

Meeting:	Cabinet
Date:	14 February 2008
Subject:	LIFT/PFI Project
Key Decision:	Yes
Responsible Officer:	Paul Najsarek, Interim Corporate Director, Adults and Housing
Portfolio Holder:	Cllr Eric Silver, Portfolio Holder, Adult Services Cllr David Ashton, Portfolio Holder, Finance and Portfolio Co-ordination
Exempt:	No
Enclosures:	Appendix 1: Summary of the Key Documents Appendix 2: Project Programme for each site

Section 1 – Summary and Recommendations

This report informs Members on the outcome of the Stage 2 approval process of the LIFT/PFI Project for the development of three Neighbourhood Resource Centres (NRCs) for people with learning disabilities and seeks approval to conclude the final agreements with the LIFT Company (LIFTCo).

Recommendations:

After due consideration and discussion of the projects to deliver the three NRCs at Byron Park (formerly Christchurch Avenue), Kenmore and Vaughan (Projects) Cabinet agrees as follows:

- 1.1 For the Council to enter into the Land Retained Agreement, the Subordinated Credit Agreement, the Independent Tester Contract, the Lenders' Direct Agreement and all other documents ('Project Documents') to finalise and complete the Projects.

- 1.2 The finalisation and completion of the Project Documents by the Council is necessary and expedient for the purpose of and in connection with the exercise of the Council's functions:
- 1.3 To facilitate the closing of the Projects, the Interim Director, Adults and Housing ('the Authorised Officer') is hereby authorised by the Council to do all acts or things considered by him to be necessary or desirable in connection with or arising out of the Projects including, without limitation, the following:
- (a) To negotiate and, finalise the Project Documents on such terms as he (in his absolute discretion) sees fit, and such decision will be binding on Harrow Council.
 - (b) To negotiate, approve any other agreements, deeds, notices, forms, letters or other documents to be entered into pursuant to the Project Documents which he considers necessary or desirable in relation to the Projects, in each case in such manner as he considers necessary or desirable in relation to the Projects.
 - (c) To issue and sign certificates under the Local Government Contracts Act 1997.
 - (d) Complete all the Project Documents.
- 1.4 That all the Project Documents considered by the Director of Legal and Governance Services as requiring the seal of the Council be sealed in accordance with the Constitution and such decision will be binding on the Council.
- 1.5 That the Authorised Officer be and is hereby authorised to execute (whether as a deed or otherwise) such of the Project Documents as the Director of Legal and Governance Services may direct (in his absolute discretion) and such decision will be binding on the Council
- 1.6 To authorise the grant of a loan (which at the date of this meeting is likely to be in the region of £136,800 but could be more or less depending on the financial market) to LIFTCo as subordinated debt.

Reason: (For recommendation)

To allow construction of the NRCs to proceed

Section 2 – Report

2.1 Introduction

2.1.1 The delivery of three NRCs is one of the Council's flagship actions and will make a significant contribution to the achievement of the Council's priority to:

- Improve care for adults and children who most need our help and address its vision to:
 - Satisfy our customers (V1).
 - Listen to and care for people who need our help (V5).

2.2 Background

2.2.1 Cabinet of 15 December 2005 authorised the then Director of People First Strategy to:

- Seek agreement from the Strategic Partnering Board to the LIFTCo Stage 1 proposal subject to a response from the Department of Health (DH) to the Outline Business Case (OBC).
- Enter into Stage 2 negotiations.
- Seek Cabinet approval to the final agreement for the Project.

2.2.2 The DH approved Harrow's OBC on 13 October 2006 and since then Council officers have worked with LIFTCo to develop detailed specifications and designs for the NRCs. Planning approval was granted for the Byron Park (formerly Christchurch Avenue) and Kenmore NRCs on 10 and 11 September 2007 respectively and on 27 September 2007 for the Vaughan NRC.

2.2.3 The LIFT/PFI Project will deliver three brand new, individually designed NRCs for people with learning disabilities. The NRCs will replace day centres which are no longer fit for purpose due to their building structure and the lack of opportunity for people with learning disabilities to integrate with the wider community. Each of the three exciting, fully accessible NRC buildings will offer a range of services on site and provide a launching point and link to educational, leisure and cultural facilities across the Borough. The NRCs will improve the quality of life for people in Harrow with severe learning disabilities, promote social inclusion and benefit the local community through their design and practical use.

2.2.4 As the Council progressed from the initial Stage 1 work on the outline brief to the more detailed Stage 2 planning and design phase it has incorporated some design specific objectives into its brief to LIFTCo. These include:

- Distinctive buildings, which are innovative in design and which take account of their different locations within the Borough.
- Buildings with facilities to meet the increasingly complex needs of people with high levels of physical disability which are arising from the longer survival rates of this group of people.
- Sufficient flexibility in the design of the buildings to allow for future changes of use, should this become necessary over time.

2.2.5 The NRCs are being procured through the Brent Harrow and Hillingdon LIFTCo supported by PFI credits for capital funding. LIFTCo is subject to the Strategic Partnering Agreement between:

- Brent, Harrow and Hillingdon PCTs
- North West London Hospitals Trust
- Hillingdon Hospital Trust
- London Boroughs of Brent and Harrow, and
- LIFTCo.

The equity shareholders of LIFTCo are a private company, the Government and the PCTs. LIFTCo will be responsible for the design, build, financing and maintenance (DBFM) of the NRCs under the LIFT/PFI Project.

2.2.6 Under the LIFT/PFI Project, LIFTCo will fund the capital cost of the NRCs directly, while the Council will be required to make an annual service charge to LIFTCo for performing the DBFM of the NRCs. This charge will increase annually by inflation as represented by the RPI. All other cost risks are passed to LIFTCo.

2.2.7 The Council will be responsible for the costs of Soft Facilities Management Services (e.g. cleaning, catering, security, site management and portage services) as these are not to be included in the LIFT contract.

2.2.8 The Council is required to submit a Final Business Case (FBC) to the

DH including a demonstration that the LIFT/PFI scheme represents Value for Money (VFM). VFM has been demonstrated by using two separate processes.

2.2.9 The DH requires that these schemes be compared against national benchmarks. The Council with LIFTCo jointly appointed Nisbet as independent cost advisers to benchmark costs against other LIFT schemes and national benchmarks. Nisbet concluded that procurement of the Projects in the manner proposed by the Council represent VFM.

2.2.10 The Council's financial advisers PricewaterhouseCoopers (PwC) have concluded that the overall annual service charge is within the lower and mean of the relevant benchmark and the funding terms compare favourably.

2.2.11 In addition, the Council has demonstrated VFM as required by the PFI process by preparing a Public Sector Comparator i.e. the cost of traditional procurement and funding. When these costs are adjusted for the risks that are being retained by LIFTCo a comparison shows that the LIFT/PFI costs are 13% lower than the traditional procurement.

2.2.12 Subject to the DH approving the FBC, the Council will receive a PFI credit of £10m. This will generate annual grant income, which will be applied towards part payment of the Annual Service Charge.

2.3 The LIFT/PFI Process

2.3.1 The LIFT development process is in two stages. The Stage 1 process led to an agreement with LIFTCo, which was signed on 5 April 2007 and this was based on an estimated 'not-to-exceed' construction price to be refined during the Stage 2 process as the detailed proposals for each NRC emerged. For this reason, LIFTCo and their delivery partners worked from August to December 2007 to refine their costings to ensure that they stood up to VFM reviews.

2.3.2 At the same time, Council officers carried out further work to validate the costs they had estimated for Soft Facilities Management services not to be included in the LIFT contract and ensure that they were covered appropriately through the Council's Medium Term Financial Strategy (MTFS).

2.3.3 Council officers received all the relevant information from LIFTCo in November 2007. They checked it against the Council's Capital programme and MTFS and took account of the opinions provided by the Council's financial officers, PwC and Nisbet. They were satisfied that the contractors' proposals were affordable to the Council, represented reasonable VFM and would deliver the required outcomes for people with learning disabilities. On the basis of these assessments, officers completed the FBC and consulted the Informal Member Panel, (which replaced the HOST panel), prior to seeking approval of the FBC from the DH. Deloitte, the Council's auditors are in the process of reviewing the Accounting Treatment in order to confirm that the scheme is off balance sheet as required by the Government. Approval by DH to a PFI credit of £10m is expected by 19 February 2008. The planned date for financial close is 26 February 2008.

2.3.4 The Council's legal officers are in the process of reaching agreement with LIFTCo's legal advisers on the terms of the legal documentation for the Project. Member approval is now sought to finalise and complete all the necessary documents and to authorise the delegation of the responsibility for signing all the documents with LIFTCo to the Interim Corporate Director, Adults and Housing so that the project can move to the construction stage. A timetable of the Programme for each site is attached at Appendix 2.

2.4 Equalities Impact

2.4.1 The provision of brand new, purpose-built facilities will enhance services and support to people with learning disabilities as well as providing a resource for the local community. An initial Equalities Impact Assessment (EIA) has been completed and will be reviewed as the project progresses.

2.5 Consultation

2.5.1 A comprehensive programme of consultation with all the stakeholders of the NRCs has been built into the project and this will continue throughout the project. A range of approaches has been used to meet the differing needs of stakeholders. Staff and union representatives have been kept informed through regular staff meetings within day care services and the established management/union forum. Service users, advocates, carers and partner agencies have been given presentations about the project at meetings of the Learning Disability Partnership Board (LDPB) and the Core Consultation Group. Adult day service users were involved in developing the early concepts for the NRCs and, more recently, students of Kingsley High School have contributed to the design of the project newsletter in accessible and widgit formats and to the NRC logo. A dedicated NRC webpage with a contact email address for enquiries was launched in February 2007.

2.6 Community Safety

2.6.1 The NRCs will contribute to community safety by:

- Incorporating Secure by Design principles
- Providing a base for local community activities, which enhances provision in the area and promotes integration between people with and without disabilities.

In addition, the Kenmore NRC should reduce the incidence of anti-social behaviour and petty crime in the area, which arises currently due to the semi-derelict nature of the site.

2.7 Legal Comments

2.7.1 The Council is a party to the Strategic Partnering Agreement (SPA) for the local NHS LIFT Scheme (the Brent, Harrow and Hillingdon LIFT Scheme) which was completed on 22 December 2004. The Council entered into the SPA under its powers to improve the social and environmental economic well being of the area under Section 2 of the Local Government Act 2000. The NRCs are new projects being procured through LIFTCo under the terms of the SPA. The Council has the power to enter into the Project Documents pursuant to Section 2 of the Local Government Act 2000 and all other enabling powers.

2.7.2 The Council will be required to enter into a number of documents such as the Land Retained Agreement, the Lender Direct Agreement, Subordinated Debt Agreement, Deed of Accession to Intercreditor

Agreement, Independent Tester Contract and Collateral Warranties in relation to each of the NRCs. Summaries of the key documents are set out in Appendix 1. .

2.8 Financial Implications

2.8.1 The LRA with LIFTCo provides for the Council to pay a charge of £804,500 per annum (at March 2006 prices) and for this to be increased by inflation as represented by the RPI each year. This charge will vary to the extent that the final SWAP rate at financial close (26 February 2008) varies from the current rate assumed within the financial model of 5.76%. Current indications from the SWAP market suggest that the rate should be below this assumed rate, with a resultant lower LRA charge. Changes may also be required for other charges as the proposals are finalised.

2.8.2 The Council will be acquiring three newly constructed, fit for purpose buildings worth £6.3M for a cost of £804,500 per annum (subject to annual inflation). Over the 25 year period the Council will have exclusive use of these buildings which will be maintained and operated by LIFTCo and at the end of this period the Council will retain the buildings for future use. The Council will receive a fixed annual grant of £783,000 towards the costs.

2.8.3 It is estimated that £320,000 per annum will be required for the soft FM and contract monitoring costs. Existing budgets of £176,000 are available towards this expenditure.

2.8.4 The existing budgets are insufficient to cover the total net costs of the project. Therefore, as the grant income will remain constant and the expenditure and budgets will be subject to inflation the Council is required to make payments into a 'sinking fund' and the affordability gap is expressed as an annual contribution to this fund. An annual contribution of £417,000 (at 2009/2010 prices) is required in order to make the project affordable over the contract period. This has been calculated as an annual sum based on the annual service charge of £804,500. This amount will be adjusted to reflect the actual service charge at financial close. Once the service charge is agreed the annual sinking fund contribution remains constant each year, only increasing with inflation at 2.5% per annum. This contribution may require to be reviewed periodically if actual inflation, as represented by the RPI, differs from the 2.5%.

2.8.5 The annual contribution of £417,00 can be contained within the existing provision of £490,000 that has been made in the MTFS for this project. It is intended that the proposed staffing and transport costs will be contained within the existing revenue budgets. In addition, £600,000 is provided in the Capital Programme for furniture and equipment set up costs for the three NRCs.

2.8.6 The Council has been invited to invest approximately £136,800 in the project in the form of a loan to LIFTCo. This figure will be fixed at financial close and could be a higher or lower figure depending on the movement in the financial markets between the date of this meeting and financial close. This investment would be taken up normally by the PCT; however, as the PCT is not taking any of the accommodation being built, they will not be doing so in this case. The loan will be repaid over the

contract period at a rate of interest of 13% per annum. The subordinated debt will be at greater risk than the senior debt, which represents 90% of the total debt if the LIFTCo were in financial difficulties. The risk of the project getting into difficulties and the investment being lost is however regarded as low, particularly bearing in mind that the income stream to the project derives from the Council. In view of this and the rate of interest paid it is considered economically advantageous to the Council to invest in the project.

2.9 Performance Issues

2.9.1 The NRCs will contribute to improving the Council's performance in relation to services for adults with learning disabilities. The current most relevant Performance Indicator is:

- Performance Assessment Framework (PAF) indicator C30, Number of People with Learning Disabilities helped to live at home

2.9.2 The PAF indicator is likely to be replaced in April 2008 by new National Indicators including:

- NI 136 People supported to live independently through social services (all ages)
- NI 141 Number of vulnerable people achieving independent living
- NI 142 Number of vulnerable people who are supported to maintain independent living

2.9.3 The NRCs are expected to have a positive effect on the new indicators as well as PAF C30 because the co-location of day support and outreach staff within them will promote greater independence in the client group and contribute to the development of self-directed care. In addition, the NRCs will help to deliver key objectives of the Joint Commissioning Strategy for Learning Disability as follows:

- Reconfigure resource allocation to support the reshaping of services to respond more flexibly to people's needs.
- Redesign existing services to support a broader range of support options.
- Implement a person-centred approach.
- Deliver the Day Service Modernisation Programme and update an infrastructure no longer fit for purpose.

Section 3 - Statutory Officer Clearance

Name:.....Steve Tingle....	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date:1 February 2008.....		
Name: ...Jessica Farmer.....	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date:1 February 2008.....		

*Delete the words "on behalf of the" if the report is cleared directly by Myfanwy or Hugh.

Section 4 – Performance Officer Clearance

Name:.....Tom Whiting.....	<input checked="" type="checkbox"/>	Divisional Director (Strategy and Improvement)
Date:January 2008		

Section 5 - Contact Details and Background Papers

Contact: Marilyn Vertes, Senior Professional, Service Development Team
Adults and Housing
Tel: Ext 2922 email: Marilyn.Vertes@harrow.gov.uk

Background Papers: None