

	<b>Decision of Cabinet Member for Regeneration, Planning &amp; Property</b>
	<b>Report from the Corporate Director of Neighbourhoods and Regeneration</b>
<b>Queens Park Cullen House Time Extension and variation to HIF Funding Agreement</b>	

<b>Wards Affected:</b>	Queen's Park, Kilburn Park
<b>Key or Non-Key Decision:</b>	Key
<b>Open or Part/Fully Exempt:</b> (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
<b>List of Appendices:</b>	Appendix 1 - Variation
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> (Name, Title, Contact Details)	Archika Kumar Head of Estate Regeneration Archika.Kumar@brent.gov.uk

## 1.0 Executive Summary

- 1.1. This report seeks approval for a time extension to the Housing Infrastructure Fund (HIF) Funding Longstop date to March 2026 (from March 2025) with the Infrastructure delivery Backstop date extended to March 2027 as well as amendments to the existing condition precedents.
- 1.2. This report seeks approval for the allocation of £4,423,465 remaining HIF funding to the Queens Park Cullen House (QPCH) ("the Site") gyratory works to be granted now that the Council have complete site assembly for development.

## 2.0 Recommendation(s)

That the Lead Cabinet Member for Regeneration, Planning & Property:

- 2.1 Approves the variation to the HIF Funding Agreement to allow for an extension to the HIF Funding Longstop date to 31 March 2026 (from 31 March 2025), with the Infrastructure delivery Backstop date extended to March 2027.
- 2.3 Note the variations to the terms and pre-conditions of the agreement set out in Paragraph 3.12.

## 3.0 Detail

**Contribution to Borough Plan Priorities & Strategic Context**

- 3.1 South Kilburn was identified as a priority area for driving economic opportunity and regeneration within Brent – Prosperity and Stability in Brent, Thriving communities (Brent Borough Plan 2023-27). The Regeneration Strategy for Brent 2010-2030 identifies the transformational change of South Kilburn within strategic priority one. The regeneration will also make contributions to the other four priorities of the A Cleaner, Greener Future, Thriving Communities, The Best Start in Life and A Healthier Brent.

## **Background**

- 3.2 The Queens Park Cullen House (QPCH) site is a significant high value site for the South Kilburn Regeneration programme due to its strategic gateway location, good access to amenities and within close proximity to the Queen's Park tube station.
- 3.3 The site of Queens Park Cullen comprises of the following sites - Cullen House, Salusbury Road car park, the former Keniston Press site and the Falcon Public House, on Kilburn Lane. A redevelopment scheme was granted full planning permission in 2012 and decanting of residents and leaseholders followed.
- 3.4 In December 2019, the Council received an allocation of approximately £10m of the Housing Infrastructure Fund for three schemes across South Kilburn including improvements to existing Peel/Canterbury Road, acquisition of Blue box and removal of gyratory at QPCH road with Funding Longstop and Infrastructure Backstop dates to March 2026 as set out in the agreement.
- 3.5 The acquisition of Bluebox was completed in December 2022 and the Peel /Canterbury highway works are nearing completion, however QPCH was delayed as Brent faced a number of challenges. This included the matters regarding settling the terms with our neighbouring landowner Transport for London (TFL) as well as the previous landowners of the Falcon Pub London Newcastle (LN), where the Council had previously entered into a LLP in anticipation to deliver this site as a joint venture. As the relationships dissolved this essentially brought the comprehensive redevelopment to a standstill.
- 3.6 At its meeting on 14 October 2019, Cabinet approved to terminate the South Kilburn Queens Park LLP Project Agreement and Members Agreement ("SKQP Agreement") by 30 October 2019. As per the terms of the termination and the Option Agreement dated 27 June 2022, the Council had the right to acquire the Falcon Pub site at the market value as at 17 August 2020.
- 3.7 On 10 November 2022, LN made an offer to sell the Falcon Pub to the Council. LN reiterated this offer on 26 January 2023. Subsequently, on 3 February 2023, the Council, relying on an independent valuation, presented a counteroffer. In response, LN submitted a further offer on 20 February 2023.
- 3.8 As agreement on the purchase price could not be reached between the parties, the Council notified LN on 27 February 2023, that the matter would be referred to arbitration as stipulated in the Option Agreement. Subsequently, on 4 July 2023, the President of the Royal Institution of Chartered Surveyors appointed

an Arbitrator to assess the Market Value of the Site as at 17 August 2020, in accordance with the Option Agreement.

- 3.9 The parties engaged in arbitration where expert reports for planning and valuation were exchanged for the Arbitrator to review this evidence and determine the Market Value. However, both the Council and LN through mutual agreement agreed a purchase price for the Falcon Pub in the sum of £3,250,000 plus vat in the sum of £650,000 and the sale purchase was completed on the 10<sup>th</sup> May 2024.
- 3.10 Having acquired the Falcon Pub, Brent are now in a position to assemble the land to progress the gyratory works which is a crucial step in unlocking the maximum housing potential on site and a significant public realm improvement of the regeneration area. However, due to the length of time the process to acquire the land has taken, the Council now cannot meet the current contract date of March 2026.
- 3.11 To date, the spend for the Peel/Canterbury highway works and Bluebox acquisition are complete, therefore the request relates to the £4,413,465 which was originally allocated to the QPCH gyratory works. In April 2024 the Council formally requested Greater London Authority (GLA) for an extension to the Infrastructure Backstop and Funding Longstop dates along with a request for some of the funding to be ‘accelerated’ for the Falcon Pub acquisition to which the request has been reviewed and approved by MHCLG. The report produced by Brent’s consultants provided three scenarios on the spend, considering the risks associated with delivery of works to provide a comprehensive view.
- 3.12 The approval includes the acceleration of spend by enabling a proportion of the remaining £4,413,465 to be spent on the acquisition cost of the Falcon Pub and the remaining spend will be allocated towards the gyratory infrastructure works. This outcome will ensure the delivery of the infrastructure works necessary to facilitate maximum housing delivery funding and meets Brent’s affordable housing delivery targets as outlined in the Master Plan. In addition, the recommendation provides greater assurance that the spend can be achieved by March 2026.
- 3.13 On the 29<sup>th</sup> of November 2024, the GLA informed the Council of MHCLG’s decision approval to proceed with the recommended scenario providing that the following changes within the funding agreement are adhered to. The variations to the original agreement (seen in Appendix 1 below of this report) consist of the following:

HIF	Funded Infrastructure Works Backstop Date	The HIF Funded Infrastructure Works Backstop Date definition in clause 2.1 is to be deleted and replaced with the following wording: “Means 31 March 2027”
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Longstop Date	The Longstop Date definition in clause 2.1 is to be deleted and replaced with the following wording: “Means 31 March 2026”
Conditions Precedent to the Grant (Schedule 5)	The Condition Precedent to the Grant in Schedule 5 ( <i>Conditions precedent to the grant</i> ), paragraph 1(h)(3) ( <i>that terms are agreed with Transport for London for the relocation of the office building required to deliver the HIF Funded Infrastructure Works</i> ), is to be deleted.
Additional Project Specific Provisions (Schedule 6)	Paragraph 5.1 ( <i>limitation on total grant availability</i> ) of Schedule 6 ( <i>Additional Project Specific Provisions</i> ) is to be deleted and replaced with the following wording: “The Local Authority agrees and acknowledges that it shall not submit a Claim Form requesting more than the first 10% of the Total Grant (£1,000,000.00) and the GLA shall not be obliged to pay any amount of Grant in excess of the first 10% of the Total Grant until the Local Authority has provided written evidence that it has obtained detailed/full planning permission for Phase 2, Phase 3a and the Hereford & Exeter site on Phase 3b of the Project to the GLA.
Appendix 1	The plans included within Appendix 1 that identify the Site are to be deleted and replaced with the plans included within Appendix 1 of this letter.
Appendix 6	The plan set out at Appendix 2 of this letter shall be included within Appendix 6.

3.14 Conditions precedents outlined in Schedule 5, have been amended to reflect changes to programme under the Single Delivery Partner Procurement.

3.15 The proposed drawdown of funds linked projects milestones is set out below, to the first milestone will progress designs to Stage 4 tender. Following tender the second claim for the acquisition of the Flacon Pub and main works contract subject to satisfying the condition precedents.

Quarter	Reprofiled Spend	Milestone
Q1 2025/26 (Apr to Jun)		Lead member and board approval.

Q2 2025/26 (Jul to Sep)	£567,000	Pre-commencement and enabling works.
Q3 2025/26 (Oct to Dec)	£3,346,465	Award of contract (incl. pub acquisition £3,250,000 and gyratory works £596,465)
Q4 2025/26 (Jan to Mar)		
Q1 2026/27 (Apr to Jun)		
Q2 2026/27 (Jul to Sep)		
Q3 2026/27 (Oct to Dec)		
Q4 2026/27 (Jan to Mar)		Completion of works
<b>Total</b>	<b>£4,413,465</b>	

- 3.16 Once the conditions precedents of the variation are authorised the Council will resume conversations with key stakeholders within planning, Highways and procurements to finalise the scope to commence the project via a framework.

#### **4.0 Alternative Options Considered**

- 4.1 The Council have conducted an initial review the feasibility study, which further validates the timescales required to execute the anticipated works.
- 4.2 As mentioned in paragraph 3.10, Officers and Brent's consultants produced a time extension report which exhausted the scenarios considering the following  
1. HIF funding was spent on gyratory works only with all spend by March 2026  
2. HIF funding is spent on the gyratory works only, taking account of the risks associated with delivering the works and spend by March 2026, 3. MCHLG approving acceleration of spend by allowing some spend on the Falcon Pub acquisition ahead of the gyratory works. All scenarios provided a detailed cashflow for the cash spend across the time periods and provide the risk associated with adhering to the timescales.
- 4.3 Introduce another milestone seen in 3.13 which links to the SoS demolition and site clearance sat within the Q3 2025/26 drawdown as a separate contract to the gyratory works.

#### **5.0 Stakeholder and ward member consultation and engagement**

- 5.1 Consultation with the Lead members for Finance and Resources and Regeneration, Property and Planning has been carried out in relation to this matter. Ward Members have been engaged in terms of the proposed course of action.

#### **6.0 Financial Considerations**

- 6.1 The South Kilburn Regeneration Programme is intended to be self-financing. Costs incurred to date and future costs incurred on these programmes will need to be recovered through either grants or land receipts.
- 6.2 The variation approved by MHCLG extends the funding longstop date until 31 March 2027 allowing the spend to be incurred up to that point. This provides greater assurance that the works will be completed in the timeframe required by the HIF funding grant.
- 6.3 The £4.4m of HIF funding will be used to fund the gyratory works, which are estimated to have a total cost of £2.2m. The remaining funding will be added to the overall South Kilburn financing and also covers contingency for the scheme. The financing of the purchase of the Falcon Pub was covered previously by the New Homes Bonus.
- 6.4 All spend on gyratory works meets the definition of capital under local authority accounting requirements as the project is already in the development stage. Spend on surveys and quantity surveyors “positively takes Brent closer to having particular new or enhanced item of property, plant or equipment” (the road) because the works are definitely going ahead.

## **7.0 Legal Implications**

- 7.1 Under section 3(b) of the table at paragraph 9.5 of Part 3 of the Constitution, Corporate Directors may only vary and extend contracts and agreements provided that:
  - (a) the extension would not be in breach of Procurement Legislation.
  - (b) the extension does not substantially alter the terms and conditions of the contract.
  - (c) there is sufficient existing budgetary provision.
  - (d) if the extension goes beyond the period of extension provided for in the contract (if any) or is otherwise not in accordance with the extension provisions in the contract:
    - (i) in the case of any contract, agreement, deed or other transaction with a life of not more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of six months; or
    - (ii) in the case of any contract, agreement, deed or other transaction with a life of more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of one year.
  - (e) provided that in the case of any variation (other than an extension):
    - (i) the total value of the variation is less than £1m; and

- (ii) if the total value of the variation (and any previous variations agreed under this provision) is more than £50k it is not more than 50% of the original contract value (calculated over the life of the contract including any extensions or possible extensions and adjusted in accordance with any price review mechanism provided for in the contract).

- (f) the relevant cabinet member shall be consulted prior to a decision within (d) (i) or (ii) and (e) (i) and (ii) above and may request that the decision instead be referred to them.

7.2 For the reasons detailed in Paragraph 3.12, the Corporate Director does not have delegated powers to agree the variation and extension but pursuant to paragraph 13 of Part 3 of the Constitution, the Cabinet Member for Regeneration, Planning and Property having consulted with the Leader has delegated powers to:

7.2.1 Agree contract extension, variation or termination where the decision is excluded from officer delegated powers because:

- (a) the extension goes beyond the period of extension provided for in the contract (if any) or is otherwise not in accordance with the extension provisions in the contract; and
- (b) the contract, agreement, deed or other transaction has a life of not more than one year (including any possible extension provided for in the contract) and the extension exceeds a period of six months; or
- (c) the contract, agreement, deed or other transaction has a life of more than one year (including any possible extension provided for in the contract) and the extension exceeds a period of one year; or
- (d) in the case of any variation (other than an extension):
  - (i) the total value of the variation is £1 million or more; and
  - (ii) the total value of the variation is more than £50k and is more than 50% of the original contract value (calculated over the life of the contract including any extensions or possible extensions and adjusted in accordance with any price review mechanism provided for in the contract)
- (e) Agreement of other contract extensions, variations or terminations where the Cabinet Member requests that a decision be referred to them pursuant to Part 3 paragraph 9.5.

7.2.2 Subject to consultation with the Leader, the Cabinet Member for Regeneration, Planning & Property: has delegated powers to agree the proposed variation and extension.

## **8.0 Equity, Diversity & Inclusion (EDI) Considerations**

- 8.1 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,
- 8.2 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.
- 8.3 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.
- 8.4 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.
- 8.5 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications.
- 8.6 The area was previously a New Deal for Communities area and as such, all interventions are specifically targeted at those people who suffer social economics disadvantage. South Kilburn Trust, through its widening participation, seek to find ways of involving and engaging with all local residents and particularly those who traditionally are 'hard to reach'.
- 8.7 The new homes in South Kilburn are available to all secure tenants currently living in properties due for demolition as part of the South Kilburn regeneration programme within the neighbourhood regardless of their ethnicity, age, gender, marital status/civil partnership, sexual orientation, disability, gender identity or expression or religion or belief. A proportion of new homes are designed to be wheelchair adaptable while the allocations process considers the housing needs of secure tenants in respect of issues that maybe derived from individuals' age, disability, gender reassignment, pregnancy and maternity status, marriage and civil partnership status, race, religion or belief, sex, sexual orientation, ethnicity. Following the upcoming Needs Assessments carried out



by the Estate Regeneration Housing Team the equalities actions will be reviewed and analysed at that time.

## **9.0 Climate Change and Environmental Considerations**

- 9.1 The Council declared a climate and ecological emergency in 2019 and set out to do all in its gift to become carbon neutral on a borough-wide basis by 2030. The Council has also embarked on a pioneering 'Green Neighbourhoods' programme as one of the key focal points of its 2022-24 Delivery Plan, of which South Kilburn was selected as a 'development-led' Green Neighbourhood.
- 9.2 The HIF funding will be used to secure proposed improvements including: site clearance and enabling and infrastructure works, stopping up of the new gyratory, new raised table pedestrian crossings, widened carriageway with existing cycleway re-provided on street, new signalled junctions with pedestrian crossing and tactile pavers. The proposals will improve the walking and cycling provisions around the junction, and improvements to the vehicular environment will also improve road safety. The proposals also improve connection to local transport infrastructure in the area.
- 9.3 The proposal is therefore deemed to be alignment with the council's broader and interlined environmental sustainability strategies such as the Long Term Transport Strategy, Active Travel Implementation Plan and theme 2 of the council's Climate and Ecological Emergency Strategy – Sustainable Travel.
- 9.4 Beyond the specifics proposed for the site that are mentioned above in paragraph 9.2, should the Council be successful in acquiring the Site, as a general rule, officers should be mindful of the Council's existing climate emergency commitments and any future course of action should seek to be as environmentally sustainable as possible, and seek to minimise emissions or any detrimental environmental impact. This is especially important given that South Kilburn is a designated green neighbourhood, as mentioned above.

## **10.0 Human Resources/Property Considerations (if appropriate)**

- 10.1 There are no direct Human Resource implications of this report. The proposals contained within this report will secure the Site for future development as part of the South Kilburn Regeneration Programme.

## **11.0 Communication Considerations**

- 11.1 South Kilburn Regeneration programme including the development of the physical proposals of the area has been and will continue to be the subject of extensive consultation and engagement with the community in and around South Kilburn estate. The Programme was the subject of a Residents' ballot in 2019.

### **Related Documents:**

Cabinet 13 August 2018-

‘Approval to enter into grant agreements for two Housing Infrastructure Fund bids relating to South Kilburn and Northwick Park Regeneration Programmes’

Recordable Decision 12 December 2019-

‘Detail of grant agreement for South Kilburn HIF’

**Report sign-off**

*Alice Lester*

Corporate Director, Neighbourhoods & Regeneration