

LONDON BOROUGH OF BRENT

EXECUTIVE – 21st July, 2003

FROM THE DIRECTOR OF ENVIRONMENT

FOR DECISION

NAME OF WARD: ALL

REPORT TITLE : STREET LIGHTING PFI – PROGRESS REPORT

1.0 SUMMARY

- 1.1 This interim report informs Members of the progress that has been made since December 1998, with regard to the Council's Street Lighting Private Finance Initiative (PFI) Contract between the Council and PFI Lighting Limited, for whom David Webster Limited (DWL) are the main contractor.
- 1.2 The Report also advises the Executive of an alternative form of street lighting requested by the Mapesbury Residents Association, and the nature of the agreement needed to enable this request to be agreed and introduced by way of a contract variation to the PFI contract.

2.0 RECOMMENDATIONS

- 2.1 The Executive notes the progress to date and the main issues raised in Section 7 of this Report that affect the completion of the Core Investment Programme (CIP).
- 2.2 That Officers be instructed to hold a further meeting with DWL to resolve the differences in opinion and reach agreement on the treatment of the incorrectly converted concrete columns.
- 2.3 If the matter is not satisfactorily resolved, the Director of Environment to pursue such action as is necessary to protect the Council's position and achieve the original aims of the contract or obtain compensation as appropriate.
- 2.4 That the Executive instruct the Director of Environment to negotiate with PFI Limited and the Mapesbury Resident's Association to agree the variation proposed in paragraph 8 and to obtain a payment from the Mapesbury Residents' Association to give effect to the variation.

3.0 FINANCIAL IMPLICATIONS

- 3.1 The PFI funding arrangements generally are that a Government Grant is received and the Council also commits its own revenue funding. The Grant reduces by 4% year-on-year and in 2003/04 the Grant amounts to £805,800.
- 3.2 Payment is based on a Unitary Payment, less deductions which include reduced payment in respect of installing fewer columns than expected (through the Core Investment Programme) and routine maintenance failures.

- 3.3 The slippage on the Core Investment Programme (CIP) during 2002/03 resulted in an underspend in that year of around £125,000.
- 3.4 The financial implications of any further slippage will be better understood when the outcome of further planned meetings with DWL are known. This assessment will need to address any impact on the Government Grant, as well as the Council's own revenue budget.

4.0 STAFFING IMPLICATIONS

- 4.1 None specific to this Report.

5.0 ENVIRONMENTAL IMPLICATIONS

- 5.1 The re-lighting of the Borough has enhanced the visual appearance of Brent's streets and contributed significantly to road safety, community safety and help reduce crime and the fear of crime.

6.0 LEGAL IMPLICATIONS

- 6.1 The Council entered into a PFI contract with PFI Lighting Ltd on 1st December, 1998. This company is a special purpose vehicle for the purposes of the PFI and is partly owned by David Webster Limited and its funders. David Webster Limited are therefore the principals with who negotiations have been taking place.
- 6.2 The contract documents comprise several volumes and the conditions are very complex as this was the first street lighting PFI in the country, so unlike subsequent PFIs there are no standard terms and conditions and the spread of risk does not necessarily follow current guidance.
- 6.3 The main terms of the contract and points of dispute are set out in the details below.
- 6.4 The Council has power under s97 of the Highways Act 1980 to provide street lighting.
- 6.5 In order to install the columns requested by the Mapesbury Residents' Association the PFI Contract will need to be varied and there are additional costs. It is unlikely that the company would agree to join in the Residents' Association as it is an unincorporated association and the risk and contractual obligations for the payment for the installation will probably remain with the Council. What is proposed is that the Association will pay the costs in advance together with a sum representing the revenue costs likely to be incurred over the life of the contract in connection with storage, additional energy costs, costs of variation and legal costs etc.
- 6.6 The Council will then document the variation with the contractor.

7.0 DETAILS

- 7.1 The Council's Street Lighting Contract with PFI Lighting Ltd and their main contractor David Webster Limited (DWL) commenced on 1st December, 1998. The main features of the contract were:

- 7.1.1 That the Borough is re-lit. In practical terms this translates into bringing the Borough's street lighting stock up to the BS5489 standard within a five year (CIP) period that expires on 30th November, 2003; and maintaining the Borough "in light".
- 7.1.2 That at the end of the 20 year contract period, all lighting columns, as defined in the contract, will have a residual life of five years;
- 7.1.3 That the street lighting columns included in the contract were defined as all street lighting columns on the adopted highway and street lighting columns that appear on named roads;
- 7.1.4 That in drawing up the inventory it was agreed that the majority of the columns (some 11,000 columns) would need replacement, approximately 4,000 columns would be converted to meet the BS5489 standard during the 5-year core investment period. These columns would however be replaced after the 5-year CIP to meet health and safety requirements and deliver on the five-year residual life.
- 7.2 Also included on the inventory were some 4,000 columns that currently meet the required standard (referred to as Deemed to Accord) and would only be replaced if necessary, or to meet the 5 year residual life criteria after the contract expires. Another 629 columns were considered to temporarily meet the required standard and these would be replaced earlier either during or soon after the CIP completion date (i.e. 30th November, 2003).
- 7.3 The contractor carries out all maintenance, cleansing, painting, lamp changes, and other similar activities.
- 7.4 After the columns have been brought up to BS5489 standard, the PFI Contract reverts to what is essentially a maintenance contract.
- 7.5 By May 2001, DWL had replaced 8,043 columns and converted 2,035 columns which was considered a very good rate of replacement work.
- 7.6 However, between May 2002 and 31st March, 2003 work on the CIP came to a virtual stop. This stoppage was due to a dispute between DWL and the Electricity Supplier (24/7).
- 7.7 In April 2003, DWL informed the Council that this dispute had now been resolved and that DWL would begin the restart the replacement programme in May 2003.
- 7.8 The work completed to date has resulted in around 87% of the Borough's street lights being brought up to BS5489 standard. Since the PFI Contract started in November 1998, therefore, the level of street lighting has improved considerably and has contributed towards broader Council objectives around road safety, crime, and the fear of crime. The Council's performance against Best Value Performance Indicator BVPI 98 (%age of streetlights not working as planned) has also been in the upper quartile compared with other London Boroughs.
- 7.9 However, a number of fundamental differences in opinion now exist between the Council and DWL on exactly what DWL's contractual requirements are in order to complete the CIP.
- 7.10 Since May, further work has been undertaken on the CIP with another 440 new columns programmed, but the rate of progress is of concern. The work needed to complete the CIP requires an assessment of how many of the outstanding columns require replacement, and how many can be converted to meet the standard. It is anticipated that very few of the remaining columns can now meet the standard by way of conversion.

- 7.11 This is where the scale of the difference in opinion between DWL and the Council becomes apparent.
- 7.12 Officers believe the number of new columns to complete the CIP is 800 more than the figure that DWL are suggesting to the Council. A physical inventory check is being carried out, in order to be certain.
- 7.13 Other areas for discussion with DWL are:
- DWL's opinion that around 260 minimal steel columns are not required to be replaced;
 - DWL's opinion that a further number of roads were not on the original inventory and thus not covered by the PFI Contract.
- 7.14 With regards to the minimal steel columns, Officers are satisfied that the Contract requires these to be replaced with new columns.
- 7.15 With regard to other roads that DWL may feel are not on the inventory, Officers are clear that this is irrelevant in that the intention from the outset was to bring all columns on adopted public highway and named estate roads up to the BS5489 standard.
- 7.16 A further complication is that despite Council advice at the time, around 900 concrete columns were converted, when the Contract required all concrete columns to be replaced. On this particular point, DWL have conceded that they were wrong to deal with these by conversion, and have asked Officers if the Council is prepared to agree for these to be replaced after the five year CIP period. Officers have yet to give a firm response to this request, without at the same time resolving other differences in opinion.
- 7.17 The current rate of progress with the CIP suggests that at this rate the CIP will not be completed within the initial 5 year CIP period. Officers are continuing to try and engage DWL in constructive dialogue, to speed up progress and resolve the above-mentioned differences.
- 7.18 Officers propose to take legal advice on the terms of the contract, the obligations of the parties and remedies available, then hold a further meeting with DWL, at which it will be made clear that the Council is no longer prepared to prevaricate and it now requires a firm commitment that DWL will complete the CIP according to the agreement. Should this commitment not be forthcoming, then Officers will take necessary steps to ensure the performance of the contract or seek compensation.

8.0 Mapesbury Conservation Area

- 8.1 The conservation group of the Mapesbury Resident's Association have been in discussions with officers for some time about a more suitable type of street lighting column for their conservation area. The Mapesbury Estate is a cohesive residential area bounded on the west by Walm Lane and Chichele Road, on the south by the Metropolitan and Jubilee Railway lines, on the east by the rear of properties in Anson Road. The main issues that concerned officers were that the street lights would:
- (a) conform to the street lighting standard required under BS5489;
 - (b) that the consultation with residents on the proposed design was to be carried out by the Mapesbury Residents Association;
 - (c) That any additional cost of purchasing the new type of column and any additional maintenance programme including retaining spare stocks of these columns in case of any

accident or emergency will be borne by the local residents through the Mapesbury Resident's Association;

(d) that any extra costs whatsoever incurred due to this variation from the standard design will be borne by the Mapesbury Resident's Association;

(e) that the costs of installing the different design of columns and future maintenance costs will be included in the initial payment by residents, thereby ensuring that the Council does not incur any additional costs. Future payments to DWL will be based on the standard rate.

- 8.2 An agreement has been reached between the Mapesbury Residents Association, David Webster Ltd. and the Council on the type of design which is a Heritage style lamp and column as opposed to the contemporary design that has been and is being installed in L.B. Brent's streets.

Current Position

- 8.3 At a recent meeting held by Mapesbury Residents Association members on 4th June 2003, it was decided by them that part of Exeter Road and part of St. Gabriel's Road would be fitted with Heritage style lamp columns at a cost of approximately £920 per column to the residents. The work will be carried out by DWL who will also be responsible for the maintenance of these columns on completion of the installation works.
- 8.4 Standard CIP columns will be installed on all remaining parts of the two roads and in any other location within the Mapesbury Conservation Area.
- 8.5 Due to the differing technical specifications of the heritage style columns, they are not as optically efficient as the standard columns installed throughout the rest of the borough. This means a greater number of columns will need to be installed in comparison to the original number. The residents benefiting from the heritage style columns will pay the full cost of any additional columns together with the cost for connection by the Electricity Company.
- 8.6 The time scale for all works on this project is estimated at approximately five months from a formal agreement being made by all parties to the actual completed installation and connection of all columns.

9.0 BACKGROUND INFORMATION

- 9.1 Details of Documents:
- Street Lighting PFI Progress Report to Special Environment Cttee, 23.09.99
 - Progress on installation of new Street Lighting under PFI Contract, 01.02.2000
 - Progress on installation of Street Lighting under PFI Contract, 27.06.2000
 - Street Lighting – Update on Installation Programme, 02.05.2001
- 9.2 Any person wishing to inspect the above papers should contact Keith Balmer, StreetCare, Brent House, 347-359 High Road, Wembley, Middlesex, HA9 6BZ. Telephone: 020 8937 5066.

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