for The Village School together with access from Bacon Lane and Stag lane. This Licence has been written and agreed by both parties and is in the process of being signed.
- 6.8. A Licence is being negotiated between Stadium HA and Brent Council as to temporary access over the land on Stag Lane adjacent to Roberts Court. This licence will date from June 2011 to June 2012 with a break clause dating from October/ November 2011 after which Stadium HA can give one months notice for vacant possession. This licence will enable the Contractors to provide a completely separate

access to the sixth form block for The Village School for the majority of the academic year 2011/2012. This Licence being drafted by the Stadium HA solicitors.

## Programme

- 6.9. The recommended Contractor has confirmed that they are able to complete the Short Break Centre by June 2012, well within programme, and that the main building can be completed well before the beginning of term in September 2013 allowing valuable time for the staff and students to get to know the new building.

## 7. Financial Implications

- 7.1. Appointment of the contractor as per the recommendation to this report for the main contract and the previous appointment for the Decant and Legacy Works under delegated powers will result in a forecast total project cost of £29.255m, as detailed in Appendix 7 (not for publication) to the report. This is within the original budget envelope of £29,395m for the project as approved by the Executive on 12 April 2010 and makes appropriate provision for contingency items.
- 7.2. There has been movement between the tendered amounts and the Pre-Tender Estimates for the Decant and Legacy contract and that for the Main Contract, but subsequent review has considered the tendered sums appropriate.
- 7.3. Funding sources identified in the April 2010 report for this project include Targeted Capital Fund, Devolved Capital Grant, Maintenance Capital, Aiming High Grant and the capital receipt from the sale of Clement Close. Officers are to review the continuing viability of these funding sources to ensure these remain the most appropriate sources for this scheme and will report to a later meeting of the Executive any recommended changes that may arise from this review. Any changes to the recommended funding sources will be within existing budgetary provision
- 7.4. As per the April 2010 report the difference of £19.739m between available funding sources and the total approved funding envelope will be addressed through the provision of additional unsupported borrowing with associated debt charges being met from savings in both the General Fund and Dedicated Schools Budget. Since the submission of the April 2010 report there has been a 1% increase in the Public Works Loan Board rate for borrowing to Local Authorities which will increase the level of associated debt charges arising to be met from savings. The impact of this change and the affordability within identified savings will be considered within the overall review of the scheme funding sources as per 7.3 above.

- 7.5. The new school will have an increase in places from 210 to 235 pupils; increasing capacity will lead to significant savings in out-Borough placement and transport budgets. These have been taken into account in the financial analysis submitted to the Executive 12 April 2010, as referred to in 7.4 above.
- 7.6. As the contract for works exceeds £1m the Council's Contract Standing Orders requires the award of contract to be referred to the Executive for approval. Authority to approve the award of the Design and Build Contract for the temporary accommodation was delegated by Executive on 11 April 2011.
- 7.7. The costs of the design & build contract were included within the estimates of the total project cost in the report to Executive dated 12 April 2010.
- 7.8. The price and technical scores for all tenderers are set out in Appendices 4 and 5.

## **8. Legal Implications**

- 8.1. The Design and Build Contractor for the main scheme has been procured using the Restricted Procedure in accordance with the relevant EU directive, the Public Contracts Regulations 2006 ("the Regulations") and the Council's Contract Standing Orders. This is because the estimated value of the design and build contract is above the threshold in the Regulations for the application of the European public procurement regime.
- 8.2. The estimated value of the works contract over its lifetime is in excess of £1m and the award of the contract is consequently subject to the Council's Contracts Standing Orders in respect of High Value contracts and Financial Regulations.
- 8.3. In considering the recommendation, the Executive needs to be satisfied on the basis of the information set out in the report that the appointment of the recommended contractor will represent best value for the Council and will mean that the tenderer appointed has offered the most economically advantageous tender. In order to decide on the most economically advantageous tender, tenders have been evaluated in accordance with the evaluation criteria notified to tenderers.
- 8.4. Following the approval of the recommendations of this report, the Council must observe the Regulations relating to the observation of a mandatory minimum 10 calendar day standstill period before the appointment can be made.
- 8.5. Therefore once it is determined which tenderer should be awarded the contract, all those who tendered will be issued with written notification of the award decision. A minimum 10 calendar day

standstill period will then be observed before the appointment is concluded, and additional debrief information will be provided to those requesting this in accordance with the Regulations. As soon as possible after the standstill period ends, the successful tenderer will be issued with an award letter setting out the main contract terms to allow the contract to commence.

- 8.6. Following contract award, a contract award notice will need to be placed in the Official Journal of the European Union.

## **9. Diversity Implications**

- 9.1. An equality impact assessment was completed 5 May 2009. The reports to the Executive summarised the position as follows:
- 9.2. 26 May 2009: This project will put this particularly vulnerable group of young people on an equal footing in respect of educational provision as their peers in mainstream schools. Without it they will be left behind.
- 9.3. 12 April 2010: The scheme will further improve the educational and teaching facilities for children with special needs, their families and carers.
- 9.4. Refer to Appendix 6 for the INRA.

## **10. Staffing / Accommodation issues**

- 10.1. There are no implications for Council staff arising from tendering the contract.

## **11. Background Papers**

- 11.1. The Village School office Files (excluding tenderer submissions) and April 2010 Executive Report

Appendix 1 - Evaluation results for Decant and Legacy Scheme

Appendix 2 - Evaluation Criteria for the main scheme

Appendix 3 - List of Tenderers (not for publication)

Appendix 4 - Price Evaluation results for main works contract (not for publication)

Appendix 5 - Quality Evaluation for main works contract

Appendix 6 – Impact Needs/ Requirement Assessment Completion Form (INRA)

Appendix 7 – Overall Project Summary – Reconciliation with Budget (not for publication)

## **Contact Officers**

### **Beth Kay**

**Regeneration Officer (Major Projects)**

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### **Andy Donald**

**Director of Regeneration & Major Projects**

Part 1 - Quality Criteria (50% of evaluation scoring)

Table A

Average Score	Elliotts	Henry Brothers	Wates	Modular UK	Average
Design Quality and its Contribution - 1	1.00	3.00	3.00	1.00	2.00
Design Quality and its Contribution - 2	2.00	4.00	3.00	1.00	2.50
Design Quality and its Contribution - 3	2.00	4.00	3.00	1.00	2.50
Health & Safety - 1	2.00	3.00	3.00	1.00	2.25
Health & Safety - 2	2.00	3.00	3.00	1.00	2.25
Stakeholder Engagement - 1	1.00	3.00	4.00	1.00	2.25
Stakeholder Engagement - 2	1.00	3.00	4.00	1.00	2.25
Programme Completion	0.00	3.00	3.00	1.00	1.75
<b>Total Score</b>	<b>11.00</b>	<b>26.00</b>	<b>26.00</b>	<b>8.00</b>	<b>17.75</b>
<b>Position</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>4</b>	

Table B

Weighted Score	Elliotts	Henry Brothers	Wates	Modular UK	Average
Design Quality and its Contribution - 1	3.89	11.66	11.66	3.89	7.77
Design Quality and its Contribution - 2	11.66	23.32	17.49	5.83	14.58
Design Quality and its Contribution - 3	11.66	23.32	17.49	5.83	14.58
Health & Safety - 1	3.00	4.50	4.50	1.50	3.38
Health & Safety - 2	2.00	3.00	3.00	1.00	2.25
Stakeholder Engagement - 1	1.25	3.75	5.00	1.25	2.81
Stakeholder Engagement - 2	1.25	3.75	5.00	1.25	2.81
Programme Completion	0.00	7.50	7.50	2.50	4.38
<b>Totalled Weighted Score</b>	<b>34.71</b>	<b>80.80</b>	<b>71.64</b>	<b>23.05</b>	<b>52.55</b>
<b>Position</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>4</b>	

Table C

Quality Criteria 50%

	Elliotts	Henry Brothers	Wates	Modular UK	Average
<b>Total Weighted Score Out Of 50%</b>	<b>17.35%</b>	<b>40.40%</b>	<b>35.82%</b>	<b>11.52%</b>	<b>26.27%</b>
<b>Position</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>4</b>	

Commercial Criteria 50%

<b>Total Weighted Score Out Of 50%</b>	<b>34.86%</b>	<b>32.62%</b>	<b>27.91%</b>	<b>24.34%</b>	<b>29.93%</b>
<b>Position</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	

Total Scoring Out Of 100%

<b>Total Weighted Score Out Of 100%</b>	<b>52.22%</b>	<b>73.02%</b>	<b>63.73%</b>	<b>35.87%</b>	<b>56.21%</b>
<b>Position</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>4</b>	

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## 5 Tender Evaluation

- 5.1 The Contract shall be awarded on the basis of the Tender which is the most economically advantageous to the Council.
- 5.2 The criteria which the Council will use to determine that a Tender is the most economically advantageous in respect of each of the Lots are listed (below):

Evaluation Criteria	Weighting (%)
Price	40%
The qualitative aspect consists of the following breakdown:	60%
Design quality & its contribution to raising standards of achievement.	40% Each method statement is equally scored at 5% each.
Works & Handover	20% Management of Works to Include Health & Safety 5% Stakeholder Engagement 5% Programme Completion 10%

### 5.3 Qualitative

#### Design quality & its contribution to raising standards of achievement

- Section Score 40%
- Word limit 4000 words

You are required to provide your proposals in the form of method statements to:

- Demonstrate an understanding that Brent wish to adhere to the Frankhams scheme in full and as specified to achieve the stated requirements for cost, quality and programme;- 5%
- Include a commentary on key aims and ambitions of the building design to ensure all key aspects of the design are met ; -5%
- Provide a commentary on build-ability, materials selection and associated procurement issues can be met within the cost envelope;-5%
- Show an ability to offer sound professional advice regarding the schools delivery and working with a novated design team ( architect and landscape architect) ; -5%
- Demonstrate an understanding of co-ordination of services within the building;-5%
- Please provide the team structure and appropriately skilled resources to deliver the project successfully, this should include but not be limited to, an organogram setting out your team structure and identifying site based and non site based personnel for

all stages of the project and reasons why each individual has been selected for the particular role;-5%

- Please provide a **project specific** Quality Plan. Your response should outline the following as a minimum;-5%
  - Roles and responsibilities of staff in relation to quality management.
  - Project Monitoring and Reporting;
  - Performance monitoring;
  - Performance management of your supply chain;
  - Change Control;
  - Cost Management and Reporting;
  - Design Quality;
  - On-site Quality Control;
  - Off-site Quality Control;
  - Handover & Commissioning;
  - Management and rectification of Defects;
  - Audit and review; and
  - Aftercare.
- Please provide a **project specific** Environmental Management Plan demonstrating how you will support the Council's sustainability objectives. Your response is to include: ; -5%
  - Roles and responsibilities in relation to environmental management;
  - Awareness of all the obligations applicable under statutory requirements and the Contract, in relation to Sustainability;
  - A thorough understanding of the specific issues, including process, allowance of adequate resources and the possibility of adding value.

### **Works & Handover**

- Section Score      **20%**
- Word limit            **2000 words**

### **Management of Site to Include Health & Safety**

- Sub section score 5%- broken down in to the following;

Please provide proposals to manage the co-ordination and delivery of the three section of construction on the proposed site, with particular attention given to the requirement of continued access from Grove Park to the Post 16 Building including health and safety aspects purposeful site logistics and waste management – 3%

Please provide your proposals to manage risk and risk mitigation. - 2%

### **Stakeholder Engagement**

- Sub section score 5%- broken down into the following:

Please provide proposals to identify and manage all key internal and external stakeholders. Proposals should include details on how the Contractors intend to engage with and provide the Children of the Village School with informed learning opportunities. - 2.5%

Please provide proposals as to how you intend to manage and deliver the construction of the new Village School and Short Break Centre, bearing in mind the existing site constraints and the neighbouring Post 16 building remaining in occupation throughout term time. -2.5%

### **Programme Completion**

- Sub section score 10%

Please provide your proposals to deliver the overall master plan for the site to include a detailed works programme indicating the proposed delivery of the three key sections of the project as follows:-

Section 1 – Alterations of the Post 16 Building including access road

Section 2 – Short Break Centre

Section 3 – Main School

The proposed programme is to include a detailed on site phased programme to include the critical path. This should include commission, testing and training dates  
The proposals should include installation of client direct works.

The above criteria will be evaluated by officers from the Council from the submissions made by the tenderers using the following scoring.

Score	Assessment
0	Totally unacceptable. Response supplied in method statement totally fails to grasp / reflect core issues and requirements.
1	Poor. Response supplied in method statement reflects a very limited understanding of core issues and requirements.
2	Acceptable. Response supplied in method statement reflects adequate understanding of core issues and requirements.
3	Good. Response supplied in method statement reflects good understanding of core issues and requirements.
4	Very good Response supplied in method statement reflects very good understanding of core issues and requirements.

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**Part 1 - Quality Criteria (60% of evaluation scoring)**

**Table A**

Average Score	Tenderer A	Tenderer B	Tenderer C	Tenderer D	Tenderer E	Average
Design Quality and its Contribution - 1	2.00	4.00	2.00	3.00	3.00	2.80
Design Quality and its Contribution - 2	2.00	3.00	4.00	4.00	3.00	3.20
Design Quality and its Contribution - 3	3.00	3.00	3.00	2.00	2.00	2.60
Design Quality and its Contribution - 4	3.00	3.00	3.00	3.00	2.00	2.80
Design Quality and its Contribution - 5	3.00	4.00	3.00	2.00	3.00	3.00
Design Quality and its Contribution - 6	3.00	2.00	2.00	4.00	3.00	2.80
Design Quality and its Contribution - 7	N/A	N/A	N/A	N/A	N/A	N/A
Design Quality and its Contribution - 8	N/A	N/A	N/A	N/A	N/A	N/A
Management of Site to Include Health & Safety - 1	2.00	3.00	2.00	2.00	3.00	2.40
Management of Site to Include Health & Safety - 2	2.00	3.00	2.00	2.00	2.00	2.20
Stakeholder Engagement - 1	3.00	3.00	2.00	4.00	2.00	2.80
Stakeholder Engagement - 2	2.00	3.00	3.00	4.00	2.00	2.80
Programme Completion	3.00	3.00	1.00	3.00	3.00	2.60
<b>Total Score</b>	<b>28.00</b>	<b>34.00</b>	<b>27.00</b>	<b>33.00</b>	<b>28.00</b>	<b>30.00</b>
<b>Position</b>						

**Table B**

Weighted Score	Tenderer A	Tenderer B	Tenderer C	Tenderer D	Tenderer E	Average
Design Quality and its Contribution - 1	4.17	8.33	4.17	6.25	6.25	5.83
Design Quality and its Contribution - 2	4.17	6.25	8.33	8.33	6.25	6.67
Design Quality and its Contribution - 3	6.25	6.25	6.25	4.17	4.17	5.42
Design Quality and its Contribution - 4	6.25	6.25	6.25	6.25	4.17	5.83
Design Quality and its Contribution - 5	6.25	8.33	6.25	4.17	6.25	6.25
Design Quality and its Contribution - 6	6.25	4.17	4.17	8.33	6.25	5.83
Design Quality and its Contribution - 7	1.92	5.45	4.17	4.17	4.17	3.97
Design Quality and its Contribution - 8	4.17	5.56	4.86	4.86	4.86	4.86
Management of Site to Include Health & Safety - 1	2.50	3.75	2.50	2.50	3.75	5.00
Management of Site to Include Health & Safety - 2	1.67	2.50	1.67	1.67	1.67	4.58
Stakeholder Engagement - 1	3.13	3.13	2.08	4.17	2.08	5.83
Stakeholder Engagement - 2	2.08	3.13	3.13	4.17	2.08	5.83
Programme Completion	12.50	12.50	4.17	12.50	12.50	5.42
<b>Totalled Weighted Score</b>	<b>61.30</b>	<b>75.59</b>	<b>57.99</b>	<b>71.53</b>	<b>64.44</b>	<b>71.34</b>
<b>Position</b>	<b>4</b>	<b>1</b>	<b>5</b>	<b>2</b>	<b>3</b>	

**Table C**

Quality Criteria 60%	Tenderer A	Tenderer B	Tenderer C	Tenderer D	Tenderer E	Average
<b>Total Weighted Score Out Of 60%</b>	<b>36.78%</b>	<b>45.35%</b>	<b>34.79%</b>	<b>42.92%</b>	<b>38.67%</b>	<b>39.70%</b>
<b>Position</b>	<b>4</b>	<b>1</b>	<b>5</b>	<b>2</b>	<b>3</b>	

**Commercial Criteria 40%**

<b>Total Weighted Score Out Of 40%</b>	<b>33.31%</b>	<b>29.57%</b>	<b>36.33%</b>	<b>36.33%</b>	<b>33.07%</b>	<b>33.72%</b>
<b>Position</b>	<b>3</b>	<b>5</b>	<b>1</b>	<b>2</b>	<b>4</b>	

**Total Scoring Out Of 100%**

<b>Total Weighted Score Out Of 100%</b>	<b>70.09%</b>	<b>74.92%</b>	<b>71.12%</b>	<b>79.24%</b>	<b>71.73%</b>	<b>73.42%</b>
<b>Position</b>	<b>5</b>	<b>2</b>	<b>4</b>	<b>1</b>	<b>3</b>	

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# Impact Needs/Requirement Assessment Completion Form

<b>Department: Regeneration and Major Projects</b>		<b>Person Responsible: Beth Kay</b>	
Service Area: Property and Asset Management		Timescale for Equality Impact Assessment: 2011-2013	
Date: 03.05.2011		Completion date: December 2013	
Name of service/policy/procedure/project etc: Re-developing SEN Provision at the Village School (formerly Hay Lane and Grove Park Schools)		Is the service/policy/procedure/project etc: New <input checked="" type="checkbox"/> Old <input type="checkbox"/>	
Predictive <input checked="" type="checkbox"/> Retrospective <input type="checkbox"/>		Adverse impact <input type="checkbox"/> Not found <input checked="" type="checkbox"/> Found <input type="checkbox"/>	
Is there likely to be a differential impact on any group? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		Service/policy/procedure/project etc, amended to stop or reduce adverse impact Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Please state below: 1. Grounds of race: Ethnicity, nationality or national origin e.g. people of different ethnic backgrounds including Gypsies and Travellers and Refugees/ Asylum Seekers Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		2. Grounds of gender: Sex, marital status, transgendered people and people with caring responsibilities Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
3. Grounds of disability: Physical or sensory impairment, mental disability or learning disability Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		4. Grounds of faith or belief: Religion/faitn including people who do not have a religion Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
5. Grounds of sexual orientation: Lesbian, Gay and bisexual Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		6. Grounds of age: Older people, children and young People Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Consultation conducted Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
Person responsible for arranging the review: Beth Kay		Person responsible for publishing results of Equality Impact Assessment: TBC	
Person responsible for monitoring: Beth Kay		Date results due to be published and where: TBC	
Signed: 		Date: 13.05.11	

## Impact Needs/Requirement Assessment Completion Form

Please note that you must complete this form if you are undertaking a formal Impact Needs/Requirement Assessment. You may also wish to use this form for guidance to undertake an initial assessment, please indicate.

### 1. What is the service/policy/procedure/project etc to be assessed?

Re-developing SEN provision at the Village School (formerly Hay Lane and Grove Park Schools).

2. Briefly describe the aim of the service/policy etc? What needs or duties is it designed to meet? How does it differ from any existing services/ policies etc in this area

In the context of a SEN Review approved by the Council in [date TBC], the overall aim is to improve learning environments, moderately expand provision, enhance accessibility to the curriculum and improve the efficiency of resources deployed in schools generally and the in the SEN sector in particular. This is to be achieved through the re-building of Hay Lane and Grove Park special schools on its current site and establishing a single school with co-located short breaks facility.

### 3. Are the aims consistent with the council's Comprehensive Equality Policy?

Yes, improved provision for children and young people with disabilities. Treat them the same as abled bodied peers in mainstream schools who are benefiting from Academies programme and other capital investment.

4. Is there any evidence to suggest that this could affect some groups of people? Is there an adverse impact around race/gender/disability/fairth/sexual orientation/health etc? What are the reasons for this adverse impact?

Will have a positive impact on children with disabilities through improved specialist facilities, modernised learning environments helping raise standards in education and training, full compliance with DDA requirements and easier access to short-break provision.

5. Please describe the evidence you have used to make your judgement. What existing data for example (qualitative or quantitative) have you used to form your judgement? Please supply us with the evidence you used to make you judgement separately (by race, gender and disability etc).

Evidence of the continuous failure in the performance of current buildings, review of the needs of SEN pupils, and the assessment of condition and suitability of current provision confirm the need for investing in new and suitable learning environments complying with DCSF Design Guidance; the responses to consultation underpin support overall for the proposals. The resulting design and architectural work carried out to RIBA Stage E has been analysed to assess the extent to which design proposals meet the education design brief. Visits to recent new-build schemes and re-organised provision confirm the benefits to be accrued from re-organisation and redevelopment of the schools.

6. Are there any unmet needs/requirements that can be identified that affect specific groups? (Please refer to provisions of the Disability Discrimination Act and the regulations on sexual orientation and faith, Age regulations/legislation if applicable)

No

## Impact Needs/Requirement Assessment Completion Form

7. Have you consulted externally as part of your assessment? Who have you consulted with? What methods did you use? What have you done with the results i.e. how do you intend to use the information gathered as part of the consultation?

SEN Specialist Anne Hayward was appointed at the outset of the project and a three day intensive consultation was carried out in September 2009 including pupils, staff, governors, parents and others who work closely with the school. This exercise brought many people together, enabled conversations to happen and allowed everyone to think creatively about the future of the school. A report on consultation from June - September 2009 has been provided and the intelligence and ideas gathered have been used to inform the design of the school.

8. Have you published the results of the consultation, if so where?

The results of the consultation were included in the planning application for the school development which is in the public domain, planning permission was granted on 2<sup>nd</sup> February 2011. Since the consultation in September 2009 all stakeholders have been kept up to date with the school through a regular newsletter, information home to parents and relevant ward councillors, neighbouring local authorities and the like and also notices pinned to the gates of the school and the local press.

9. Is there a public concern (in the media etc) that this function or policy is being operated in a discriminatory manner?

No.

10. If in your judgement, the proposed service/policy etc does have an adverse impact, can that impact be justified? You need to think about whether the proposed service/policy etc will have a positive or negative effect on the promotion of equality of opportunity, if it will help eliminate discrimination in any way, or encourage or hinder community relations.

No adverse impact.

11. If the impact cannot be justified, how do you intend to deal with it?

N/a

12. What can be done to improve access to/take up of services?

Further investigation and analysis required

13. What is the justification for taking these measures?

See 5 above.

N/a

14. Please provide us with separate evidence of how you intend to monitor in the future. Please give the name of the person who will be responsible for this on the front page.

Impact On Revenue – TBC  
Impact on School Improvement – TBC

15. What are your recommendations based on the conclusions and comments of this assessment?

Brent promotes and continues with the proposed reorganisation of the two schools and the allied rebuilding of the two schools.

## Impact Needs/Requirement Assessment Completion Form

Should you:

1. Take any immediate action? No
2. Develop equality objectives and targets based on the conclusions?
3. Carry out further research?

16. If equality objectives and targets need to be developed, please list them here.

TBC

17. What will your resource allocation for action comprise of?

Refer to Executive Report dated 23 May 2011 for financial appraisal and costs.

If you need more space for any of your answers please continue on a separate sheet

Signed by the manager undertaking the assessment:



Full name (in capitals please):

Date: 13 May 2011

*James Young Deputy Head of Property & Asset Management*

Service Area and position in the council: Regeneration Officer, Regeneration and Major Projects

Details of others involved in the assessment - auditing team/peer review:

Once you have completed this form, please take a copy and send it to: **The Corporate Diversity Team, Room 5 Brent Town Hall, Forty Lane, Wembley, Middlesex HA9 9HD**

 <p>The logo of Brent Council, featuring a central coat of arms with a shield, a crown, and two lions, surrounded by the words 'BRENT COUNCIL' in a circular arrangement.</p>	<p style="text-align: center;"><b>Executive</b> 23 May 2011</p> <p style="text-align: center;"><b>Report from the Director of Finance and Corporate Services</b></p>
<p style="text-align: right;">Wards Affected: None</p>	
<p><b>Authority to award contract for supply of energy (Gas and Electricity) to the Council</b></p>	

## 1.0 Summary

- 1.1 This report relates to the procurement of both gas and electricity across the Council. The report requests approval to award two call-off contracts under flexible energy procurement frameworks operated by Kent County Council in accordance with Contract Standing Orders 88.
- 1.2 Kent County Council procures energy for over 70 local authorities through framework agreements established by a procurement body, Laser. The Council currently uses Laser frameworks to procure both gas and electricity their flexible energy portfolios. Current framework agreements expire in September 2012 and approval to award contracts is sought under the replacement framework agreements.

## 2.0 Recommendations

Subject to the formal awarded of the Laser Framework and the Director of Legal and Procurement subsequently confirming that participation in the Laser Framework is legally permissible

- 2.1 That the Executive delegate to the Director of Finance and Corporate Services authority to award a call-off contract from the Laser Framework for the Supply of Gas via flexible procurement to **Total Gas & Power Limited** and Kent County Council for 4 years from 1<sup>st</sup> October 2012.
- 2.2 That the Executive delegate to the Director of Finance and Corporate Services authority to award a call-off contract from the Laser Framework for the Supply of Electricity via flexible procurement to **NPower Limited** and Kent County Council for 4 years from 1<sup>st</sup> October 2012.

### 3.0 Detail

#### **Background**

- 3.1 The Council moved to procuring its energy requirements via flexible energy procurement through framework agreements established by the Local Authorities South East Region Energy Buying Group (“Laser”) after receiving Executive approval in February 2009.
- 3.2 The council currently spends in the region of £2.4 million per annum through Laser for both gas and electricity with £2 million of this spend via the flexible contracts as per the first four entries in the table below.

<b>Contract</b>	<b>Contract Cost</b>
Brent Gas PIA	£601,423.02
Brent Schools Gas PIA	£478,520.29
Brent HH Elec PIA	£634,312.59
Brent NHH Monthly Elec PIA	£298,196.70
Brent NHH Monthly Elec FTFP	£15,569.25
Brent NHH Quarterly Elec Eastern	£160,882.25
Brent NHH Quarterly Elec London	£155,442.44
	<b>£2,344,346.54</b>

- 3.3 The council’s total spend on energy is £3.8 million with the remaining £1.5 million consisting of £1.2 million for street lighting (this is under a separate contract) and £315,000 for sites billed directly by the supplier (listed as NHH Quarterly in the above table). It is proposed that the current expenditure of £1.2 million for street lighting be included with the flexible contracts from 1<sup>st</sup> October 2011, taking total spend for flexible energy to £3.2 million each year.
- 3.4 The council’s Property and Asset Management Unit have worked over the last 2 years to encourage schools to procure their energy through the Laser contract. Many schools have joined however there are still about 55% of schools procuring independently. However the larger schools are more likely to be on the Laser framework. Other, non corporate sites who wish to be billed directly account for the remainder of the non flexible spend.
- 3.5 The Office of Government and Commerce (OGC), together with the London Centre of Excellence (now Capital Ambition), a procurement centre of excellence for London, led the Pan Government Energy Review Project. The key recommendation from the OGC project is that public sector groups should use approved professional buying organisations, such as LASER, operating flexible procurement models to buy their energy.
- 3.6 Individually, no one local authority has sufficient spend levels, or indeed the in-house expertise, to enter the futures market. Typically the minimum transaction volume for Electricity is 400 GWH, four times average consumption levels for most local authorities, however the aggregated spend of a number of authorities is sufficient to achieve competitive prices. As a

result, it was considered purchasing from a framework set up by a professional buying organisation provided best value.

- 3.7 Capital Ambition recommend Laser or OGC's Buying Solutions frameworks and suggested that existing Laser members should remain with Laser and move over to flexible and risk managed products. The council has purchased all energy requirements through Laser for the previous six years and has purchased flexible energy via Laser for the last two years and will continue to purchase under the existing frameworks for a further year to October 2012.
- 3.8 The main difference between the OGC and the Laser Frameworks is that OGC Buying Solutions do not have an integrated service. Billing is sent direct from suppliers to an external validation service that checks the bills before passing them to the boroughs. Laser however operates a fully integrated service. Laser also has a much larger existing user base which allows them to purchase greater volumes of energy and thus achieve lower prices than the OGC frameworks. The national Collaborative Energy Review Project led by the OGC established a set of criteria for energy supply contracts which are recommended as best practice for public sector organisations. The Laser flexible model was the first to receive compliance status as assessed by the OGC review project. 51 Authorities including 15 within London are already included in the Laser flexible portfolio.
- 3.9 The Laser frameworks for gas and electricity procurement allow for a wholesale flexible procurement model. Wholesale flexible procurement arrangements enable the buyer to purchase blocks of energy at varying times both before and within the contracted supply period. The arrangement removes the risk and volatility of settling a requirement on a single day and gives protection from the uncertainty of future market trends. Aggregating the volumes of members within the arrangement enables effective market hedging.
- 3.10 The Cabinet Office, via the European Regulators Group, has reviewed the prices achieved by LASER over the previous 24 months of trading on the futures market by comparing to the market average price. The report concluded that LASER has outperformed this benchmark price by 30% for gas and 20% for electricity on average over the 24 months.
- 3.11 The existing Laser frameworks are due to expire at the end of September 2012. Kent County Council, in association with Eastern Shires Purchasing Organisation (ESPO), is in the process of procuring further Laser frameworks that will commence on 1 October 2012. Tenders for the new framework s have been received and evaluated and Total Gas & Power Limited has been named as preferred tenderer for the supply of gas whilst NPower Limited has been named as the preferred provider for electricity. There is an intention to formally award the frameworks in late June / early July 2011. Laser require confirmation of Brent's intention to participate within the flexible procurement under these new framework agreements 18 months in advance of 1 October 2012 in order to effectively organise their portfolio, evaluate the aggregate total demand and to commence procurement of gas and electricity up to 12 months in advance.

## *Purchasing Process*

- 3.12 In the past 2 years, the council has moved away from previous arrangements where, on advice from Laser, individual decisions were made to purchase energy from a supplier at a fixed rate for a fixed period. More recently the council has relied on Laser's expertise, with Laser acting as the Council's agent and making the decision as to the actual point at which a block of energy is purchased.
- 3.13 The approach outlined in paragraph 3.12 is due to the fact that all Laser members demand for electricity and gas is aggregated. Laser then execute energy purchases of differing volumes across differing time periods in response to market conditions, risk factors (production outages, weather/news events etc.) and in accordance with a risk management strategy. The Council has seen and approved Laser's risk management strategy.
- 3.14 The decision as to the exact point at which to purchase energy is made by the Laser Manager and three Purchasing Managers within Laser. A quorum of two is required to execute a purchasing instruction. A full audit trail of purchases and decision rationale is maintained.
- 3.15 There is a three monthly governance panel review to review purchasing decisions made on behalf of the Laser members included in the flexible portfolio and the purchasing / risk management strategies, reporting to the Commercial Services Director. This will comprise:
- Laser Manager
  - Laser Purchasing Managers (3)
  - Head of Finance – Commercial Services
  - Laser Group members – one from each of the following Authorities:
    - County Council
    - London Borough
    - Borough / District / City / Unitary Authority
    - Independent Industry Consultant
- 3.16 In addition to setting up the Framework and making ongoing purchasing decisions, Laser provide an integrated tendering and contract management service. Laser's bespoke GEMS software enables supplier's bills to be checked for accuracy and consumption details recorded for future tender information. Laser pay all the supplier's bills after validation and then recharge their clients by paper or electronically. Laser transfer sites between suppliers when contracts end and in the case of the flexible method oversee all purchasing activity. Laser charge a fee for this ongoing service. This fee is based on the number of sites the Council has and the consumption per site. This will normally work out to between 1% and 1.3% of contract value. A schedule setting out the fees and billing arrangements is attached to the tripartite agreement that the council signs with Laser and the organisation providing the gas or electricity.
- 3.17 As energy is continually purchased up until the annual contract period, delivered prices vary. To manage this variation sites are billed throughout the year at an agreed 'billing rate', which is then reconciled at the year end in line

with the weighted average of prices secured over that year. Delivered prices are site specific according to the site's consumption volumes, so there is no cross subsidy between sites or authorities.

- 3.18 Future developments may see new competitors enter the market, but at present only two suppliers are approved by Capital Ambition being Laser and the OGC.

#### **4.0 Financial Implications**

- 4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval of the award of the contract. There is however specific delegation of powers for the supply of energy through the Laser Framework and the Director of Finance and Corporate Services has delegated authority to approve an award under the Laser frameworks even where the value of such award is in excess of £500k. As detailed at paragraph 5.5, the Director of Finance and Corporate Services' delegated authority under the Constitution was originally for purchasing decisions of a different type to that currently envisaged. In view of this and the significant value of the proposed contracts, the Director of Finance and Corporate Services considers that the Executive should be aware of the procurement and confirm the decision to accept Officer's recommendations to award call-off contracts.

- 4.2 The Council is currently spending around £3.8m per annum of gas and electricity. The proposals in the report seek to reduce the volatility in pricing and offer more certainty for budgeting and monitoring purposes. This strategy is coupled with a variety of initiatives to reduce energy usage. This will provide better value for money particularly with the Carbon Trading Scheme.

#### **5.0 Legal Implications**

- 5.1 There are two Laser frameworks which are in the process of being procured that the council wishes to call off from, one is for the supply of electricity and one is for the supply of gas ("the frameworks").
- 5.2 Under the Public Contracts Regulations 2006 ("the EU Regulations") the procurement of energy is a supply contract. Laser advertised the frameworks in accordance with the EU Regulations. The OJEU notices stated that the value of the framework agreements for the purchase of gas is £511,000,000 and for the purchase of electricity is £730,000,000 and that the frameworks would be available to be used by a range of public bodies including Local Authorities. The council is therefore entitled to access the frameworks once established. Accessing a framework already set up in compliance with the EU Regulations means that the Council does not have to run its own tender exercise in compliance with the EU Regulations.
- 5.3 As detailed at paragraph 3.11, tenders for the new frameworks have been received and evaluated and Total Gas & Power Limited has been named as preferred tenderer for the supply of gas whilst NPower Limited has been named as the preferred provider for electricity. There is an intention to formally award the frameworks in late June / early July 2011. The duration of

the framework agreements will be four years. The expiry date of the call-off contracts will be the same as the expiry date of the frameworks.

- 5.4 For frameworks established by another contracting authority and not Brent, Standing Orders 86 (d) provides that the Director of Finance and Corporate Services must approve the award, but this is subject to the Director of Legal and Procurement advising that participation in the framework agreement is legally permissible. Until the formal award of the frameworks in late June / early July 2011, the Director of Legal and Procurement will not be able to confirm that participation in the framework agreement is legally permissible and therefore delegation to the Director of Finance and Corporate Services to award call-off contracts is sought subject to the award of the frameworks and confirmation that participation in the framework agreement is legally permissible.
- 5.5 It is anticipated that both contracts called-off under the frameworks will be High Value Contracts under the Council's Standing Orders. As detailed at paragraph 4.1, normally the award of a High Value Contract under a framework agreement would require Executive approval but the Director of Finance and Corporate Services has delegated authority under the Constitution to approve an award under the Laser frameworks even where the value of such award is in excess of £500k. This delegation was originally designed to deal with a non-flexible procurement method where energy procurements had to be made within a three hour window. The current flexible procurement approach which will also apply to the new frameworks that commence on 1 October 2012 requires the council to enter into tripartite agreements with both Kent County Council and NPower (for electricity) and Total Gas (for gas) with Laser acting as the Council's agent to make the decision as to the actual point at which a block of energy will be purchased from NPower or Total Gas. In view of this different procurement approach it is considered more appropriate to obtain Executive approval to the specific delegation of powers in relation to the proposed call-off contracts.
- 5.6 Both Laser Frameworks will be single supplier frameworks. As detailed above, to access the frameworks the Council will need to enter into a tripartite agreement with the electricity/gas supplier, and Kent County Council. This agreement is a tripartite agreement as Laser has an ongoing role in the contract, not only in terms of the purchase of energy, but also the on going administration. This agreement records that the supplier will supply the electricity/gas purchased by Laser to the Council and will send the invoices to Kent County Council who operate a billing system and will invoice the Council. The duration of the tripartite agreement will be four years.
- 5.7 Members should note that this arrangement differs from a standard framework as Laser have an ongoing role in the contract, both in regards to purchasing the electricity on behalf of the Council throughout the life of the contract and in receiving and paying the invoices on the Council's behalf. Laser receives a fee for these ongoing services. The legal status of these services provided by Laser is unclear. The preferred approach is that the services are a separate component to the proposed call-offs, and entering into the services contract with Laser is a condition precedent to Brent being able to contract with each supplier. As such this contract with Laser would be subject to the EU procurement regulations and the provisions of the Council's Standing Orders.

These services would be Part B Services under the EU Procurement Regulations being “other services” not expressly listed. The procurement of these services would therefore not be subject to the full requirements of the EU Regulations but would be subject to the overriding requirements of transparency and openness. These services would also be medium value services under the Council’s Standing Orders. However as the framework cannot be entered into without these services being provided by Laser these services would be covered by an exemption in paragraph 86(e) of the Councils Standing Orders which provides that no competitive tender process is required where there is only one provider. Therefore a competitive procurement process would not need to be followed. The alternative view is that the services provided by Laser are an integral part of the framework and would therefore not be subject to any separate procurement requirement. For the purpose of this report the unclear legal basis of the relationship with Laser is immaterial, and the recommendations to Members allow for both bases.

## **6.0 Diversity Implications**

6.1 There are no diversity issues resulting from this tender process.

## **7.0 Staffing/Accommodation Implications**

7.1 This services are currently provided by external contractors and there are no implications for Council staff arising from the tendering of the services.

## **8.0 Sustainability Issues**

8.1 Approximately 4% of total electricity generated is considered ‘green’, however supply levels are volatile and despite increased costs, there is no guarantee the actual electricity supplied and consumed is ‘green’. Currently less than 5% of Laser customers request green energy; this is because ‘Brown energy’ can be purchased for approximately a third of the price. The Council’s Environmental Policy, adopted in October 2009, states that renewable energy will be used in order to mitigate climate change. Therefore it would be expected that the Council will encourage Laser to purchase renewable energy whenever practical and at reasonable cost.

8.2 LASER’ have said that their Flexible Procurement for Electricity provides 100% CHP (Combined Heat and Power). This form of energy production is exempt from the (CCL) Climate Change Levy (government tax) so is ‘cleaner’ than ‘normal’ energy. The cost of CHP is the equivalent to CCL; therefore making buying this “cleaner” energy for no cost (cost neutral). This is a benefit provided by Npower due to the size of the Flexible portfolio.

8.3 Effective management of the Council’s utilities helps to meet two high priority objectives. These are to reduce the use of gas and electricity and hence the carbon footprint and consequently reduce costs. The contracts will provide far more data on energy consumption (kWh) and this will be through a single point. The Council’s carbon footprint from its buildings and street lighting including schools is about 35,000 tonnes per annum. Set in the national context reductions of 80% are required by 2050 and at a Local level, the Council has set a target of 25% reduction in CO2 by 2014. Early work suggests that upgrades to plant and machinery, low energy equipment,

control of IT, Street lighting dimming and upgrades and ensuring education of staff and changes in behaviour can achieve a reduction of 15-25%. This will only be possible if the Council puts these targets at the centre of its strategy and builds appropriate investment measures into its medium term asset management and financial strategy. The proposed Civic Centre and building closures will make a large contribution to future CO2 reductions; however the full effects of the annual reductions will not be fully felt until reporting year 2014/15. This could mean that the Council will miss its 25% CO2 reduction target by March 2014.

- 8.4 It is also proposed, that with the increased accuracy of data coming through from suppliers, monitoring and targeting software will be utilised to highlight problem areas and take appropriate action. It will also go some way to satisfying the audit requirements under NI 185 (Reducing CO2 emissions from Local Authority operations), if reintroduced and also in ensuring that the data will be available for the Carbon Reduction Commitment introduced on 1st April 2010. This is effectively the start of a process whereby large users of energy will have to purchase carbon credits at the start of each year. The scheme was originally intended to be budget neutral with the payments being recycled it has subsequently become a straight additional tax which will add about 6-8% to energy costs. The cost of this is to be £12 per tonne in the first year. The Council (including schools) will therefore have to pay around £420k in the first year. It is expected that those organisations that are unable to produce accurate auditable figures will be effectively fined and may pay more.

## **9.0 Background Papers**

- 9.1 None

## **10.0 Contact Officers**

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**Clive Heaphy**  
**Director of Finance and Corporate Services**

	<p style="text-align: center;"><b>Executive</b> 23 May 2011</p> <p style="text-align: center;"><b>Report from the Director of Finance and Corporate Resources</b></p>
For Action	Wards Affected: ALL
<b>National Non-Domestic Rate Relief</b>	

## 1.0 Summary

- 1.1 The Council has the discretion to award rate relief to charities or non-profit making bodies. It also has the discretion to remit an individual National Non-Domestic Rate (NDR) liability in whole or in part on the grounds of hardship.
- 1.2 This report includes applications received for discretionary rate relief since the Executive Committee last considered such applications in February 2011. No applications for hardship relief have been received.

## 2.0 Recommendations

- 2.1 Members are requested to agree the discretionary rate relief applications in Appendices 2 and 3.

## 3.0 Details

- 3.1 Details of the Council's discretion to grant rate relief to charities, registered community amateur sports clubs and non-profit making organisations are contained in the financial and legal implications sections (4 and 6).
- 3.2 Appendix 1 sets out the criteria and factors to consider for applications for NDR relief from Charities and non-profit making organisations. This was agreed by the Executive in February 2008.
- 3.3 Appendix 2 lists new applications from local charities that meet the criteria. It also shows the cost to the Council if 100% discretionary relief is awarded, which is the Council's normal policy.
- 3.4 Appendix 3 lists new applications from non local charities that meet the criteria. It also shows the cost to the Council if 25% discretionary relief is awarded, which is the Council's normal policy.

- 3.5 The criteria for awarding discretionary rate relief focuses on ensuring that the arrangements are consistent with corporate policies and relief is directed to those organisations providing a recognised valued service to the residents of Brent. Further detail is set out in Appendix 1. Any relief granted in 2011/12 will be for a three-year period which follows the policy previously agreed by the Executive.
- 3.6 Charities and registered community amateur sports clubs are entitled to 80% mandatory rate relief and the council has discretion to grant additional relief up to the 100% maximum.
- 3.7 Non-profit making organisations do not receive any mandatory relief, but the Council has the discretion to grant rate relief up to the 100% maximum.

## **4.0 Financial Implications**

### **4.1 Discretionary Rate Relief**

- 4.1.1 Charities and registered community amateur sports clubs receive 80% mandatory rate relief, for which there is no cost to the Council. The Council has the discretion to grant additional relief up to the 100% maximum, but has to bear 75% of the cost of this from the Discretionary Relief Budget.
- 4.1.2 Non-profit making organisations do not receive any mandatory relief, but the Council has the discretion to grant rate relief up to the 100% maximum. The Council has to bear 25% of the cost of any relief granted.
- 4.1.3 The Council, where it has decided to grant relief, has followed a general guideline of granting 100% of the discretionary element to local charities and 25% of the discretionary element to non-local charities.
- 4.1.4 It has also granted 25% of the whole amount requested (which is entirely discretionary) to non-profit making organisations. This general policy was endorsed for continuation by the Executive in February 2008.
- 4.1.5 The total 2011/12 budget available for discretionary spending is £91,000. £92,120 has already been committed in respect of applications approved and entitled to relief for 2011/12. If Members agree relief as set out in Appendices 2 and 3, it would result in a further spend of £2,067.61 for 2011/12, this would bring the total spend for 2011/12 to £94,187. Whilst this is an overspend of £3,000 the final figure for 2011/12 may well be further adjusted to reflect new applications received during the financial year as well as any adjustments to liability, e.g., vacations, reductions in rateable value.

## **5.0 Staffing Implications**

5.1 None

## **6.0 Legal Implications**

### **6.1 Discretionary Rate Relief**

6.1.1 Under the Local Government Finance Act 1988, charities are only liable to pay 20% of the NNDR that would otherwise be payable where a property is used wholly or mainly for charitable purposes. This award amounts to 80% mandatory relief of the full amount due. For the purposes of the Act, a charity is an organisation or trust established for charitable purposes, whether or not it is registered with the Charity Commission. Under the Local Government Act 2003, registered Community Amateur Sports Clubs also now qualify for 80% mandatory relief.

6.1.2 The Council has discretion to grant relief of up to 100% of the amount otherwise due to charities, Community Amateur Sports Clubs, and non-profit making organisations meeting criteria set out in the legislation. These criteria cover those whose objects are concerned with philanthropy, religion, education, social welfare, science, literature, the fine arts, or recreation.

Guidance has been issued in respect of the exercise of this discretion and authorities are advised to have readily understood policies for deciding whether or not to grant relief and for determining the amount of relief. Further details of the Brent policy are shown in Appendix 1.

6.1.3 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 allow Brent to grant the relief for a fixed period. One year's notice is required of any decision to revoke or vary the amount of relief granted, if in the case of a variation, it would result in the amount of rates increasing. The notice must take effect at the end of the financial year.

6.1.4 The legal advice is that the operation of blanket decisions to refuse relief across the board might be ultra vires and that each case should be considered on its merits.

## **7.0 Diversity Implications**

7.1 Applications have been received from a wide variety of diverse charities and organisations, and an Impact Needs Analysis Requirement Assessment (INRA) has been carried out on the eligibility criteria. All ratepayers receive information with the annual rate bill informing them of the availability of discretionary and hardship rate relief. Ratepayers who have previously applied for relief are sent annual discretionary application forms. Details of all the applicants are shown in the Appendices.

## **8.0 Background Information**

8.1 Report to Executive 11<sup>th</sup> February 2008 – National Non-Domestic Relief and Hardship Relief

## **9.0 Contact Officers**

9.1 Paula Buckley, Head of Client Team - Brent House, Tel. 020 8937 1532

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

CLIVE HEAPHY  
Director of Finance and Corporate Resources

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

**Introduction**

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

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

**(a) Eligibility Criteria**

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

**(b) Factors to be taken into account**

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

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

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

### **(c) Parts of the process**

#### **No Right of Appeal**

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

#### **Notification of Change of Circumstances**

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

#### **Duration of award**

The current policy awards relief for one year only and the applicant has to reapply on an annual basis.

The new policy will award relief for a period of two years if the application is made in 2008/09 and for three years if made in 2009/10. However, a confirmation will be required from the successful applicants that the conditions on which relief was previously awarded still apply to their organisation. This will help ensure that the Council's rate records remain accurate.

#### **Withdrawal of relief**

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

#### **Unlawful activities**

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

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

## LOCAL CHARITIES

Financial year: 2011-12

	100% Relief to be awarded	2011-12 Charge	Bill net of statutory relief	Cost to Brent at 75%
	<b><u>New Applications</u></b>			
3290117X	South Kilburn Neighbourhood Trust (24 Peel Precinct)	£2738.64	£547.73	£410.80
32911669	South Kilburn Neighbourhood Trust (2a Canterbury Road)	£2998.35	£599.67	£449.75
<b>Total</b>		<b>£5736.99</b>	<b>£1147.40</b>	<b>£860.55</b>

Financial year: 2010-11

	100% Relief to be awarded	2010-11 Charge	Bill net of statutory relief	Cost to Brent at 75%
	<b><u>New Applications</u></b>			
3290117X	South Kilburn Neighbourhood Trust (24 Peel Precinct from 12/12/2010 to 31/3/2011)	£734.93	£146.98	£110.24
<b>Total</b>		<b>£734.93</b>	<b>£146.98</b>	<b>£110.24</b>

## NON-LOCAL CHARITIES

Financial year: 2011-12

Non-Local Charities (25% relief awarded)		2011-12 Charge	Bill net of statutory relief	25% relief awarded	Cost to Brent at 75%
	<b><u>New Applications</u></b>				
32898535	FareShare (unit 15 Premier Park)	£20459.25	£4091.85	£1022.96	£767.22
<b>Total</b>		<b>£20459.25</b>	<b>£4091.85</b>	<b>£1022.96</b>	<b>£767.22</b>

Financial year: 2010-11

Non-Local Charities (25% relief awarded)		2010-11 Charge	Bill net of statutory relief	25% relief awarded	Cost to Brent at 75%
	<b><u>New Applications</u></b>				
32898535	FareShare (from 19/10/2010 to 31/3/2011)	£8789.27	£1757.86	£439.46	£329.60
<b>Total</b>		<b>£8789.27</b>	<b>£1757.86</b>	<b>£439.46</b>	<b>£329.60</b>

