

 Brent	Officer Key Decision 2 August 2019
	Report from the Strategic Director of Regeneration & Environment
Authority To Enter Into A Commercial Agreement And Funding Agreement In Relation To Olympic Way	

Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
No. of Appendices:	One: - Appendix 1 – Commercial and funding agreements
Background Papers:	n/a
Contact Officer(s): (Name, Title, Contact Details)	Alice Lester, Operational Director Regeneration Growth and Employment Tel: 020 8937 6441 Email: alice.lester@brent.gov.uk

1.0 Purpose of the Report

- 1.1 In July 2017 Cabinet gave approval for allocating funds of up to £17.8 million to accelerate the delivery of the public realm for Zones B and C on Olympic Way.
- 1.2 In May 2018 Cabinet re-examined the funding decision for Olympic Way improvements and agreed amongst other matters for the Council to contribute up to £5.7million+VAT for works to Zone B including Fulton Road Crossing. This contribution was contingent on Quintain completing Zone A works and agreeing, using delegated powers, a business plan and agreement for the future sharing and reinvestment of the net income generated through assets on Zones A and B of Olympic Way.
- 1.3 Quintain have completed Zone A works and following negotiations between the Council and Quintain, Officers recommend that the Council enters into a commercial agreement and funding agreement in respect of Olympic Way

2.0 Recommendation(s)

That the Strategic Director of Regeneration and Environment:

- 2.1 Approves the Council's entry into a commercial agreement with Wembley Park Limited for the future sharing and reinvestment of net income generated through assets on Olympic way on the basis set out in Appendix 1, having consulted with the Cabinet Member of Regeneration, Property & Planning.
- 2.2 Approves entry into a funding agreement with Quintain Limited to contribute £5.7 million + VAT for Works to Zone B including Fulton Road Crossing following both the completion by Quintain Limited of Zone A works and approval of entry into the commercial agreement detailed in Recommendation 2.1 above.

3.0 Detail

- 3.1 In July 2017 Cabinet approved a contribution of £17.8 million to accelerate the delivery of the public realm for two of the three Zones on Olympic Way: one zone between Wembley Park underground station and the northern edge of Fulton Road (Zone B); and the other zone being the area comprising Wembley National Stadium 'pedway' with improvements being the replacement of the pedway with steps including public realm works from the foot of the pedway to the stadium (Zone C). The third zone is from Fulton Road to the foot of the pedway (Zone A). Public realm works for this Zone A have been entirely funded by Quintain.
- 3.2 This funding decision was re-examined by Cabinet in May 2018 which confirmed the total contribution for Olympic Way improvements would be up to £17.8 million + VAT, with a contribution of up to £5.7 million + VAT for works to Zone B including Fulton Road Crossing. Approval to fund Zone B work was contingent on Quintain completing Zone A works and agreeing a business plan and agreement for the future sharing and reinvestment of the net income generated through assets on Zones A and B of Olympic Way
- 3.3 Council Officers and representatives from Quintain have been involved in protracted negotiations concerning the future sharing and reinvestment of the net income generated through assets on Zones A and B. During this time Quintain have completed works to Zone A and indeed have commenced works to Zone B that are ongoing.
- 3.4 As a result of negotiations, Officers now recommend entry into a commercial agreement, the basis of which is detailed in Appendix 1. It will be noted that a minimum guarantee and profit share arrangement is proposed to last for 25 years but subject to a break at year 10. It is proposed that this agreement is entered into with the Quintain company responsible for the collection of all revenues and costs associated with Olympic Way, namely Wembley Park Limited.

- 3.5 As Quintain have concluded works to Zone A and subject to the Strategic Director of Regeneration and Environment agreeing to enter into the commercial agreement in respect of Olympic Way, Officers recommend the council enters into a funding agreement in respect of Zone B for payment of a contribution of up to £5.7 million + VAT for works to Zone B including Fulton Road Crossing

4.0 Financial Implications

- 4.1 The report considers matters that were considered previously at the Cabinet meeting on 24 July 2017 and the financial implications were set out at that time. The matter was further considered at the Cabinet meeting on 21 May 2018. The financial implications have not changed since that time and it remains the case that there are sufficient unallocated Strategic CIL funds to finance the contribution to Zone B works up to £5.7 million + VAT.
- 4.2 The Council and Quintain are entering into an agreement that will result in Quintain supplying the Council with works which it will undertake, in order to make improvements to the public realm (a normal local authority function). On that basis, where the Council incurs VAT on the costs of those works it should be recoverable as it relates to the Council's statutory obligations
- 4.3 The commercial agreement set out in Appendix 1 would bring about revenue benefits to the Council which would be reinvested into Brent activities and into the Regeneration department thereby protecting services.

5.0 Legal Implications

- 5.1 Part VII of the Highways Act 1980 provides the Council with powers to undertake works which includes the ability to enhance the pedestrian walkway. Olympic Way is deemed a highway but it is not a highway maintained at the public expense.
- 5.2 Section 115E of the Highways Act 1980 provides powers to the Council to provide permission to persons other than the Council to undertake anything a Council could do in under or over a highway. Quintain, having competitively tendered for and appointed a contractor, have carried out works to Zone A and are currently carrying out works to Zone B at risk but as a result of the "Statement of Common Ground" dating back to 2010 and the Cabinet decision of 24 July 2017 and 21 May 2018.
- 5.3 Cabinet in May 2018 delegated authority to the Strategic Director of Regeneration & Environment in consultation with the Cabinet Member of Regeneration, Property & Planning to agree a business plan and entry into an agreement for the future sharing and reinvestment of net income generated through assets on Olympic Way. Should the Strategic Director of Regeneration & Environment approve such commercial agreement and with the completion of Zone A works, this would enable him to approve entry into the agreement to contribute £5.7 million + VAT towards Zone B Works.

6.0 Equality Implications

- 6.1 The Equality Act 2010 introduced a new public sector equality duty under section 149. It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Council must, in exercising its functions, have “due regard” to the need to:
1. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 2. Advance equality of opportunity between people who share a protected characteristic and those who do not.
 3. Foster good relations between people who share a protected characteristic and those who do not.
- 6.2 Statutory public consultation has been carried out in the determination of the planning application for the works to Olympic Way which have taken account of the impacts with regards to disabilities and pregnancy/maternity through inclusive and accessible design consistent with policy and guidance. This includes issues such as gradients/obstructions, appropriate spacing of seating/resting points for mobility issues, use of contrasting colours/tones for materials, tactile surfaces and lighting for visibility impairment. However, an Equalities Analysis Assessment screening opinion has been undertaken which confirms that the impacts on those with a disability and those with a pregnancy/maternity protected characteristics will not be adversely affected by changes to Olympic Way.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 This report considers matters that were considered previously at the Cabinet meeting of 24 July 2017 and 21 May 2018 and no further consultation has been undertaken.

8.0 Human Resources/Property Implications (if appropriate)

- 8.1 None arising from this report save as to the property implications detailed in the body of the report.

Related documents:

July 2017 Cabinet report - Strategic Community Infrastructure Levy contribution: proposal for enhancing public realm in Olympic Way (associated with Site NW04's Contribution to the Education Quarter)

May 2018 Cabinet report - Re-examine the funding decision for Olympic Way improvements following the announcements of the possible sale of Wembley Stadium to a private individual / company

Report sign off:

AMAR DAVE

Strategic Director, Regeneration and Environment