

	<b>Officer Key Decision</b>
	<b>Report to the Corporate Director, Communities &amp; Regeneration</b>
<b>AUTHORITY TO AMEND THE WEMBLEY HOUSING ZONE FUNDING AGREEMENTS TO SECURE TIMELY DRAWDOWN OF GRANT FUNDING FOR THE CECIL AVENUE AND UJIMA HOUSE SCHEMES</b>	
<b>Wards Affected:</b>	Wembley Hill
<b>Key or Non-Key Decision:</b>	Key Decision
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Part Exempt – Appendices 1 and 2 are exempt as they contain 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)”
<b>No. of Appendices:</b>	Appendix 1 – Draft BIA Termination Agreement (exempt) Appendix 2 – Draft OBA Deed of Variation (exempt)
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Name: Jonathan Kay Job Title: Head of Regeneration Email: Jonathan.Kay@brent.gov.uk

## 1.0 Purpose of the Report

- 1.1 This report seeks authority to amend the Wembley Housing Zone funding agreements to secure timely drawdown of grant funding for the Cecil Avenue and Ujima House schemes. The report requests authority to terminate the existing Borough Intervention Agreement with the Greater London Authority and instead receive funding through the Building Council Homes for Londoners grant scheme. The report also requests authority to vary the existing Overarching Borough Agreement to reflect the revised funding allocations and outputs within the Wembley Housing Zone.

## 2.0 Recommendation(s)

That the Corporate Director, Communities & Regeneration, in consultation with the Lead Member for Regeneration, Planning & Growth:

- 2.1 Notes that in response to changed circumstances set out in paragraphs 3.1, 3.2 and 3.3, it is proposed to restructure the nature of the grant funding provided pursuant to the Borough Intervention Agreement entered into with the Greater London Authority on 28<sup>th</sup> March 2018, and to secure the delivery of the affordable dwellings at the Cecil Avenue and Ujima House schemes in a different manner to that contemplated in the Borough Intervention Agreement.
- 2.2 As a result of the changes circumstances outlined in paragraph 2.1, approves the termination of the Borough Intervention Agreement with the Greater London Authority entered into on 28<sup>th</sup> March 2018, pursuant to which grant funding to a maximum of £8m was payable to the Council to be used for the Cecil Avenue and Ujima House schemes.
- 2.3 Approves increased grant funding of £18.484m now secured from the Greater London Authority for the Cecil Avenue and Ujima House schemes is now delivered under the Building Council Homes for Londoners grant scheme.
- 2.4 Approves the variation of the Overarching Borough Agreement with the Greater London Authority entered into on 31<sup>st</sup> March 2016, to update the funding allocations and outputs to align with current schemes and plans.

### **3.0 Detail**

- 3.1 Brent Council in partnership with the Greater London Authority (GLA) established the Wembley Housing Zone (WHZ) in 2015 to increase housing delivery in an area with high development potential. Delivery within WHZ has been strong since 2015, however plans have evolved such that both parties consider it expedient to terminate the WHZ Borough Intervention Agreement entered into on 28<sup>th</sup> March 2018 (BIA) and instead deliver the WHZ direct grant funded affordable homes under the Building Council Homes for Londoners grant scheme (BCHfL). Further, both parties consider the Overarching Borough Agreement entered into on 31<sup>st</sup> March 2016 (OBA) should be varied to update the funding allocations and outputs to align with current schemes and plans.
- 3.2 As reported to Cabinet 16<sup>th</sup> August 2021, many WHZ sites originally proposed for direct GLA WHZ funding under the OBA have come forward for development privately. The BIA permitted £8m WHZ grant be drawn down to acquire land at Ujima House, Fairgate House and Network Rail Land north of Wembley High Road, and deliver 215 affordable homes by 31<sup>st</sup> March 2025. Under the BIA £4.7595m WHZ grant funded the acquisition of Ujima House in July 2017 (grant drawn down April 2018) however negotiations to secure further land were unsuccessful. Heads of terms were therefore agreed with the GLA to refocus the WHZ grant to deliver 152 affordable homes solely on the two council-owned Cecil Avenue and Ujima House sites within the WHZ. The GLA have also

agreed that given the increase to 50% affordable housing across these two sites, introduction of more genuinely affordable London Affordable Rent homes, and financial viability pressures including build cost inflation, that WHZ grant will increase to £18.484m with scheme completion by 31<sup>st</sup> December 2026. Given these changed circumstances, that the Council is unable to comply with its BIA obligations, and to secure timely drawdown of grant funding for the Cecil Avenue and Ujima House schemes, both parties have agreed, subject to the approval of the Corporate Director, to terminate the BIA, with a Termination Agreement drawn up to that end (Appendix 1).

- 3.3. Brent Council and the GLA have separately entered into a BCHfL Agreement to govern funding arrangements for Brent Council's New Homes Programme. Subject to the approval of the Corporate Director it is proposed that the WHZ schemes at Cecil Avenue and Ujima House will be brought under the scope of the BCHfL Agreement as an "Additional Named Project". The original BIA £8m WHZ grant will be re-allocated under the BCHfL Agreement, together with an extra £10.484m grant, with scheme start on site by 31<sup>st</sup> March 2023 and scheme completion by 31<sup>st</sup> December 2026. It is noted that Brent Council and Wates signed a development agreement 13<sup>th</sup> March 2023 to deliver the Cecil Avenue and Ujima House schemes, with start on site recorded 27<sup>th</sup> March 2023.
- 3.4 Brent Council and the GLA want Wembley to retain its Housing Zone status, and, subject to the approval of the Corporate Director, both parties have agreed to vary the OBA principles document to update it to reflect the revised funding allocations and outputs, with a Deed of Variation drawn up to that end (Appendix 2).

#### **4.0 Financial Implications**

- 4.1 The total grant secured for the Wembley Housing Zone scheme is £18.484m of which £4.7595m has been utilised for the purchase of Ujima House. This amendment will not vary the value of the grant secured for the development but change the GLA programme by which it is funded from.
- 4.2 The start on site milestone has been achieved under the new grant agreement. The project is required to achieve the completion milestone of 31<sup>st</sup> December 2026 to drawdown the remaining funding.

#### **5.0 Legal Implications**

- 5.1 The Council's power to apply for grant funding, enter into a grant agreement, vary a grant agreement or indeed terminate it can be found under section 111 of the Local Government Act 1972, or under the power of general competence set out in section 1 of the Localism Act 2011.
- 5.2 Section 111 of the Local Government Act 1972 allows the local authority to do anything which is "calculated to facilitate, or is conducive or incidental to, the discharge" of any of its functions. However, it is subject to the powers

exercisable through other legislation, it cannot be used to authorise what is prohibited by other statutory provisions.

- 5.3 Section 1 of The Localism Act 2011, provides that the Council may do anything “which individuals may generally do”. This is a free-standing power of general competence which is subject to section 2 of the Act. The Council would not be able to rely on the S.1 power where a pre-existing power sets out more specific restrictions, or where a post-commencement power indicates that the power of general competence is excluded.
- 5.4 On 16 August 2021, Cabinet delegated authority to the Strategic Director of Regeneration & Environment (relevant functions now fall under the Corporate Director, Communities and Regeneration) in consultation with the Cabinet Member for Regeneration, Property & Planning,(now the Cabinet Member for Regeneration, Communities and Growth) to make amendments to the Wembley Housing Zone funding contract or enter a new agreement with the Greater London Authority to receive grant to deliver the Sites for the reasons detailed in paragraph 3.3.2. of that report.
- 5.5 The authority to terminate the existing Borough Intervention Agreement (BIA) with the Greater London Authority in order to receive funding through the Building Council Homes for Londoners grant scheme is a decision for Corporate Director as per the delegations set out paragraph 3.3.2 of the report dated 16 August 2021.
- 5.6 The Council is required to enter into a formal BIA Termination Agreement and Deed of Variation draft copies of which are at Appendix 1 and 2 of this report. Legal Services have reviewed these agreements and can confirm that it is legally permissible for the Council to enter into these agreements.
- 5.7 The Corporate Director Governance is required to issue a Legal Opinion to the GLA confirming that the Council has the power and authority to enter into the BIA Termination Agreement.

## **6.0 Equality Implications**

- 6.1 Pursuant to s149 Equality Act 2010 (the “Public Sector Equality Duty”), the Council must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act
  - (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,
- 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 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.
- 6.4 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary.
- 6.5 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 The Lead Member for Regeneration, Planning & Growth has been briefed on the amendments to the Wembley Housing Zone funding agreements. Brent Council and GLA Officers have worked together to agree the Wembley Housing Zone funding agreement amendments explained in this report, and instructed lawyers to draw up the relevant deeds and amendments to be executed.

## **8.0 Human Resources/Property Implications (if appropriate)**

- 8.1 None.

### **Related documents:**

Brent Council Cabinet Report August 2021 -  
Wembley Housing Zone – Approval of Procurement for Development of Council Sites and Associated Matters

**Report sign off:**

**Alice Lester**

Director Regeneration, Growth & Employment