

Call-In Sub-Committee AGENDA

DATE: Monday 17 June 2019

TIME: 6.30 pm

VENUE: Committee Room 5, Harrow Civic Centre, Station Road, Harrow, HA1 2XY

MEMBERSHIP (Quorum 3)

Chair: Councillor Angella Murphy-Strachan

Councillors:

Natasha Proctor
Chloe Smith

Richard Almond
Norman Stevenson

Reserve Members:

- | | |
|-----------------------|------------------|
| 1. Jeff Anderson | 1. Jean Lammiman |
| 2. James Lee | 2. Lynda Seymour |
| 3. Pamela Fitzpatrick | |

Contact: Daksha Ghelani, Senior Democratic Services Officer
Tel: 020 8424 1881 E-mail: daksha.ghelani@harrow.gov.uk

Useful Information

Meeting details:

This meeting is open to the press and public.

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<http://www.harrow.gov.uk/site/scripts/location.php>.

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An induction loop system for people with hearing difficulties is available. Please ask at the Security Desk on the Middlesex Floor.

Agenda publication date: Wednesday 12 June 2019

AGENDA - PART I

1. ATTENDANCE BY RESERVE MEMBERS

To note the attendance at this meeting of any duly appointed Reserve Members.

Reserve Members may attend meetings:-

- (i) to take the place of an ordinary Member for whom they are a reserve;
- (ii) where the ordinary Member will be absent for the whole of the meeting; and
- (iii) the meeting notes at the start of the meeting at the item 'Reserves' that the Reserve Member is or will be attending as a reserve;
- (iv) if a Reserve Member whose intention to attend has been noted arrives after the commencement of the meeting, then that Reserve Member can only act as a Member from the start of the next item of business on the agenda after his/her arrival.

2. DECLARATIONS OF INTEREST

To receive declarations of disclosable pecuniary or non pecuniary interests, arising from business to be transacted at this meeting, from:

- (a) all Members of the Sub-Committee;
- (b) all other Members present.

3. MINUTES (Pages 5 - 12)

That the minutes of the meeting held on 5 February 2018 be taken as read and signed as a correct record.

4. APPOINTMENT OF VICE-CHAIR

To appoint a Vice-Chair for the Municipal Year 2019/20.

5. PROTOCOL FOR THE OPERATION OF THE CALL-IN SUB-COMMITTEE (Pages 13 - 14)

6. CALL-IN OF THE CABINET DECISION - (30 MAY 2019) - HARROW STRATEGIC DEVELOPMENT PARTNERSHIP (Pages 15 - 46)

- a) Notice invoking the Call-in;
- b) Minutes of the Cabinet meeting held on 30 May 2019;
- c) Report submitted to the Cabinet on 30 May 2019.

7. EXCLUSION OF THE PRESS PUBLIC

To resolve that the press and public be excluded from the meeting for the following item of business, on the grounds that it involves the likely disclosure of confidential information in breach of an obligation of confidence, or of exempt information as defined in Part I of Schedule 12A to the Local Government Act 1972:

| <u>Agenda Item No</u> | <u>Title</u> | <u>Description of Exempt Information</u> |
|-----------------------|---|---|
| 8. | Call-in of the Cabinet Decision (30 May 2019) - Harrow Strategic Development Partnership – appendices 2, 3, 4 and 5 | Information relating to the financial or business affairs of any particular person (including the authority holding that information) |

AGENDA - PART II

8. CALL-IN OF THE CABINET DECISION (30 MAY 2019) - HARROW STRATEGIC DEVELOPMENT PARTNERSHIP (Pages 47 - 114)

REASONS FOR LATENESS AND URGENCY

In accordance with the Local Government (Access to Information) Act 1985, this meeting is being called with less than 5 clear working days' notice by virtue of the special circumstances and grounds for urgency stated below:-

Under Committee Procedure Rule 46.6 a meeting of the Call-in Sub-Committee must be held within 7 clear working days of the receipt of a request for Call-in. This meeting therefore had to be arranged at very short notice and it was not possible for the agenda to be published 5 clear working days prior to the meeting.

CALL-IN SUB-COMMITTEE MINUTES

5 FEBRUARY 2018

Chair: * Councillor Phillip O'Dell

Councillors: * Richard Almond * Ms Pamela Fitzpatrick (3)
* Jo Dooley * Norman Stevenson

In attendance: Paul Osborn Minute 23
(Councillors)

* Denotes Member present
(3) Denotes category of Reserve Member

18. Attendance by Reserve Members

RESOLVED: To note the attendance at this meeting of the following duly appointed Reserve Members:-

Ordinary Member

Reserve Member

Councillor Jeff Anderson

Councillor Pamela Fitzpatrick

19. Declarations of Interest

RESOLVED: To note that the following interests were declared:

Agenda Item - Call-In of the Cabinet Decision: Library Management Contract Extension

Councillor Pamela Fitzpatrick declared a non-pecuniary interest in that she was a trustee of the Harrow Community Library. She would remain in the room whilst the matter was considered and voted upon.

20. Appointment of Vice Chair

RESOLVED: That Councillor Richard Almond be appointed Vice-Chair for the 2017/18 Municipal Year.

21. Minutes

RESOLVED: That the minutes of the meeting held on 8 February 2016 be taken as read and signed as a correct record.

22. Protocol for the Operation of the Call-In Sub-Committee

The Chair drew attention to the document 'Protocol for the Operation of the Call-In Sub-Committee'. He outlined the procedure to be followed at the meeting, and the options open to the Sub-Committee at the conclusion of the process.

In accordance with Committee Procedure Rule 46.5, a notice seeking to invoke the call-in procedure must state at least one of the following grounds in support of the request for a call-in of the decision:

- a) inadequate consultation with stakeholders prior to the decision;
- b) the absence of adequate evidence on which to base a decision;
- c) the decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework;
- d) the action is not proportionate to the desired outcome;
- e) a potential human rights challenge;
- f) insufficient consideration of legal and financial advice.

He informed the Sub-Committee that the grounds a), b) and d) had been cited on the Call In notice, and this had been deemed to be valid for the purposes of Call-in.

RESOLVED: That the Call-In would be determined on the basis of the following grounds:

- a) inadequate consultation with stakeholders prior to the decision;
- b) the absence of adequate evidence on which to base a decision;
- d) the action is not proportionate to the desired outcome;
- e) insufficient consideration of legal and financial advice.

The Legal Adviser stated that the Sub-Committee, having considered the grounds for the call-in and the information provided at the meeting, may come to **one** of the following conclusions:-

- (i) that the challenge to the decision should be taken no further and the decision be implemented;
- (ii) that the matter should be referred back to the decision taker (i.e the Portfolio Holder or Executive, whichever took the decision) for reconsideration. In such a case the Call-in Sub-Committee must set out the nature of its concerns / reasons for referral for the decision taker/Executive.

RECOMMENDED ITEMS

23. Call-In of the Cabinet Decision (18 January 2018) - Library Management Contract Extension

The Sub-Committee received the papers in respect of the call-in notice submitted by 6 Members of the Council in relation to a decision made by Cabinet on 18 January 2018 regarding the Library Management Contract Extension. The contract, which had been jointly procured with the London Borough of Ealing, had been managed by the Construction Company Carillion until recently when Carillion had gone into compulsory liquidation.

The Chair advised the Sub-Committee on the suggested order of proceedings and reminded Members of the timings allowed for submissions and questions. He invited the representative of the signatories to present his reasons for the call-in.

The representative stated that:

- he was grateful that he had been kept informed by both the leader and relevant officers about the latest position regarding Library Management Contract since the recent announcement that Carillion had gone into compulsory liquidation;
- at its Cabinet Meeting on Tuesday 16 January, Ealing Council had presented an addendum to their Cabinet Report regarding extending the library contract with Carillion for a further 5 years;
- Ealing Council had, in light of the liquidation, presented an addendum to their Cabinet Report regarding extending the library contract with Carillion for a further 5 years at its Cabinet Meeting on Tuesday 16 January. However, in his view, Ealing's proposals in the addendum were too broad and long-term and he had been surprised to see that the recommendations proposed by Harrow with regard to its Library Management contract closely resembled those proposed by Ealing;
- in his view, the Library Management Contract item could have been deferred until February 2018 Cabinet meeting and he had requested this be done but his request had not been agreed;

- he had submitted the call-in because he was particularly concerned that authority to make longer term decisions over a key service area had been delegated to officers without the possibility of further public scrutiny or consultation.

The representative made the following points with regard to each of the grounds for the call-in:

Inadequate consultation with stakeholders prior to the decision:

- revised versions of recommendations B and D of the Cabinet Report relating to the Library Management Contract Extension had been tabled during consideration of the item at the Cabinet meeting of 18 January 2018. Library staff, the trade unions, the opposition, residents and library users had not been consulted regarding the proposals and this equated to inadequate consultation and inadequate scrutiny;
- furthermore, no timescales had been set out for Recommendation D. Recommendation B would allow officers to novate the contract until 31 August 2023. However, very little detail had been provided regarding any potential future provider or the nature of any potential new contract. For example, he would expect financial and legal implications, estimated costs associated with any new contract, key performance indicators, an equalities impact assessment to have been provided as part of the revised recommendations.

The action was not proportionate to the desired outcome:

- he was aware of the tight timescales and the urgent need to stabilise the Library Service. However, the revised recommendations delegated authority to officers to sign off on long-term decisions relating to the Library Management contract without further reference to Cabinet. Should the Council decide to terminate such a contract mid-term then this could prove both difficult and costly.

Insufficient consideration of legal and financial advice:

- the revised recommendations did not provide any detail regarding leases, maintenance of library sites, TUPE (Transfer of Undertakings (Protection of Employment) Regulations or whether the authority could enter into another shared service with a neighbouring local authority.

He concluded by stating that none of the above issues had been addressed due to the last minute nature of the amendments tabled at Cabinet on 18 January 2018.

Following questions and comments from the Sub-Committee, the Portfolio Holder for Community, Culture and Resident Engagement stated that:

- the measures proposed in the revised recommendations were a holding position designed to reassure all stakeholders and avoid service disruption. At the time of the Cabinet meeting, the Council's legal position with regard to Carillion had been unclear and the administration had wanted to send out a strong message that would reassure both library staff and residents about the continuity of the service. Because this had been an emergency situation with tight timescales, last minute revisions continued to be made to the tabled document until shortly before the start of the Cabinet meeting of 18 January;
- it was her understanding that although Cabinet sought to delegate responsibility to officers, nevertheless, Cabinet would still be the final arbiter in the matter in relation to longer term decisions about the library service and a report would have been submitted to a future meeting of Cabinet. In her view, the requisite legal, and financial clearances, consultation and scrutiny would only be possible once detailed proposals had been formulated by officers. This had been an emergency situation that had required swift action. Furthermore, any decision proposed with regard to the future of the contract would have to comply with the requirements of the Constitution, although she accepted that the recommendations did not explicitly state this and that the revised recommendations could have been better drafted. She added that paragraph 2.6 and paragraph 3 of Article 3B of the Council's Constitution, which dealt with Cabinet delegations stated that 'officers were accountable to the Committee from which those delegated powers derived';
- the revised recommendation E related to the requirement for officers to take urgent action with regard to smaller contracts related to the provision of library services.

Following questions and comments from the Sub-Committee, the Portfolio Holder for Finance & Commercialisation stated that he supported the above comments made by the Portfolio Holder for Community, Culture and Resident Engagement, adding that:

- this had been a fast-moving situation attracting considerable national and local attention. Cabinet and officers were impelled to take immediate action to deal with the situation. The intention behind the revised recommendations had been to provide greater flexibility by allowing officers the discretion to explore all possible options while reassuring staff and residents about service continuity;
- he too had been of the view that any final decision regarding the longer term future of the library service would have been referred back to Cabinet at a future date. He acknowledged that this could have been made more explicit in the revised recommendations.

The Legal Officer advised that it was at the discretion of the officer to whom authority had been delegated, exercising their good judgment, whether they

chose to exercise the delegation. In cases where a matter was deemed politically sensitive or had unusual features or other significant issues then it may be appropriate to refer the matter back to Cabinet for further consideration.

Following questions, the Corporate Director, Community advised that:

- Recommendation E related to negotiations with contractors to ensure continuity of service provision, for example, continued provision of the LMS (Library Management System), of all utilities to stabilize the service and arrangements being put in place with providers;
- in managing the liquidation process, the intention had been to consider bringing the service back in-house initially for a three to four month period, to explore other options regarding the future role of libraries across the borough and different operating models of service delivery. He added that in accordance with principles of good governance and safe decision-making, he fully expected to consult the relevant portfolio holders and Cabinet regarding any future actions to be taken.

The Sub-Committee proposed that the words 'subject to final consideration by Cabinet', could be inserted in any revised recommendations to clarify the position.

Both the Portfolio Holder for Finance & Commercialisation and the Portfolio Holder for Community, Culture & Resident Engagement concurred that they would be agreeable to the amendment proposed by the Sub-committee being considered by Cabinet as this would specify that Cabinet would be the final decision-maker on the matter.

The Corporate Director confirmed that this proposal would not impede the progress of work being undertaken to stabilise the service and the review of the service.

The Sub-Committee expressed the view that in the interests of good governance, legal officers should always ensure that all recommendations to Cabinet were explicit and consistent with the provisions of the Constitution.

The Sub-Committee adjourned from 8.26 to 9.00 pm for deliberations.

The Sub-Committee, noting the Portfolio Holders' comments that they were also content for the relevant recommendations to be reconsidered by Cabinet,

RESOLVED: That

- (1) the call-in on ground (a) – inadequate consultation with stakeholders prior to the decision – be upheld as:
 - the Committee wondered why the Tabled Document had not been circulated earlier in the meeting. In view of the special circumstances, the Cabinet meeting of 18 January 2018 could have

been postponed by 30 minutes to allow time for members to more fully consider the tabled document in advance of consideration of the item;

(2) the following grounds for call-in:

- (i) ground (b) – the absence of adequate evidence on which to base a decision;
- (ii) ground (d) – the action was not proportionate to the desired outcome;
- (iii) ground (f) – insufficient consideration of legal and financial advice;

all be upheld for the following reasons:

- the revised recommendation went beyond what had been intended by the Portfolio Holder for Finance & Commercialisation and the Portfolio Holder for Community, Culture and Resident Engagement. The Call-In Sub-Committee recommends that in the future any delegation of authority from Cabinet to officers should be qualified where necessary to reflect Cabinet's intentions accurately.

(Note: The meeting, having commenced at 7.36 pm, closed at 9.10 pm).

(Signed) COUNCILLOR PHILLIP O'DELL
Chair

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PROTOCOL FOR THE OPERATION OF THE CALL-IN SUB-COMMITTEE

1. Call-in is the process whereby a decision of the Executive, Portfolio Holder or Officer (where the latter is taking a Key Decision) taken but not implemented, may be examined by the Overview and Scrutiny Committee prior to implementation. The Overview and Scrutiny Committee has established the Call-in Sub-Committee to carry out this role. Committee Procedure Rule 46 sets out the rules governing the call-in process.

The Process for Call-in

2. Six of the Members of the Council can call in a decision of the Executive which has been taken but not implemented. In relation to Executive decisions on education matters only, the number of Members required to call in a decision which has been made but not implemented shall be six Councillors or, in the alternative, six persons comprising representatives of the voting co-opted members and at least one political group on Overview and Scrutiny Committee. Only decisions relating to Executive functions, whether delegated or not, may be called in.

150 members of the public (defined as anyone registered on the electoral roll of the Borough) can call in a decision of the Executive, which has been taken but not implemented.

3. Decisions of the Executive will not be implemented for 5 clear working days following the publication of the decision and a decision can only be called in within this period (this does not apply to urgent decisions - Committee Procedure Rule 46 refers). The notice of the decision will state the date on which the decisions may be implemented if not called in.
4. Call-in must be by notification to the Monitoring Officer in writing or by fax:
 - (i) signed by all six Members and voting co-optees requesting the call-in. A request for call-in by e-mail will require a separate e-mail from each of the six Members concerned.
 - (ii) signed by all 150 members of the public registered on the electoral roll, and stating their names and addresses.
5. In accordance with Committee Procedure Rule 45.5, a notice seeking to invoke the call-in procedure must state at least one of the following grounds in support of the request for a call-in of the decision:-
 - (a) inadequate consultation with stakeholders prior to the decision;
 - (b) the absence of adequate evidence on which to base a decision;
 - (c) the decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework;
 - (d) the action is not proportionate to the desired outcome;
 - (e) a potential human rights challenge;
 - (f) insufficient consideration of legal and financial advice.

Referral to the Call-in Sub-Committee

6. Once a notice invoking the call-in procedure has been received, the decision may not be implemented until the Chair and nominated member have considered the guidance outlined in Appendix 1 to the Committee Procedure Rules and, if required, the Call-in Sub-Committee has considered the decision. The Monitoring Officer shall in consultation with the Chair arrange a meeting of the Call-in Sub-Committee to be held within seven clear working days of the receipt of the request for call-in.

7. The Call-in Sub-Committee will consider the decision and the reasons for call-in. The Sub-Committee may invite the Executive decision-taker and a representative of those calling in the decision to provide information at the meeting.
8. The Sub-Committee may come to one of the following conclusions:-
 - (i) that the challenge to the decision should be taken no further and the decision be implemented;
 - (ii) that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget framework, and should therefore be referred to the Council. In such a case the Call-in Sub-Committee must set out the nature of its concerns for Council; or
 - (iii) that the matter should be referred back to the decision taker (i.e the Portfolio Holder or Executive, whichever took the decision) for reconsideration. In such a case the Call-in sub-committee must set out the nature of its concerns for the decision taker/Executive.

NOTICE OF CALL-IN OF CABINET DECISION OF 30 MAY 2019 – HARROW STRATEGIC DEVELOPMENT PARTNERSHIP

I hereby give notice that I would like to call in the decision “Harrow Strategic Development Partnership” taken by Cabinet on 30th May 2019.

The reasons for the Call-in are as follows:

1) inadequate consultation with stakeholders prior to the decision;

The Report doesn't make any mention of consultation with residents or stakeholders apart from a passing reference to consultation carried out 5 years ago. Specifically, it makes no mention of the “Residents’ Regeneration Panel” which was described in the Corporate Plan (Harrow Ambition Plan) as a “one-of-a-kind, best-in-class initiative showing how residents and Council can work together in partnership to improve schemes and public relations”. So far all the consultation with the public has been on the basis that these projects will be to develop homes for the Private rented sector with the proceeds helping to provide revenue for the Council. Given that this is a significant departure from the previous plans there is a reasonable expectation that further consultation would take place before the decision was made.

Further, the cross-party meeting designed to get a consensus for this long-term commitment was repeatedly cancelled by the administration. Whilst the Opposition were provided with a draft copy of the report before publication there was no opportunity to discuss suggestions and concerns with the administration.

2) the absence of adequate evidence on which to base a decision;

The report includes three sites (Poet’s Corner; Peel Road (which is the preferred site for the Harrow New Civic Centre) and Byron Quarter (Phase 1)) and specifically excludes one site at this stage (Greenhill Way site). No evidence is offered to explain this choice and no financial assessment has been made of the Greenhill Way site. The Regeneration Update which was also discussed at the 30th May Cabinet meeting stated “the Council considered that Greenhill Way is a good centrally located site which would gain the interest of a Joint Venture Partner”. The Aspire report, commissioned by the Council, also recommends that the Council consider whether it should “include the site in a JV” stating that as the Council intends to bring forward three sites to a JV “this presents the opportunity to include the Greenhill Way site” which would “allow the JV partner’s expertise to be utilised to prepare a viable scheme”. No explanation is given, and no evidence offered as to why this site wasn’t therefore included in this joint venture.

Further, the report provides no evidence showing why the New Civic Centre should be in Wealdstone, which the report states is the preferred site. There has been no financial appraisal of the various sites, specifically the Greenhill Way site. Equally there has been no consideration of the effect on the Town Centre of not bring the “key strategic” site of Greenhill Way forward.

3) the decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework;

The report states that the future financial implications can't be quantified at this stage but "If the financial implications of the HSDP can be quantified at the point of setting the draft and final budget and the MTFs, scheduled for Cabinet in December 2019 and February 2020 respectively, the appropriate changes will be recommended. Should this not be the case the budget, MTFs and capital programme will be updated and reported in line with Financial Regulations."

This means that this decision sets the Council on a path which may result in expenditure outside the current Budget framework set by Full Council in February 2019. Cabinet does not have the authority to go outside the framework set by Full Council, if the Executive wishes to change that framework they are required to seek the approval of the Full Council.

4) insufficient consideration of legal and financial advice.

The business cases for these schemes have not be approved by Cabinet and as stated above there has been no financial viability assessment of either bringing forward the Greenhill Way site at this stage or of locating the New Civic Centre on the Greenhill Way site. Instead it sets a preferred site with no financial advice or evidence to support this preference.

Signed by Councillors:

1. Paul Osborn
2. Ramji Chauhan
3. Stephen Wright
4. Anjana Patel
5. Camilla Bath
6. Pritesh Patel
7. Christopher Baxter
8. Marilyn Ashton
9. Ameet Jogia
10. Chetna Halai
11. John Hinkley

CABINET

30 MAY 2019

Record of decisions taken at the meeting held on Thursday 30 May 2019.

Present:

Chair: * Councillor Graham Henson

Councillors:

| | |
|------------------|--------------------|
| * Sue Anderson | * Varsha Parmar |
| * Simon Brown | * Christine Robson |
| * Keith Ferry | * Krishna Suresh |
| * Phillip O'Dell | * Adam Swersky |

Non-Executive Cabinet Member: * Antonio Weiss

Non-Executive Voluntary Sector Representative: * John Higgins

| | | |
|-----------------------|----------------|------------|
| In attendance: | Richard Almond | Minute 169 |
| | Marilyn Ashton | Minute 169 |
| | Paul Osborn | Minute 169 |

* Denotes Member present

165. Apologies for Absence

No apologies for absence had been received.

166. Declarations of Interest

RESOLVED: To note that the following interest was declared:

Agenda Item 9 - Regeneration Programme Update – Building a Better Harrow

Councillor Osborn declared a non-pecuniary interest and would remain in the room whilst the matter was considered and voted upon.

167. Petitions

RESOLVED: To note that the following petitions had been received:

1. Petition – Parking in Melrose Road

Silvia Berberian presented a petition on behalf of residents of Melrose Road and Kingsley Road with the following request:

“We, the residents of Melrose Road and Kingsley Road, petition the Council to apply restricted parking hours to the area to prevent non-residents from parking”

RESOLVED: That the petition be received and referred to the Corporate Director, Community for a response.

2. Petition - Weald Lane 20MPH Zone

Councillor O'Dell presented a petition on behalf of ratepayers and residents of Weald Lane with the following request:

“We, the undersigned residents of Weald Lane, call upon Harrow Council to introduce a 20 MPH Zone on our road to prevent speeding and increase road safety.”.

RESOLVED: That the petition be received and referred to the Corporate Director, Community for a response.

168. Public Questions

To note that two public questions had been received and responded to and the recording had been placed on the website.

169. Councillor Questions

The Councillor Questions were responded to and the audio recording placed on the Council's website.

170. Key Decision Schedule May - July 2019

RESOLVED: To note the contents of the Key Decision Schedule for the period May - July 2019.

171. Progress on Scrutiny Projects

RESOLVED: That the progress on scrutiny projects report be noted.

RECOMMENDED ITEMS

172. Local Implementation Plan 3

Resolved to RECOMMEND: (to Council)

That

- (1) the revised Transport Local Implementation Plan (LIP3) set out at Appendix A to the report be adopted; and
- (2) the Corporate Director, Community be authorised to make minor changes and updates to the planned programme of investment, subject to additional information on funding being provided following approval of the LIP3 by Council.

Reason for Recommendations: LIP3 was a statutory document and would make a significant improvement to the borough. The objectives and policies included in LIP3 would enable the borough to deliver improved air quality, safer neighbourhoods, improved accessibility, and improve borough health through providing increased opportunities for active travel.

The Strategic Environmental Statement was a statutory document that needed to be published following adoption of LIP3 by Council.

RESOLVED ITEMS

173. Regeneration Programme Update - Building a Better Harrow

Having considered the confidential appendix, it was

RESOLVED: That the successful progress on the delivery of the Council led Regeneration activity across the borough through both public and private partners be noted.

Reason for Decision: To provide an update report to Members on the progress of all Regeneration activity being designed and delivered across the borough.

174. Harrow Strategic Development Partnership

Having considered the confidential appendices, it was

RESOLVED: That

- (1) the Regeneration Programme Objectives, as set out in paragraph 3.2 of the officer report, be approved;
- (2) a Strategic Development Partnership, established through a partnership vehicle, be agreed as the preferred delivery approach for the development of Core Sites in the Regeneration Programme;

- (3) the commencement of the proposed procurement exercise to identify a Strategic Development Partner, as set out in paragraph 7.1 of the officer report, be approved;
- (4) the proposition to be put to the market, as part of the procurement exercise, and as set out in confidential Appendix 5 to the officer report be agreed;
- (5) the Corporate Director, Community, following consultation with the Portfolio Holder for Planning, Regeneration and Employment and the Portfolio Holder for Finance and Resources, be authorised to:
 - a. make any necessary amendments to the draft procurement documentation and agree the final versions for publication; and
 - b. take all other necessary steps to conduct the procurement exercise, including shortlisting and deselection of bidders in accordance with the Public Contract Regulations 2015; and
- (6) the Corporate Director, Community, be authorised to procure support for external commercial and legal advice to support the procurement exercise, the costs of which must be contained within the agreed financial capacity stated at paragraph 9.1. to the officer report.

Reason for Decision: In order to progress the delivery of the Council's Regeneration Programme for Core Sites in its ownership which would contribute to Harrow's regeneration ambitions.

175. Harrow Road Safety Strategy

RESOLVED: That, subject to approval of the Local Implementation Plan 3 (LIP3) by Council, the Harrow Road Safety Strategy set out at Appendix A to the officer report be approved.

Reason for Decision: The publication of the road safety strategy provided greater detail as to how the borough would implement many of the road safety initiatives identified in the Transport Local Implementation Plan (LIP3).

A Road Safety strategy was an effective way to show that Harrow was discharging its duty under the Road Traffic Act 1988. The Act required authorities to prepare and carry out a programme of measures designed to promote road safety. A local road safety strategy was a central part of the evidence to show how this was being undertaken in Harrow.

176. Sustainable Transport Strategy

RESOLVED: That, subject to formal approval of the LIP3 by Council, the Harrow Walking, Cycling and Sustainable Transport Strategy as set out at Appendix A to the officer report be approved.

Reason for Decision: The publication of Harrow's walking, cycling and sustainable transport strategy would be provide greater clarity and more details as to how the borough would implement the Transport Local Implementation Plan (LIP3).

The publication of the Sustainable Modes of Transport (SMOT) strategy was a statutory requirement.

177. Children Looked After Health Assessment Contract

RESOLVED: That

- (1) the integration of the current Children Looked After (CLA) Health Assessment Service into the 0-19 Health Visiting and School Nursing Service by way of contract variation be approved; and
- (2) the Corporate Director, People Services, following consultation with the Portfolio Holder for Young People and Schools and the Portfolio Holder for Finance and Major Contracts, be authorised to approve the variation.

Reason for Decision: Harrow Council along with Harrow Clinical Commissioning Group (CCG) had a statutory duty to assess and improve the health and wellbeing outcomes of looked after children and care leavers.

178. Authority to Procure a Renewal of the Council's Microsoft Licences

RESOLVED: That

- (1) the procurement of Microsoft licences to permit the use by the Council of necessary software and services with an estimated contract value of up to £2m for a period of 3 years be approved;
- (2) the Corporate Director of Resources, following consultation with the Portfolio Holder for Finance and Resources, be authorised to agree the contract details including the exact quantity and type of licences to procure; and
- (3) the Corporate Director of Resources, following consultation with the Director of Legal & Governance Services, be authorised to enter into the necessary legal agreements/contract with Microsoft.

Reason for Decisions: The Council was an established consumer of Microsoft software products for user devices and infrastructure services. The existing license arrangement (an 'Enterprise Agreement') for Microsoft products would come to the end of its three year term in June 2019. Before licences were procured it was best practice to review the requirement to ensure only those licenses needed were acquired.

The results of this review were heavily reliant on a recently commissioned project to deploy Windows 10 and Office 365 across the estate. This project

includes an assessment of the optimum licensing model which would feed into the best practice review.

The approval to proceed was being requested as it would not be possible for the necessary standard approvals to be received before these reviews were completed, prior to the expiry of the current Enterprise Agreement in June 2019.

179. Enterprise Resources Planning System - Procurement

RESOLVED: That

- (1) a cloud based ERP system be procured;
- (2) the Director of Finance, following consultation with the Portfolio Holder for Finance and Resources, be authorised to award the contract for a cloud based Enterprise Resource Planning System;and
- (3) the realignment of £1.5m of the existing Resources Capital Budget from 2020/21 to 2019/20, as set out in the financial implications section of the officer report, be approved.

Reason for Decision: The vendor of the current SAP ERP system had announced that it would not support the application post December 2025 and therefore the Council needed to procure a replacement system.

180. Appointment of Cabinet Advisory Panels, Consultative Forums and Appointment of Chairs

RESOLVED: That the Membership of Cabinet Panels and Consultative Forums, the Chairs and Nominated Members of the Panels and Consultative Forums be confirmed subject to the name of the Chair of the Traffic and Road Safety Advisory Panel being corrected to read "Jerry Miles".

Reason for Decision: To confirm appointments and to allow the Panels to be constituted.

181. Timetable for the Development of the Council's Policy Framework

RESOLVED: That the timetable for the preparation and consideration of the plans and strategies set out at Appendix A to the officer report be noted and the Monitoring Officer be authorised to vary the timetable if appropriate.

Reason for Decision: To comply with paragraph 3 of the Budget and Policy Framework Procedure Rules in Section 4C of the Council's Constitution.

182. Appointment of Portfolio Holder Assistants

RESOLVED: That

- (1) the appointment of the identified Portfolio Holder Assistants and responsibilities as set out in the officer report be approved, noting that these superseded previous appointments; and
- (2) the payment of a Special Responsibility Allowance (SRA) to the Portfolio Holder Assistants identified within the officer report be approved with the implementation date of 30 May 2019.

Reason for Decision: To enable the support to Cabinet Members in terms of information provision and management, to contribute to and ensure an effective decision making framework as part of the democratic process.

(Note: The meeting, having commenced at 6.30 pm, closed at 7.56 pm).

Proper Officer

| | |
|---|--|
| Publication of decisions: | 31 May 2019 |
| Deadline for Call-in: | 5.00 pm on 7 June 2019 (Please note that Call-in does not apply to all decisions). To call-in a decision please contact: Alison Atherton on 020 8424 1266, email alison.atherton@harrow.gov.uk or Navshika Beeharry on 020 8416 8063., email navshika.beeharry@harrow.gov.uk |
| Decisions may be implemented if not Called-in on: | 8 June 2019 |

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REPORT FOR: CABINET

| | |
|-------------------------------------|--|
| Date of Meeting: | 30 th May 2019 |
| Subject: | Harrow Strategic Development Partnership |
| Key Decision: | Yes |
| Responsible Officer: | Paul Walker - Corporate Director, Community |
| Portfolio Holder: | Cllr Keith Ferry - Deputy Leader and Portfolio Holder for Planning, Regeneration and Employment Cllr Adam Swersky - Portfolio Holder for Finance and Resources |
| Exempt: | No, save for Appendices [2, 3, 4 and 5] to this report which are exempt under paragraph 3 of Schedule 12a of the Local Government Act 1972 (as amended) in that they relate to the financial or business affairs of any particular person including the Authority |
| Decision subject to Call-in: | Yes |
| Wards affected: | All Wards |
| Enclosures: | Appendix 1: Site Plans Appendix 2: Heads of Terms (Part II - exempt) Appendix 3: Evaluation Criteria (Part II - exempt) Appendix 4: Risk Register (Part II - exempt) Appendix 5: Information Memorandum 'The Proposition' to the market (Part II - exempt) |

Section 1 – Summary and Recommendations

This report sets out the proposed procurement exercise to procure a Strategic Development Partner to assist with the delivery of a number of the Council's core strategic development sites within the Regeneration Programme.

Recommendations:

Cabinet is requested to:

1. Approve the Regeneration Programme Objectives, as set out in paragraph [3.2].
2. Agree a Strategic Development Partnership, established through a partnership vehicle, as the preferred delivery approach for the development of Core Sites in the Regeneration Programme.
3. Approve the commencement of the proposed procurement exercise to identify a Strategic Development Partner as set out in the report, as set out in paragraph 7.1.
4. Agree the proposition to be put to the market as part of the procurement exercise, as set out in Appendix 5.
5. Delegate authority to the Corporate Director - Community, following consultation with the Portfolio Holder for Planning, Regeneration and Employment and the Portfolio Holder for Finance and Resources, to:
 - a. make any necessary amendments to the draft procurement documentation and agree the final versions for publication; and
 - b. take all other necessary steps to conduct the procurement exercise, including shortlisting and deselection of bidders in accordance with the Public Contract Regulations 2015
6. To delegate authority to the Corporate Director – Community, to procure support for external commercial and legal advice to support the procurement exercise, the costs of which must be contained within the agreed financial capacity stated at paragraph 9.1.

Reason: (For recommendations)

In order to progress the delivery of the Council's Regeneration Programme for Core Sites in its ownership which will contribute to Harrow's regeneration ambitions.

Section 2 – Report

Introductory paragraph

- 2.1 Five years ago Harrow Council, with key stakeholders, set its ambitions to progress Harrow's growth and development. These plans were given a name: Building a Better Harrow (BaBH) and at the heart of that ambition was a determination to build good quality homes for Harrow's people. Harrow has attracted new investment in the borough and there are many developments coming to fruition, including Gayton Road and 51 College Road. There are also other plans in the consultation phase to continue to build new homes in the borough which include Transport for London's (TFL) development with Redrow Homes in the vicinity of Harrow on the Hill Station.
- 2.2 The Council is also committed as a landowner to contribute to the borough's regeneration. It has developed its own regeneration programme to contribute toward the BaBH ambition.
- 2.3 The purpose of this report is to seek Cabinet approval to commence a procurement process under the Public Contract Regulations 2015 using the Competitive Dialogue procedure, to procure a Strategic Development Partner to assist with the delivery of the Council's Regeneration Programme.
- 2.4 The major role of the development partner will be to work alongside the Council to deliver regeneration, new homes, social and economic benefits and a sense of place across the three Core Sites Council owned by the Council within the Harrow Area of Opportunity.
- 2.5 The Council has reviewed which of its sites would have the greatest impact and contribution to regeneration within Harrow's Area of Opportunity. The three sites (the Core Sites) selected comprise the Council's flagship Regeneration Project at Poet's Corner; Peel Road (which is the preferred site for the Harrow New Civic Centre) and Byron Quarter (Phase 1). The Greenhill Way site is not included at this stage as the site remains a key strategic site for future development opportunities in Harrow's town centre by contributing to the mix use of culture/leisure and retail.

Poet's Corner

Poet's Corner is the Council's flagship regeneration site. It is situated immediately to the south of Harrow & Wealdstone station. The site currently comprises the Council's existing Civic Centre and extends to c. 11.4 acres.

Peel Road

The site comprises of Peel Road, and adjoining land, and it is situated immediately to the north of Harrow & Wealdstone station and extends to 1.7 acres.

Byron Quarter (Phase 1)

The entire Byron Quarter site comprises of a number of leisure facilities including the Council's Leisure centre and extends to 19.3 acres. Only phase 1 is included within the procurement exercise and this extends to 3.7 acres and is situated in the south eastern corner of the site.

- 2.6 The Council is currently exploring the possibility of accelerating the building of affordable homes on a small stand alone site (Plot S) within the Poet's Corner scheme. Consequently, this site has been excluded from the red line boundary for Poet's Corner (colour coded on plans attached).

Indicative site plans outlined in redline are included at Appendix 1.

- 2.7 The Council has secured planning permission for a New Civic Centre on the Peel Road to contribute to the wider regeneration of Wealdstone. The Council's proposition to the market makes clear that it's preference is for the Civic Centre to be re-provided on Peel Road. However, the Council accepts the need to adopt a solutions led approach to ensure that the most effective delivery strategy is adopted. Alternative proposals within the context of the delivery objectives across all three Core Sites will be considered by the Council.
- 2.8 The outcome of the procurement exercise will be brought back to Cabinet for consideration and to seek a decision on the appointment of a Strategic Development Partner and the associated legal arrangements.

Options considered

- 2.9 The following options have been considered as delivery approaches in order to take forward the development of the Core Sites:

(i) Straightforward Site Disposal

An outright sale of the Council's land to a developer, in exchange for a capital receipt. This option has been discounted because it imposes insufficient controls to ensure the achievement of the Council's Regeneration Programme Objectives in relation to these strategically important sites. In addition, the Council's return would be limited to the undeveloped land values which would be unlikely to realise sufficient funds in order to re-provide the Civic Centre.

(ii) Direct Delivery

The Council obtains and implements the planning permissions itself, and delivers schemes directly via construction contracts at its own cost and risk. This option has been discounted as it would require the Council to take on an unsustainable level of debt and exposure to risk in relation to delivery of the schemes in the residential market place. The review of the Regeneration Programme highlighted the challenges facing the Council when seeking to ensure it has sufficient

capacity and expertise to deliver schemes of this scale and complexity.

(iii) Development Agreement

This option is based on the Council entering into a contract with a developer. The Council gives the developer an option to buy the land under a development agreement. The developer would have obligations to pursue the development of the sites including the obtaining of planning permission, following which land ownership would usually transfer to the developer. Under this structure the Council passes the development risk to the developer and the developer receives the development return. The Council receives a Capital receipt for the value of the land (valued prior to any development or planning) with potential for future payments when the land is developed.

The Council can set preconditions that the developer has to meet before the land passes to the developer, such as securing planning permission or funding. The development agreement can also set out the dates by which the key milestones are to be delivered.

Pros

- For a single site the approach can be a more straightforward procurement exercise than for a Strategic Development Partner.
- The development agreement passes the development risk to the third party provider. Broadly the landowner gets the land value whether or not the development works out, as long as the preconditions are met.
- This approach can work well for smaller sites.

Cons

- The Council will have less control and influence over the detailed aspects of development (including time and quality) as this will be controlled by the developer. Although some quality standards or benchmarks can be included in the development agreement, this has to be balanced with giving the developer the ability to make commercial and operational decisions as the project is implemented.
- It is more difficult to vary a development agreement to take account of different market and industry conditions so it is less flexible. This can be problematic over the course of a long- term project where market cycles changes to financial conditions and the Council's requirements are inevitable.
- To achieve the Council's objectives, the Strategic Development Partnership will offer the Council the potential of optimising the return to be reinvested (for example, to fund the Civic Centre).

This option has been discounted for the following reasons:

- The Council is seeking to use the Core Sites to have a broader regenerative effect both for the borough and the immediate neighbourhoods the sites are situated in. On that basis it will be important that the Council can influence the overall development of those sites during each phase and have sufficient control to ensure that the schemes progress.
- The Council requires a model that is flexible enough to deal with different market cycles, changes to financial conditions and changes in the Council's requirements which maybe required over such a long term period.
- The Council needs the Core Sites to support the acceleration of housing growth both to meet local housing need/ demand in the borough and to support the housing targets in the London Plan.
- Given the size of the Core Sites and the Council's requirements (which include the re-provision of a Civic Centre funded by the Core Sites), the Council needs to optimise any financial return in order to reinvest this to achieve its objectives.

(iv) Strategic Development Partnership

This option is based on the Council providing the land and capital funding with the development partner, who is selected following the procurement exercise, supplying finance, technical expertise and capital funding. Both the Council and the Strategic Development Partner put in equal shares of funding and/or equity. Together the Council and the Strategic Development Partner set up a Strategic Development Partnership sharing the risk and reward on a basis defined during the procurement exercise. The partnership is constituted as a separate legal entity, most usually a Limited Liability Partnership, which would be jointly owned and operated by the Council and the other partner, (or partners if there is more than one partner selected). The Council gives the Strategic Development Partnership the option to buy the land.

The Council can set preconditions that the partnership has to meet before any land is passed to it, such as securing planning permission or additional funding. The partnership agreement will also set out controls over the decision making, governance, finance, security etc. for the future.

Pros

- Using a Strategic Development Partnership model offers an integrated approach to development of sites which mirrors the ambitions of the Council as it makes its contribution to the wider regeneration ambitions of the Borough.
- The partnership offers the potential for an appropriate level risk related return for the Council as the Council shares in all of the returns;

- There is a greater level of control over development, timing, design etc as the Council will be an equal partner in the partnership making decisions.
- The partnership can be structured so that the Council and the development partner have equal incentives/ disincentives to behave in certain ways.
- The partnership approach is more flexible and so it can respond better to market changes and financial conditions over the course of a long term project. It can also respond to emerging opportunities flexibly such as additional sites which may become available during the life of the partnership.
- The partnership structure can be used to make the construction supply chain available to other community projects.
- Being a corporate partner gives the Council access to private sector skills and finance not otherwise available to it.

Cons

- The procurement process takes longer to select a development partner than a developer for a single site.
- In comparison with the direct delivery option the Council does apportion an amount of control to its development partner

2.10 It is therefore recommended that the Council seek to establish a Strategic Development Partnership, because:

- This option gives the greatest chance of achieving regeneration and development on a scale consistent with the Council's ambitions and objectives and enabling the wider economic and social benefits the Council requires.
- The flexibility of the partnership approach works best for multi-site and complex developments, in particular there is a high dependency between Poets Corner and Harrow New Civic, which will benefit from a flexible approach to phasing, labour and programming across the Core Sites.
- The partnership will give the Council greater influence and control over the detail of the development including timings and design quality which will impact on the delivery of the Council's wider objectives as Community Leader and place maker.
- The opportunities to access skills, finance, supply chain and other benefits through the life of the partnership can support the Council's wider Regeneration Programme and community works.
- The Strategic Development Partnership will offer the Council the potential of optimising the return to be reinvested in order to achieve the Council's objectives.

3. Background

3.1 The Council has a significant role in the regeneration of the borough. Through its role as a community leader it sets out, in consultation with other key stakeholders, the regeneration ambitions for the borough which are clearly defined in promoting a sense of place, promoting housing supply, stimulating investment and growth for prosperity, jobs and skills.

As the local planning authority, the Council defines local plans and as a direct owner of land, the Council can use its assets to contribute to the borough's regeneration ambitions and it is the latter role that this Cabinet report and recommendations are based upon.

The Council established a Regeneration Programme with the intention of delivering a quantum of development to contribute to Harrow's wider regeneration ambitions across the borough.

3.2 The objectives of the Council's Regeneration Programme are:

- *To contribute/deliver wider regeneration across the Borough via new and improved mixed tenure housing, civic and community facilities, new employment space and the enhanced use of property assets the Borough.*
- *To accelerate the pace of housing delivery across a portfolio of sites*
- *To secure wider economic and social benefits for local residents, including skills and training, health improvements and new employment opportunities*
- *Use existing and new property assets to optimise value for the Council*
- *To contribute to the delivery of well designed high quality places that make a difference for communities, businesses, residents and families both now and in the future.*

3.3 There have been a number of key decisions which directly relate to this procurement exercise.

September 2015 - Building a Better Harrow Delivery Programme - approval in principle to vacate the existing Civic centre and build a smaller and more efficient Civic centre in the Heart of Wealdstone.

September 2017 – Building a Better Harrow Autumn 2017 – approve the commencement of procurement for one or more delivery partners for the Poets Corner , Bryon Quarter, New Civic Centre and Greenhill way

December 2018 – Regeneration Programme Update- delegate the powers previously delegated to the Chief Executive to the Corporate Director Community.

4. Current situation

There is an established Harrow Strategic Development Partnership Programme Board (HSDPB), chaired by the Corporate Director - Community. This Board includes input from key operational Departments: Finance, Legal and Procurement. It also includes externally appointed advisors Avison Young (Commercial Property Advisors) and Pinsent Masons (Legal Advisors). The HSDP Programme Board sits within the Corporate Structure and reports regularly to the BABH Board.

5. Implications of the Recommendations

- 5.1 Cabinet needs to agree the proposition contained within this report to take forward the next stage of the procurement for a Strategic Development Partner. For consideration, this report outlines both the structure and governance arrangements which may form part of the legal arrangement once a Partner has been selected. The ultimate decision on the appointment of the Strategic Development Partner will be made by Cabinet following the completion of the procurement exercise, which is currently anticipated to be May 2020.

5.2 Structure of the Development Partnership

- 5.2.1 The Council intends to deliver sites via a new separate private entity set up as a Harrow Strategic Development Partnership (HSDP) and owned 50% by the Council and 50% by a private sector partner. HSDP is anticipated to take the form of a Limited Liability Partnership and be set up on a long term basis for a period likely to be 30-35 years.
- 5.2.2 The assets of the HSDP will comprise: (a) the Council's 3 Core Sites identified for development by the HSDP (each site would only be transferred once defined conditions have been satisfied e.g. viability and suitable planning permission) and capital funding (b) investment by the private partner which matches the value of each site and finance the Council transfers to the HSDP.
- 5.2.3 The HSDP will carry out construction works to develop the sites transferred to it and appoint a Development Manager to manage the sites. The Council will also have the option to offer future sites to the HSDP for development.
- 5.2.4 The HSDP will also provide construction works to Council owned sites, for example, to construct the Harrow New Civic Centre.

5.3 Governance of the Strategic Development Partnership

- 5.3.1 The key decisions of the HSDP will be reserved for decision by the Council and private partner as equal partners and will require unanimous approval.
- 5.3.2 Key decisions include approval of the HSDP's business plan and objectives, any alteration to the scope of the business plans any new partners, third party funding and any actions which fall outside of the business plan.
- 5.3.3 The Council and private partner will constitute a board of representatives for the day to day management and decision making of the HSDP (the "**Board**").
- 5.3.4 The Council will appoint representatives of its choice onto the Board and the private partner will appoint an equal number of representatives. The representatives of each party will have one collective vote and any decision must be made by unanimous approval.
- 5.3.5 The Board's decisions will include approving: defined activities set out in the business plans (e.g. disposals or acquisitions of assets) and agreeing the terms of contracts in accordance with defined fixed parameters. The establishment of a business team will have the responsibility of managing the day to day running of the development activities as set out in the agreed business plan.
- 5.3.6 Where the Council and private partner or Board cannot agree on a matter due to lack of unanimity, this will create a 'deadlock' which, if unresolved, will result in the winding up of the HSDP. The legal agreements will also contain appropriate provisions to deal with default of the private partner.
- 5.3.7 Once procurement process has completed, the Corporate Director – Communities, is required to report back to Cabinet to gain approval to appoint the successful Strategic Development Partner.

5.4 Additional services

Any additional works or services required will be procured by the HSDP in accordance with the HSDP's own procurement policy (agreed by the Council and private partner in advance) on a value for money basis and ensuring quality.

5.5 Resources

- 5.5.1 Internally the appropriate skills and experience are deployed to support the procurement process including senior staff from Regeneration, Finance, Legal, Procurement and Communications.
- 5.5.2 The process is being supported by external legal and commercial property expertise. The costs of the Procurement process are being funded within existing resources.

5.6 Staffing/Workforce

5.6.1 The Council's Regeneration Programme is both ambitious and challenging and to deliver effectively there is a requirement to have the skills and capacity in place to deliver.

The Regeneration review confirmed that the scale of development in Harrow requires:

- Focussed leadership, experienced in delivery,
- A commercial rigour at each and every stage,
- An integrated approach to development, procurement, design, construction and operation.

5.6.2 Therefore, to progress successfully through the pre market, procurement and set up phases of a Strategic Development Partnership heralds a significant workload and will require new capacity and capability within the Council.

5.6.3 Capacity will be strengthened through the appointment of a Commercial Development Director, for an 18 to 24 month period with an absolute focus on:

- Delivering commercial opportunities for the Council to maximise financial returns
- Building commercial relationships with developers and investors/funders
- Leading negotiations and securing a Strategic Development Partner that is right for Harrow's objectives
- Securing the best deal for Harrow

6. Risk Management Implications

There is a risk register for the Strategic Development Partnership procurement process which is included within (appendix 4).

7. Procurement Implications

7.1 The procurement of the Strategic Development Partner will be undertaken in compliance with the Public Contract Regulations 2015. The procedure that is most suitable for a procurement of this size and complexity is the Competitive Dialogue procedure. The use of this procedure will allow the Council to have detailed dialogue with potential interested parties at defined stages of the tendering to ensure that final submissions are technically and commercially as closely aligned to the Council's visions, objectives and outcomes for the strategic partnership.

7.2 The Council has explored the GLA's new London Development Panel known as LPD2 as a procurement route for a Development partner for

Harrow. LPD2 is a single- lot framework of 29 well established developers. House builders, contractors and Registered Providers of Social Housing (RP's). These have been through a GLA competitive procurement process. The panel can be used by Harrow Council and provides an efficient method for selecting development partners for their sites.

- 7.3 However this method of procurement has been discounted as it has been designed for a Development Agreement and is not the optimum approach to procure the Strategic Development Partnership.
- 7.4 The evaluation criteria are detailed in Appendix 3 of this report.

8. Legal Implications

- 8.1 Judicial review proceedings have been brought against local authorities in the past, questioning the legality of partnerships structured via separate corporate vehicles. However, in 2018 the High Court ruled the use of an LLP is lawful where the local authority's primary or dominant purpose is not a commercial purpose. Therefore, local authorities must identify the statutory powers and the purpose of incorporating the commercial vehicle before progressing such an approach,
- 8.2 This report has made the Council's objectives clear and therefore, the purpose of entering into a separate commercial vehicle.
- 8.3 The Council has a range of statutory powers to incorporate corporate vehicles: Section 1 of the Localism Act 2011 (known as the general power of competence) permits local authorities to do anything that individuals can do subject to any specific restrictions contained in legislation. Section 4 of the Localism Act still permits an authority to act for a commercial purpose, however, this must be done via a company rather than an LLP.
- 8.4 The Council is able to establish and participate in an LLP pursuant to the general power of competence above and where it is established to facilitate or is conducive or incidental to the discharge of any of its functions, the power set out in section 111(1) of the Local Government Act 1972.
- 8.5 The Council has statutory authority to hold property for a variety of purposes including those mentioned in section 120(1) of the Local Government Act 1972 which include for the benefit, improvement and development of their area. The Council also has the power to invest for any purpose relevant to its functions under any enactment; or for the purposes of the prudent management of its financial affairs (s.12 Local Government Act 2003).
- 8.6 The Council may dispose of land by agreement in accordance with Sections 123 of the Local Government Act 1972 and consequently, transfer land into the chosen corporate vehicle, provided that disposal is made having received the best consideration reasonable obtainable.

- 8.7 It is envisaged that the Council will nominate directors onto the board of the chosen corporate vehicle; however major commercial decisions will be referred back to Cabinet.
- 8.8 The title to each of the Core Sites has been reviewed. Whilst all are burdened by various covenants and legal impediments, it is envisaged that the Council will use its statutory powers of appropriation pursuant to the Housing and Planning Act 2016. Such powers extinguish title encumbrances insofar as they could impede development and instead allow any party whose rights have been infringed to claim compensation.
- 8.9 All procurement activity of works and services must be carried out in compliance with the Public Contracts Regulations 2015 and Council Contract Procedure Rules

9. Financial Implications

- 9.1 The Council has previously created financial capacity to fund the revenue elements of the Regeneration Programme. The total capacity was £5.1m of which £3.4m has been used and the balance remaining for 2019/20 is estimated at £1.7m.
- 9.2 This report recommends delegated authority to the Corporate Director – Community, to procure such advice and the costs to be contained within the overall capacity of £1.7m.
- 9.3 As the procurement exercise progresses, this will inform the future costs and cash flow implications for the council including the capital borrowing requirement, capital financing costs, financial returns and the on going support required.
- 9.4 At this early stage in the process such financial implications cannot be quantified and hence no adjustments are recommended to the Council's revenue budget or capital programme.
- 9.5 If the financial implications of the HSDP can be quantified at the point of setting the draft and final budget and the MTFs, scheduled for Cabinet in December 2019 and February 2020 respectively, the appropriate changes will be recommended. Should this not be the case the budget, MTFs and capital programme will be updated and reported in line with Financial Regulations.
- 9.6 The post of Commercial Development Director will be funded within existing resources (existing staffing budgets and the financial capacity as described above)

10. Equalities implications / Public Sector Equality Duty

The EQIA for the Regeneration Programme (attached)

11. Council Priorities

The Council's vision:

Working Together to Make a Difference for Harrow

- Making a difference for the vulnerable
- Making a difference for communities
- Making a difference for local businesses
- Making a difference for families

Please find below the link to Building a Better Harrow website and Regeneration Strategy document 2015-2016:

<http://www.buildingabetterharrow.co.uk/#/about/>

Section 3 - Statutory Officer Clearance

| | | |
|---------------------------------|--------------------------|---|
| Name: Dawn Calvert | <input type="checkbox"/> | on behalf of the * Chief Financial Officer |
| Date: 21 st May 2019 | | |
| Name: Matthew Dineen | <input type="checkbox"/> | on behalf of the * Monitoring Officer |
| Date: 21 st May 2019 | | |
| Name: Nimesh Mehta | <input type="checkbox"/> | on behalf of the * procurement Officer |
| Date: 21 st May 2019 | | |
| Name: Paul Walker | <input type="checkbox"/> | Corporate Director |
| Date: 21 st May 2019 | | |

| | |
|-----------------------------------|-----|
| Ward Councillors notified: | YES |
|-----------------------------------|-----|

| | |
|--------------------------|-----|
| EqIA carried out: | YES |
|--------------------------|-----|

| | |
|-------------------------|--|
| EqIA cleared by: | |
|-------------------------|--|

Section 4 - Contact Details and Background Papers

Contact: Paul Walker, Corporate Director Communities, Direct Telephone No. paul.walker@harrow.gov.uk

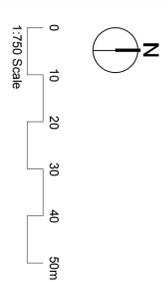
Background Papers: [Equality Impact Assessment](#)

| | |
|---|----|
| Call-In Waived by the Chair of Overview and Scrutiny Committee | NO |
|---|----|

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Notes

- Masterplan boundary phase 1
- - - Masterplan boundary phase 2



Drawing no. **BQ-E-SP-000** Revision **B**
 Drawing title **Byron Quarter Existing site plan**

| | | | |
|------------|----------------|------------|-------------|
| Project | Byron Quarter | | |
| Client | Harrow Council | | |
| Drawn | AT | Checked | |
| Date | 15.03.19 | Status | Preliminary |
| Scale @ A1 | 1:750 | Scale @ A3 | 1:5000 |

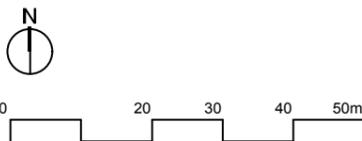
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| Rev | Date | Description |
|-----|----------|--------------------------|
| B | 15.13.19 | Labelling amended |
| C | 20.05.19 | Redline ammended - legal |
| D | 20.05.19 | Redline ammended - legal |

Notes

- - - Land owned by Harrow Council
- - - ISSC Ashram land (post landwap)
- - - Proposed new civic footprint



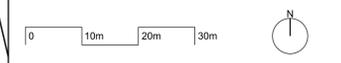
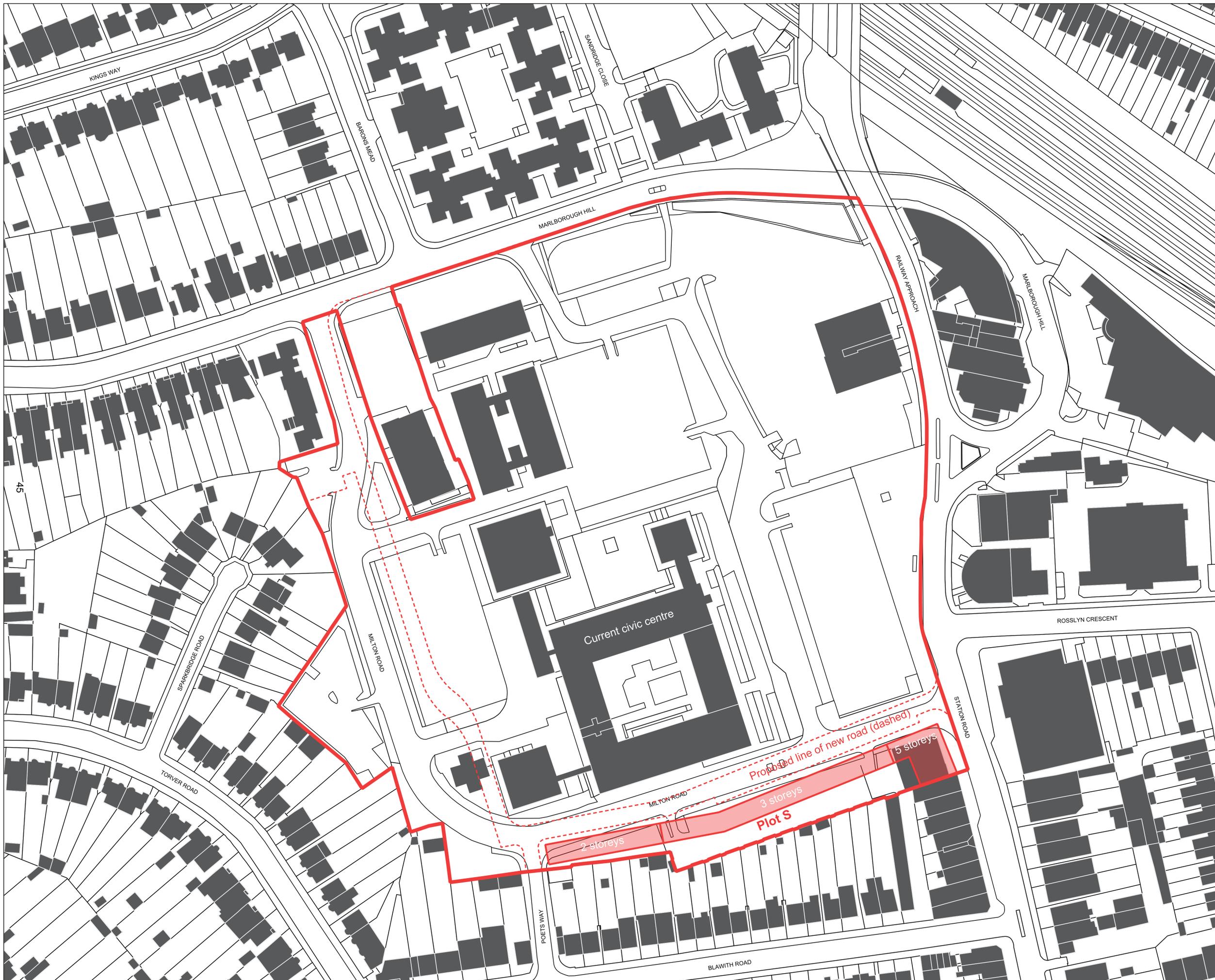
Drawing no. **PH-E-SP-000** Revision **D**

Drawing title
Peel House
Existing site plan

| | |
|------------|-----------------------|
| Project | Peel House |
| Client | Harrow Council |
| Drawn | AT |
| Date | 14.03.19 |
| Scale @ A3 | 1:1000 |

BUILDING A BETTER
HARROW

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Drawing No. **001**
 Drawing Title **Existing site plan
 Plot S location**

Revision **A**

| | | | |
|------------|----------------|------------|-------------|
| Project | Poets' Corner | | |
| Client | Harrow Council | | |
| Drawn | AT | Checked | |
| Date | 06.12.18 | Status | Preliminary |
| Scale @ A3 | 1:2500 | Scale @ A1 | 1:1250 |

**BUILDING A BETTER
 HARROW**

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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of the Local Government Act 1972.

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