



Cabinet
9 November 2020

**Report from the Strategic Director
of Regeneration & Environment**

**Northwick Park, One Public Estate – Update, Infrastructure
Collaboration Agreement and Spine/Access Road
Construction**

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| Wards Affected: | Northwick Park |
| Key or Non-Key Decision: | Key |
| Open or Part/Fully Exempt: | Part Exempt – Appendices 1,2,3 and 5 are exempt as they contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: “Information relating to the financial or business affairs of any particular person (including the authority holding that information)” |
| No. of Appendices: | Five: <ul style="list-style-type: none"> • Appendix 1 HIF Funding Grant Agreement (<i>Contains Exempt Information</i>) • Appendix 2 Northwick Order of Cost. Road Rev.10 (<i>Contains Exempt Information</i>) • Appendix 3 Infrastructure collaboration agreement, Heads of Terms (<i>Contains Exempt Information</i>) • Appendix 4 Plan of the proposed road within the masterplan area. • Appendix 5 Updated Northwick Park HIF Cashflow (<i>Contains Exempt Information</i>) |
| Background Papers: | None |
| Contact Officer(s): | <p>Stacey Hislop Project Manager stacey.hislop@Brent.gov.uk Tel: 02089373360</p> <p>Nick Ljustina Operational Director – Property & Assets nick.ljustina@Brent.gov.uk Tel: 020 8937 5025</p> |

1.0 Purpose of the Report

- 1.1 To update Cabinet on Northwick Park One Public Estate initiative, and;
- Seek approval for the execution of the infrastructure collaboration agreement, in addition to the existing memorandum of understanding.
 - Seek approval for the tendering and procurement of the construction works (and all other associated works and costs), anticipated to be in the region of £10M required for the completion of the new spine / access road.

2.0 Recommendation(s)

That Cabinet:

- 2.1 Approve entering into an infrastructure collaboration agreement with London Northwest NHS Health Authority, The University of Westminster and Network Homes Ltd. on the basis of the Heads of Terms at Appendix 3.
- 2.2 Delegate authority to the Strategic Director of Regeneration & Environment in consultation with the Lead Member for Environment, the Lead Member for Planning, Property and Regeneration and the Director of Finance to finalise all terms consistent with the Heads of Terms at Appendix 3 and enter into the infrastructure collaboration agreement.
- 2.3 Approve the procurement of the construction works (and all other associated works and services) required for the completion of the new spine / access road.
- 2.4 Delegate to the Strategic Director for Regeneration and Environment in consultation with the Lead Member for Environment authority to agree relevant pre-tender considerations for the procurement of a suitable contractor for the works referred to in 2.3 above and thereafter evaluate tenders on the basis of such pre-tender considerations.
- 2.5 Delegate to the Strategic Director for Regeneration & Environment, in consultation with the Lead Member for Environment authority to select contractor(s) and enter into a contract with the contractor for the works referred to in 2.3 above.
- 2.6 Delegate to the Strategic Director of Regeneration and Environment to agree terms and enter into agreements pursuant to section 38 for the adoption of the new spine/access road and section 278 of the Highways Act 1980 in respect of works to the existing highway

3.0 Detail

- 3.1 Brent received grant funding from the One Public Estate Office (OPE), to lead a consortium of land owning public sector partners in examining the potential regeneration of adjacent landholdings at Northwick Park. The other partners are London Northwest NHS Health Authority (LNWNHS), The University of Westminster and Network Homes Ltd.

- 3.2 The partners have dissolved boundaries of individual ownership and worked collaboratively to produce proposals with a far greater vision than could be achieved individually. Supported by development and planning consultants, the partners prepared a feasibility/capacity study, which led to the submission of three planning applications in 2020. These being;
- Masterplan for the OPE redline area – submitted by all OPE partners
 - Detailed application for the new spine / access road – submitted by all OPE partners
 - Detailed application for phase 1 of the housing – submitted by Network Homes
- 3.3 The four partners executed a memorandum of understanding in August 2017. This outlines common and individual objectives for the project, principles of collaboration, governance and partnership values. Now that HIF grant funding of £10M has been secured (see Appendix 1), an infrastructure collaboration agreement is required to satisfy the conditions of the grant and to give a legal framework for partners to progress the proposals. This will include, but not be limited to; details of permissions of works to be carried out, land ownership and rights requirements, funding arrangements and all other responsibilities.
- 3.4 In order to deliver the road project for which the grant funding was received, a professional team has been assembled. Cost analysis has been carried out and detailed design work has started (Appendix 2). The four partners having discussed the road project with Transport for London, have decided that they would like the Brent highways team to deliver the works and it will need to be tendered and procured.
- 3.5 The next steps for the items outlined in the report are broadly;
- Planning committee for the three applications. (Nov 20 - Dec 20)
 - Execution of the Infrastructure Collaboration agreement (Nov 20)
 - Maximise OPE funding (ongoing)
 - Start road construction procurement (Dec 20)
- Timescales are indicative.
- 3.6 The next steps and associated agreements have been discussed with partners and a Heads of Terms developed (Appendix 3). This incorporates the next steps and associated agreements outlined above, with responsibilities and approximate costs. Delegated approval is sought to the Strategic Director of Regeneration & Environment in consultation with the Lead Member for Environment and Director of Finance to finalise all terms consistent with the Heads of Terms at Appendix 3 and thereafter enter into the infrastructure collaboration agreement
- 3.7 Brent's objectives in the OPE partnership are; more affordable homes, growth, increased recreation activity in its green space areas, increased revenue and employment and skill opportunities.

- 3.8 The Heads of Terms at Appendix 3 detail that the Council will procure a works contract to construct the new access road. Officers are considering the most appropriate procurement route and therefore delegated authority is sought to the Strategic Director for Regeneration and Environment in consultation with the Lead Member for Environment to agree relevant pre-tender considerations for the procurement of a suitable contractor and thereafter evaluate tenders on the basis of such pre-tender considerations. Further, to save time following the procurement, delegated authority is also sought to award the contract to the preferred contractor.
- 3.9 A plan of the proposed road within the masterplan area is included at Appendix 4.

4.0 Financial Implications

- 4.1 Brent was awarded OPE funding for Northwick Park to be spent on behalf of the partners (Network Homes, University of Westminster and London Northwest NHS Health Authority). Currently, there is £0.345m in reserve left from OPE funding. This has been and will continue to be used to fund consultants and resources to move the project forward. It is anticipated that the total partnership cost will be contained within the total grant amount.
- 4.2 The Housing Infrastructure Fund (HIF) grant agreement was executed in December 2019. £10m will be made available to Brent through drawdowns from the GLA against a programme of activities (Appendix 5). All costs for the road works project will be met by this grant.
- 4.3 As set out in the Infrastructure collaboration agreement Heads of Terms, in the event of overrun of cost that exceeds the £10m grant allocation, the first £1m will be met by Network Homes, University of Westminster and London Northwest NHS Health Authority. This will be split equally between the parties.
- 4.4 If the £1m of additional funding capacity is reached, Brent will commit £0.5m to fund the overrun generated by the project from CIL.
- 4.5 It is anticipated that the total project cost will be contained within the HIF grant amount.
- 4.6 After consultation with the Head of Highways, it is anticipated that there will not need to be a provision for a commuted sum under the section 38/section 278 process due to the standard the road will be built to. If any commuted sum is required Brent will commit to fund the sum required by the project from CIL generated from the project.

5.0 Legal Implications

- 5.1 The Localism Act 2011 provides the Council with general powers of competency, which means it can do anything that the individual can do in the United Kingdom for a commercial purpose or otherwise for the benefit of the Council, its area or persons resident in its area provided it is not prohibited by other legislation. In addition section 111 of the Local Government Act 1972 provides for a local authority to do "anything" which is "calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions".

Accordingly, the Council has wide powers established by statute to undertake the commercial activities highlighted in the MOU.

- 5.2 Recommendation 2.1 seeks approval for the Council to enter into an infrastructure collaboration agreement with LNWNHS, The University of Westminster and Network Homes Ltd. Such infrastructure collaboration agreement is regarded as a form of partnership agreement under Contract Standing Order (“CSO”). CSO 85 sets out certain requirements for the entry into a partnership agreement and for collaborative procurements. CSO 85(a) provides that no partnership may be entered into unless approved by the Director of Finance and a formal agreement covering the arrangements is signed by the parties. Whilst draft Heads of Terms at Appendix 3 have been agreed in principle, delegated authority is sought to the Strategic Director of Regeneration & Environment in consultation with the Lead Member for Environment, the Lead Member for Planning, Property and Regeneration and Director of Finance to finalise all terms and thereafter enter into the infrastructure collaboration agreement.
- 5.3 Recommendation 2.3 seeks approval to procure a contract to undertake works to construct the access road. The nature and value of the Contract is such that it will be subject to the Public Contracts Regulations 2015 (PCR 2015) in full. Further, the value of the Contract is such that it is classed as a High Value Contract under the Council’s Contract Standing Orders and Financial Regulations.
- 5.4 For High Value Contracts, Cabinet must approve the pre-tender considerations (Standing Order 89) and the inviting of tenders (Standing Order 88). For the reasons detailed in paragraph 3.8, delegated authority is sought to the Strategic Director for Regeneration and Environment in consultation with the Lead Member for Environment to agree relevant pre-tender considerations for the procurement of a suitable contractor.
- 5.5 For High Value Contracts, Cabinet must approve the award. In order to avoid any delay in the award of the contract following the procurement, delegated authority to the Strategic Director for Regeneration and Environment in consultation with the Lead Member for Environment to award the contract is also sought.
- 5.6 As this procurement is subject to the full application of the PCR 2015, the Council must observe the requirements of the mandatory minimum 10 calendar standstill period imposed by the PCR 2015 before the contract can be awarded. The requirements include notifying all tenderers in writing of the Council’s decision to award and providing additional debrief information to unsuccessful tenderers on receipt of a written request. 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 can issue a letter of acceptance to the successful tenderer and the contract may commence.
- 5.7 It is envisaged that the Council will enter into highway agreements in respect of the Access Road pursuant to section 38 relating to the adoption of the new

spine/access road and 278 of the Highways Act 1980 in respect of the authorisation of works to parts of the existing highway

6.0 Equality Implications

6.1 The Council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment and victimisation
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.

6.2 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

6.3 The purpose of the duty is to enquire into whether a proposed decision disproportionately affects people with a protected characteristic. In other words, the indirect discriminatory effects of a proposed decision. Due regard is the regard that is appropriate in all the circumstances.

6.4 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications.

7.0 Consultation with Ward Members and Stakeholders

7.1 Officers from Brent, Network, the University of Westminster and London Northwest Health Authority held a series of public consultations - to discuss the planning applications and general work the OPE project has been doing. These were on 25, 26, 27 and 29 June 2019 for the first consultation and 8, 9, 10, and 12 October 2019 for the second consultation,

7.2 Ward councillors were met with and consulted on the following dates

22 November 2018

21 June 2019

8 October 2019 (Cllr McClennan did not attend)

28 November 2019 (Cllr McClennan only)

8.0 Human Resources/Property Implications (if appropriate)

8.1 Brent's Highways team will be commissioned by the OPE partners to manage the road delivery project, from design, through procurement and to construction completion.

9.0 Public Services (Social Value) Act 2012

- 9.1 The Council is under duty pursuant to the Public Services (Social Value) Act 2012 (“the Social Value Act”) to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. This duty does not strictly apply to the proposed contract as it is not a services contract. Nevertheless, Officers will have had regard to considerations contained in the Social Value Act in relation to the procurement of the works contract for the access road.

Related document: HIF Grant Agreement Cabinet paper 13 August 2018

Report sign off:

Alan Lunt

Strategic Director of Regeneration &
Environment