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|  | Officer Key Decision |
| | Report to the Strategic Director of Regeneration & Environment |
| AUTHORITY TO ENTER INTO A COMMERCIAL AGREEMENT AND FUNDING AGREEMENT IN RELATION TO OLYMPIC WAY ZONE C | |

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| Wards Affected: | Tokyngton |
| Key or Non-Key Decision: | Key Decision |
| Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small> | Part Exempt – Appendix 1 is exempt as it 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: | One Appendix 1: (exempt) Proposed Commercial Agreement |
| Background Papers: | None |
| Contact Officer(s): <small>(Name, Title, Contact Details)</small> | 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 public realm improvements for Olympic Way Zones B and C, contingent upon Quintain fulfilling a number of actions.
- 1.2 In May 2018 Cabinet re-examined this decision in the context of a potential sale of the Stadium to a private entity. In the event, this did not happen.

Cabinet confirmed the total contribution for Olympic Way improvements would be up to £17.8 million + VAT.

- 1.3 A funding agreement and a commercial agreement between Quintain (and a Quintain group company, Wembley Park Ltd) and the Council in respect of Zones A and B were agreed in August 2019. Quintain have completed Zone A and B works and the relevant provisions within these agreements enacted.
- 1.4 Work to Zone C is shortly to commence. The bulk of this part of the public realm improvements is the replacement of the pedway with steps.
- 1.5 Officers recommend a commercial agreement and funding agreement in respect of the public realm improvement works to Olympic Way Zone C is entered into, along with a necessary variation to the Zone A & B commercial agreement to reflect this.

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 created through Olympic Way Zone C public realm improvements, 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 up to £12.1 million + VAT for Works to Zone C.
- 2.3 Approves the variation of the commercial agreement in respect of Zones A and B dated 19th August 2019 to ensure consistent expiry and termination provisions between it and the commercial agreement in respect of Zone C.

3.0 Detail

- 3.1 In July 2017 Cabinet approved a contribution of up to £17.8 million to accelerate the delivery of the public realm on Olympic Way, specifically Zone B between Wembley Park station and the northern edge of Fulton Road; and Zone C, the area comprising the Stadium 'pedway' and the area from the foot of the pedway to the stadium entrance. The improvements to this zone including the replacement of the pedway with steps. The contribution was contingent on Quintain:
 - a) Not pursuing development of site NW04 adjacent to the Civic Centre to the extent permitted in the parameters plans associated with outline planning permission 10/3032;

- b) Working with the Council to deliver a development that better complements the role and setting of the Civic Centre, in particular creating a significant new square outside the Civic Centre Library; and
 - c) Agreeing a business plan and heads of terms, between Quintain and the council, for the future sharing and reinvestment of net income generated through assets on Olympic Way.
- 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. Approval for this 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 The requirements detailed in paragraph 3.2 have been satisfied, with agreements signed in August 2019. Works to Zones A and B have been completed, the contribution of £5.7 million + VAT has been paid to Quintain and the minimum guaranteed payment as per the commercial agreement has been received by the Council.
- 3.4 Quintain now want to confirm arrangements for the funding agreement for Zone C (£12.1 million + VAT) and the commercial agreement for Zone C having agreed the requirements detailed in paragraph 3.1. Quintain proposed doing this by a variation to the existing commercial agreement for Zones A & B (which does include Zone C lampposts). However officers consider a new and separate commercial agreement with associated variation to the Zone A & B as necessary, is the best approach for Zone C. This will provide separation from the existing commercial agreement and between the works already completed in A & B, and those still to come in Zone C.
- 3.5 It is noted, however, that there are limited and ad hoc opportunities to secure income from Zone C assets. The lampposts in Zone C were included in the previous Zone A and B commercial agreement. Notwithstanding the unknown income generating opportunities, officers consider that it is appropriate for there to be an agreement to ensure an equal share of any net profit generated. The arrangement will be in place for at least 10 years. It is proposed that this agreement is entered into with the Quintain group company responsible for the collection of all revenues and costs associated with Olympic Way, namely Wembley Park Limited. A copy of the proposed commercial agreement is at Appendix1.

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 total funding 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 C works up to £12.1 million + VAT.

- 4.2 The funding agreement has been renegotiated and the table below sets out the revised drawdown milestones and payment profile for Zone C as follows:

| LBB Milestone Payments | Fixed Rate | |
|-------------------------|------------|-----------------------|
| | % | LLB Milestone Payment |
| On signing of Agreement | 40% | £ 4,840,000 |
| On Demolition | 30% | £ 3,630,000 |
| On PC | 30% | £ 3,630,000 |
| Total Cost | 100% | £ 12,100,000 |

In the event that on signing of agreement the costs incurred by Quintain for works is below 40% of the total cost of works they are to incur, the first payment should be reduced to the % of costs actually incurred by Quintain and the difference added to the final payment on Practical Completion. All claims for payments must be accompanied by certified valuation of works, and will be subject to validation by the Council.

- 4.3 The Council and Quintain are entering into an agreement that will result in Quintain undertaking works in order to make improvements to the public realm (a normal local authority function). The costs of the works will be subject to VAT which the Council can recover as it relates to the Council's statutory obligations.

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 to carry out works to Zone C and are currently carrying out works to Zone C 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 July 2017 approved a total contribution to works on Olympic Way of £17.8 million contingent on those matters detailed in paragraph 3.1. Quintain have agreed the requirements detailed in paragraph 3.1 and these have been incorporated into the proposed funding and commercial agreements. Should the Strategic Director of Regeneration & Environment approve the proposed commercial agreement for Zone C at Appendix 1 this would enable him to approve entry into the funding agreement to contribute £12.1 million + VAT towards Zone C 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 CIL 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:

ALICE LESTER

Operational Director Regeneration
Growth and Employment.