

1. RECOMMENDATIONS

- 1.1 That approval be given to enter into a Principal Development Agreement with Metropolitan West Hendon, Metropolitan Housing Trust, Metropolitan Living Limited, Barratt Homes Limited and Barratt Development plc for the regeneration and redevelopment of the West Hendon area and the Borough Solicitor be instructed to complete the necessary documents in a form to his approval and subject to the final arrangements being approved by the Deputy Chief Executive and Director of Community Services in consultation with the Leader of the Council.**
- 1.2 That in accordance with the provisions of Section 123 (2A) of the Local Government Act 1972, the appropriate Chief Officer be instructed to advertise the intention to transfer the freehold of York Park to Metropolitan West Hendon, reporting any representations received to a future Cabinet meeting for further consideration.**
- 1.3 That it be noted that by entering into the Principal Development Agreement the Council is agreeing, subject to the consent of the ODPM, to all the land and buildings within its ownership (edged red on the plan on display at the meeting), with the exception of the Perryfields care home site and the Lakeview Nursery site, being transferred at nil value to Metropolitan West Hendon subject to the provisions within the Principal Development Agreement in respect of phasing, early transfer of vacant lands and the charging of undeveloped lands.**
- 1.4 That the appropriate Chief Officers be instructed to report to future meetings of the Cabinet Resources Committee for approval of the terms of disposal to Metropolitan West Hendon of the freeholds of the Perryfields care home site and the Lakeview Nursery site.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet Report 22 July 2002 – West Hendon Area Regeneration Project – Selection of a Regeneration Partner.**
Appointment of Metropolitan West Hendon as the approved development partner for the West Hendon regeneration scheme.
- 2.2 Cabinet Resources Committee 1 May 2003 – West Hendon Regeneration – Interim Costs (Underwriting) Agreement.**
Approval for the Council to underwrite interim costs incurred in working up the West Hendon regeneration scheme.
- 2.3 Delegated Powers Report 31 May 2005:**
West Hendon Regeneration Project – Change in Membership.
Approving a change in the membership of Metropolitan West Hendon.
- 2.4 Planning and Environment Committee – 27 July 2005**
Approval of the outline planning application for the West Hendon regeneration scheme.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Council's Housing Strategy was published in 2004 and highlights the following five strategic objectives;
- Creating local quality environments (including: the regeneration of the Council's four priority estates: West Hendon, Grahame Park, Stonegrove and Dollis Valley) in partnership with other organisations; promoting balanced, mixed and cohesive communities and tackling crime and anti-social behaviour;
 - Improving the quality of housing and delivering Decent Homes;
 - Increasing housing supply and balancing housing need including increasing the amount of affordable housing; increasing density through high quality design; delivering a range of intermediate housing options for key workers and others on low or moderate incomes, and making best use of existing resources;
 - Providing quality services; and
 - Supporting vulnerable people (including providing an appropriate mix of housing to meet the needs of older people; providing accommodation and support for independent living and offering choice).
- 3.2 The proposal supports the corporate policy of "Putting the Community First", and contributes to the five key Priorities for our community in the Corporate Plan. These five priorities are:
- (a) A first class education service
 - (b) Tackling crime
 - (c) Supporting the vulnerable in our community (including the objective providing homes in balanced communities priority estates)
 - (d) A cleaner, greener Barnet
 - (e) Repairing roads and pavements
- 3.3 The Cricklewood, West Hendon and Brent Cross Development Framework (2004)
- 3.4 The Development Framework is approved as SPG pursuant to the emerging UDP. The vision for the whole area, including West Hendon, is "*to create a new gateway for London and a vibrant urban area for Barnet*".

4. RISK MANAGEMENT ISSUES

- 4.1 The Principal Development Agreement (PDA) seeks to minimise the Council's risks while safeguarding the Council's desired outcomes. The Council's prime concern is to see the redevelopment completed and the commercial terms and overall provisions of the PDA have been negotiated in order to best promote this objective.
- 4.2 If the Council fails to enter into an agreement with the development partners the Council would have difficulty in meeting Decent Homes standards for West Hendon in a cost-effective way. No funding is identified for this purpose.
- 4.3 On entering into this PDA the current Underwriting Agreement terminates, and the current liability of £1.1M ends. If the Council does not enter into a PDA the

Underwriting Agreement remains in force. If the Council then failed to promote a CPO within twelve months of the date of the grant of the Outline Planning Consent (presuming such consent is issued) it may be liable to make payment of the full underwritten sum.

4.4 The major risks to the project are the conditions precedent;

- Failure to obtain detailed planning consent – Outline Planning approval was given on the 27 July 2005 and positive indications have been received from the Greater London Authority (GLA) and Transport for London (TfL) of their support for the scheme. If consent was refused an Appeal would be lodged and if necessary a revised scheme could be submitted.
- Compulsory Purchase Order – if approval was refused or significantly amended the project would be undeliverable or only marginally deliverable and the PDA would not become operational. Consultation has taken place with the Office of the Deputy Prime Minister (ODPM), a strong consultancy team is in place and negotiations to acquire by agreement have already started to take place with leaseholders and freeholders in the area. If the CPO failed a revised scheme and planning application could be considered.
- Ground 10A Approval – in order to decant tenants the Council is required to obtain approval from the ODPM to enable it to serve Housing Act 1985 Ground 10A notices to gain vacant possession of homes. The PDA would not become operational if ODPM approval is not obtained. A majority of tenants have shown their support for the scheme in the non-statutory ballot and extensive consultation has continued to be carried out with residents.
- Other necessary consents refused. Discussions with the ODPM and Government Office for London are ongoing. Land would not be disposed of until all necessary consents were in place. If necessary the scheme would be revised and consents would be re-applied for.
- Housing Corporation (HC) Grant secured. HC grant could be not awarded or delayed. Advance discussions with the HC have been positive and the application is planned for the current funding round. If the grant was not awarded other funding sources would be explored and if necessary the scheme could be revised to make it more financially viable.
- The outcome of the advertising, pursuant to the provisions of Section 123 (2A) of the Local Government Act 1972, of the Council's intention to dispose of York Park.

4.5 A detailed risk matrix is included as Appendix 1 to the exempt report.

5. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

5.1 Financial Implications

5.1.1 The effect of taking the current West Hendon stock of 520 dwellings out of the Housing Revenue Account is a net full year gain of £121k. This is represented by reduced income and expenditure, offset by negative subsidy for those units, based on average costs and average rent income included in the

approved 2005/06 HRA budget. The HRA business planning process included the regeneration scheme and the future financial effects have therefore been recognised within this.

- 5.1.2 As part of the Council and MWH's joint Pledge to residents, existing secure tenants may elect to remain a tenant of the council (rather than of MHT) on moving to a new home. Where this option is exercised there is a cost to the Housing Revenue Account, through the operation of the housing subsidy regime, equivalent to £1,055 per tenancy per year. Although potential take up is unknown, by the time rehousing takes place there could be an estimated maximum of 350 cases where this option would apply, which would produce an annual cost of £369,000. No costs have been included within the HRA business plan to recognise this.
- 5.1.3 The Council's development partners will be responsible for Council costs up to £500,000 prior to the PDA being signed and annual Council costs of £100,000 per annum during the development period. The Council will be responsible for all its own costs in relation to this scheme prior to the PDA being signed, in excess of £500,000. Since 2001/02 the Council has expended considerable staffing and financial resources in promoting the housing regeneration programme with a significant proportion of this relating to programme wide and cross-cutting legal, financial and technical issues. The dedicated expenditure on the West Hendon regeneration project to date is estimated at £450,000 consultancy costs in addition to the housing regeneration staffing costs and other corporate resources that have been applied.
- 5.1.4 If the Council fails to fulfil its obligations under the PDA once signed, it may be liable for damages and other financial liabilities which given the significant investment in the regeneration project by the partners could be substantial. The Council will need to ensure that it puts in place appropriate structures and resources to ensure that its obligations are delivered without delay or breach.
- 5.1.5 The Council in negotiating the PDA has striven to ensure that the required outputs will be met as its first priority. In the event that the partners make super profits the PDA allows for the Council to participate in the profit share. The arrangements for payment of overage are detailed in the exempt report. Arrangements are also in place to deal with the treatment of surplus profits if for any reason the project ends without the development being completed.
- 5.1.6 The Council and the partners have agreed to adopt a transparent and Open Book approach to the management of the development. The Council will have the right to access management accounts and other relevant documentation to ensure that information being provided by the partners in connection with financial matters is true and accurate and accords with "Value for Money" criteria.
- 5.1.7 The Council's financial consultants Abros have confirmed that the financial terms for this contract represent value for money for the Council taking into account the following points;
- The level of risk which the partners are assuming in respect of matters that are outside of their control;

- The time frame of 12 years for the delivery of the project
- The negative cash flow position during the first 8 quarters of the delivery stage of the project; and
- That an appropriate structure for construction procurement will be adopted by the partners which will secure value for money for the partners and the Council.

6. Staffing Implications

- 6.1 A number of posts within Barnet Homes are likely to transfer to Metropolitan Housing Trust on comparable terms and conditions. Informal discussions have taken place between the Council, Unions and Barnet Homes.

7. ICT Implications

- 7.1 None

8. Property Implications

- 8.1 On display at the meeting will be a plan showing by black edging the lands and properties within the West Hendon regeneration area. Shown edged red on the plan are the lands and buildings owned by the Council. The Council's ownerships include the Marsh Drive housing estate and the houses in Ramsey Close and Rosemead (subject to those freehold and leasehold properties which have been sold under the Right-to-buy provisions), retail and other commercial premises, community use buildings, a nursery, car parks, advertising hoarding sites, vacant plots of land and York Park.
- 8.2 Whilst it is intended that the majority of the land and buildings within the Council's ownership will, subject to ODPM approval, be transferred at nil value with the transfers being in accordance with the agreed phasing programme, there are financial and other issues connected with the transfers which are relevant to the decision to enter into the PDA.

Perryfields

- 8.3 The site of the Perryfields elderly persons care home and day centre in Tyrrell Way was transferred freehold to Ealing Family Housing Association as part of the programme of providing new homes built to modern standards. It was intended that a new home would be built on the Perryfields site but it was subsequently noted that this would not have fitted with the West Hendon regeneration proposals. As a consequence an alternative site for the new care home was sought.
- 8.4 At its meeting on 8 July 2004 the Cabinet Resources Committee agreed, subject to certain conditions precedent being met, that Ealing Family Housing Association should be given the freehold of part of the Hendon Football Club site in Claremont Road upon which to build the new care home and with the freehold of the Perryfields site being transferred back to the Council. Conditional contracts have been exchanged with Ealing Family Housing Association to affect these land swaps.

- 8.5 The Council is incurring considerable costs in connection with the variations to the Elderly Persons care homes and day centres re-provision changes. It is essential therefore that it achieves a capital receipt from the sale of the Perryfields site to MWH if the lands swap contract with Ealing Family becomes unconditional.
- 8.6 The PDA provides that MWH will pay market value for the site. The value, which has yet to be negotiated, will be based upon its value for a scheme of residential development. An estimate of the current value is set out in the exempt report but the actual figure will be confirmed prior to entering into the PDA and will be the subject of a report to a future meeting of the Cabinet Resources Committee.

Investment Properties

- 8.7 Attached Schedule A (in Appendix 4) lists the various properties fronting West Hendon Broadway and one in Marsh Drive which are let on lease or licence producing an annual income in the sum set out in the exempt report. This income is credited to the Housing Revenue Account.
- 8.8 Under the terms of the PDA the Council will not be able to create any further interests in these or other properties within the regeneration area which will increase the financial burden for the development partner. The Council can continue to benefit from the revenue income from these properties and manage them to enhance the income, but any new lettings must be on a temporary basis only excluding the occupiers rights to compensation or the grant of a new lease.
- 8.9 The properties fall within different phases of the regeneration scheme and will therefore be transferred to MWH at different times. Subject to the prior approval of the ODPM, each transfer will be at nil value. This means that ultimately the Council (HRA) will cease receiving the rents and fees.
- 8.10 MWH will be responsible for obtaining vacant possession of any premises transferred subject to an existing tenancy.

Lakeview Nursery

- 8.11 This provides an essential service to the local community. However, arising from a review of service delivery options and discussions with MWH it was considered beneficial to both parties to have this facility re-provided off-site.
- 8.12 At its meeting on 28 April the Cabinet Resources Committee, when approving proposals to replace the existing Hyde School (located northwards of the regeneration area in Hyde Crescent) it also agreed, subject to the availability of funding from the West Hendon regeneration, to the construction on the Hyde School site of a new purpose-designed Children's Centre to replace Lakeview.
- 8.13 The Section 106 Agreement attaching to the outline planning permission for the West Hendon regeneration scheme includes the following provision:
- 8.14 "Upon commencement of the development the applicant shall make a contribution of £1.45m for the re-provision of the Lakeview Children's and Family Centre as part of the redevelopment of the Hyde School."

- 8.15 The commencement of the regeneration is dependent upon the PDA becoming unconditional and MWH obtaining detailed planning permission for the first phase (which includes the Lakeview site) and securing ownership and vacant possession of all the land and buildings within that phase area. Thus, it will be sometime before the development commences and the £1.45m becomes payable under the Section 106 Agreement.
- 8.16 Depending upon when the reprovision of the Hyde School takes place, it may be that the building of the replacement for Lakeview needs to happen before the Section 106 condition referred to above becomes operable. There have been discussions with MWH about this and it has been provisionally agreed that in such an instance then it would acquire the Lakeview site from the Council for £1.45m with an overage provision (to reflect the ultimate development value of the site) which would become payable to the Council if the relevant regeneration scheme phase did not proceed. This will be the subject of a future report to the Cabinet Resources Committee.

Vacant Lands

- 8.17 Within the regeneration area there are various Council owned plots which MWH has referred to as 'vacant lands'. These are listed in Schedule B (in Appendix 4). It will be seen that the list includes two sites with advertising hoardings from which the Council derives an income (these are also listed in Schedule A) and two plots laid out and used as 'pay and display' car parking.
- 8.18 In Appendix 1 to this report (PDA principal terms) it refers to MWH electing to have the vacant lands transferred to it once the PDA becomes unconditional. The transfers would be at nil value. As these transfers could be out of phase it is provided for in the PDA that each plot transferred will be made subject to a charge in favour of the Council. If subsequently the developer becomes insolvent or the PDA is terminated then any undeveloped 'vacant lands' will be transferred back to the Council.
- 8.19 There is a fee income from the advertising hoardings. The car parks are important to the commercial viability of the West Hendon Broadway businesses and produce a revenue income to the Council. At present the PDA does not define the 'vacant lands' by reference to a plan. There will be further discussions with MWH on the basis that if these lands are to be transferred it will be conditional upon the Council continuing to (i) receive the income from the advertising hoardings; and (ii) managing the car parks and collecting the revenue income until such time as the plots are required for development.

York Park

- 8.20 This is an area of public open space which is required for the regeneration scheme. A significant proportion of the existing park land is to be built upon. The scheme includes replacement open space which will be retained and managed by MWH.
- 8.21 As York Park is public open space the Council must advertise its intention to 'sell' the park to MWH (at nil value) pursuant to Section 123(2A) of the Local Government Act 1972. If any representations are received then these must be reported to an appropriate committee meeting for proper consideration before

a sale of the land is finalised. The satisfactory conclusion of this procedure is a condition precedent to the PDA becoming unconditional.

9. LEGAL ISSUES

- 9.1 The Council has power to enter into the proposed West Hendon Principal Development Agreement (PDA) by virtue of its wellbeing powers as more particularly set out in Section 2 of the Local Government Act 2000.
- 9.2 The Council has the power to dispose of land held for housing purposes under Section 32 of the Housing Act 1985; further the Council has the power to dispose of land which is not held for housing purposes under Section 123 of the Local Government Act 1972.
- 9.3 The Secretary of State has set out general disposal consents for both housing and non-housing land. In view of the substantial investment required for the West Hendon Scheme the Council at this stage proposes that it will in future seek specific consents under Section 34 of the Housing Act 1985 and Section 123 Local Government Act 1972 from the Secretary of State.
- 9.4 The Council is investigating whether it requires consent from the Secretary of State under Section 25 of the Local Government Act 1988. This consent from the Secretary of State is required where a local authority is providing financial assistance for the purpose of amongst other things the acquisition and construction of accommodation which is intended to be privately let as housing accommodation.
- 9.5 The Council will in the near future have to contemplate whether or not it is appropriate for it to enter into a resolution in connection with compulsory purchase of land at West Hendon.
- 9.6 The Council in its role as planning authority will have to consider applications for reserve matters in connection with the West Hendon Scheme throughout the regeneration/redevelopment period.
- 9.7 The Council should be aware that the proposed PDA is a long term legally binding agreement under which all parties including the Council have obligations and responsibilities which in the event they are not fulfilled may give rise to legal liabilities.

10. CONSTITUTIONAL POWERS

- 10.1 The Constitution Part 3, Section 3: functions of the Executive.

11. BACKGROUND INFORMATION

- 11.1 The West Hendon regeneration area includes the Marsh Drive Housing Estate which was built in the 1960s and comprises 646 units and Ramsey Close which comprises 34 houses built in the 1980s. A plan of the area is included in Appendix A.
- 11.2 In July 2001 the Department for Transport, Local Government and the Regions issued guidance to Local Authorities on meeting "Decent Homes" standards. As a response to the need to bring homes up to "Decent Homes" standards on the Marsh Drive estate the Council decided that the most

appropriate way of doing this was through a regeneration scheme and that the regeneration proposals would not be restricted to the housing estate but could include improvements to the surrounding road network and the failing shopping area on the Broadway. Fundamental to the Council's approach to the regeneration of the area was that it should involve a minimum amount of public subsidy with the private sector investment subsidising the replacement social housing units and community facilities.

- 11.3 In July 2002 following a detailed procurement process the Council selected Metropolitan West Hendon (MWH) as regeneration and development partner for the West Hendon regeneration scheme. Metropolitan West Hendon comprised Metropolitan Housing Trust (MHT), Bellhouse Joseph (BJ) and Lovell Partnerships. In May 2003 it was reported to Cabinet that Lovell Partnerships had withdrawn from the Consortium.

In May 2005 it was accepted by Members that Barratt Homes Ltd (BHL) was to be a member of the West Hendon regeneration consortium.

- 11.4 In July 2005 Planning and Environment Committee approved the demolition of all existing buildings in Rosemead, Warner Close, Tyrrel Way, Marsh Drive, Marriotts Close and Ramsey Close, Nos. 177-281 and 234-236 West Hendon Broadway; the Deerfields Social Club on Station Road; Lakeview Children and Family Centre and the Youth Sailing Base and the redevelopment of the site with a maximum of 2171 units comprising up to 1491 homes for sale, 548 social rented homes and 132 intermediate homes, approximately 10,000m² of non-residential buildings including a new local supermarket and a Primary Care Trust facility, re-provision of community buildings, the re-provision of York Park, improvements to the strategic road network and the enhancement of the Welsh Harp Site of Special Scientific Interest.

The Cricklewood, West Hendon and Brent Cross Development Framework

- 11.5 West Hendon is the first phase of the wider Cricklewood, West Hendon and Brent Cross development and plays a key role in achieving the objective of the scheme in making this area a new gateway for London and creating a vibrant urban area for Barnet. While the West Hendon regeneration is a discrete project it should be viewed as the first phase of the implementation of the comprehensive framework.

Objectives of the Scheme

- 11.6 The West Hendon regeneration area is isolated from the rest of Barnet and north-west London. The estate is poorly designed and most homes fail to meet the requirement for Decent Homes. The town centre is drab and run-down with a high turn-over of local businesses. Parking is difficult and shops struggle to attract business from outside the area. The road network further isolates the area and the gyratory system makes development within the area difficult and results in poor land use.
- 11.7 The principal aim of the scheme is to promote and implement a comprehensive approach to tackling social, economic and physical regeneration. The specific objectives are as follows;

- To provide new affordable housing for a diverse community. Introducing additional housing and a mix of tenures which will lead to a stronger, more sustainable community.
- To provide new and improved community facilities and amenities. These will include new shops, a local management suite, a new primary care resource accommodating up to 6 GPs, a gym, a new community centre and the re-provision of the Youth Sailing Base.
- To create a new centre with better access. The road network will be altered to provide improved traffic flow. The removal of the gyratory system on both sides of the Broadway will benefit the wider community who live outside of the regeneration area. There will be investment in public transport and improved pedestrian and cycle infrastructure. routes
- A new urban square will be provided that will be the focus for community and commercial activities. The square will provide the principal gateway to the new residential and amenity areas that lie beyond.
- To provide a new, improved and enlarged York Park which meets the needs of the local community, new improved play facilities and two new pedestrian bridges and a footpath providing better access to the open spaces and sports facilities on the other side of the Welsh Harp.
- The scheme will include funding for the replacement of Lakeview Children and Parent Centre as part of the reconstruction of the Hyde School.
- To safeguard the valuable natural resources adjacent to the site in particular the area adjacent to the Welsh Harp reservoir which is a Site of Special Scientific Interest (SSSI).
- To enable comprehensive regeneration including proposals to help residents access work opportunities and/or increase prospects of better paid employment, improving formal and informal education in the area and support social enterprise.
- To ensure the new mixed tenure neighbourhood is well managed in a cohesive, integrated and sustainable manner. To assist in this aim MWH have included a “dowry” of up to £6,000,000 to be provided to assist in offsetting the cost of service charges to residents of the affordable rented homes.
- To actively promote community participation and development within the new neighbourhood.

The Consortium

- 11.8 The MWH consortium now comprises MHT, BJ and Barratt Homes Limited (BHL). As reported in May 2005, BJ will continue to provide development services but will not be a party to MWH.
- 11.9 The consortium now plans to form a Limited Liability Partnership (LLP) between MLL, a subsidiary of MHT, and BHL.

Programme

- 11.10 The current programme is 12 years assuming a Compulsory Purchase Order is confirmed by the Secretary of State at the end of 2006. The redevelopment sequence is to demolish buildings, build new homes and then decant existing residents. The vacant buildings then become the next area for demolition. This process will enable the majority of residents to move straight into a new home on the new West Hendon Regeneration area.
- 11.11 The development of the site is phased over the life of the project. A phasing plan has been approved by the Planning and Environment Committee as part of the outline planning consent for West Hendon. Any changes to the phasing plan would, as appropriate, require approval as a delegated matter by planning officers or approval by the Planning and Environment Committee.
- 11.12 In addition any variation to the phasing plan is considered to be an intermediate change under the terms of the PDA so MWH must formally consult with the Council before any variation can be allowed. The Council may not unreasonably withhold its consent.
- 11.13 The phasing plan as presented to Planning and Environment Committee is made up of an enablement phase and 5 development phases.
- When the enablement phase is completed the Lakeview Children's Centre will have been re-provided and the replacement youth sailing base completed. Highways work on Cool Oak Lane at the junctions with West Hendon Broadway and Woolmead Avenue will be completed and the new footbridge will be in place alongside the existing Cool Oak Lane bridge.
 - Phase 1 – 161 new residential units will have been completed and a temporary office provided for the housing office and PCT facility to allow for the demolition of 215 The Broadway. Commercial units along the Broadway will have been demolished to enable road widening.
 - Phase 2 – A further 545 new residential units will be completed and the new PCT health centre and housing management suite will be in place. The new town square and new frontages on the Broadway will be completed and will include a gym, small supermarket and shops. The new Deerfield social club will be complete. The West Hendon Broadway will have been widened with new junctions at Station Road, Herbert Road and Garrick Road.
 - Phase 3 - 358 further residential units will have been completed and the community centre built. The Ex-Servicemen's' club will have been replaced.
 - Phase 4 – 297 new residential units will be completed and all existing homes on the West Hendon estate will now be demolished.
 - Phase 5 – 807 new residential units will be completed and the new footbridge across the Silk Stream will be in place. There will be a residential car parking ratio of 100%
- 11.14 The Ground 10a consultation will take place in September 2005 and it is proposed that detailed design for Phase 1 will take place between January 2006 and June 2006. A Compulsory Purchase Order is likely to be confirmed in October 2006. Decanting will begin in January 2007; the first demolition will

take place in April 2007. The first construction is likely to begin on the Lakeview site in early 2007.

11.15 The overall programme is scheduled to complete in the Summer of 2016.

Consultation

11.16 Consultation with residents and other stakeholders has been key in developing the regeneration proposals. In December 2002 a non-statutory ballot was held to gauge the support of West Hendon residents. Of those eligible to vote, 75% took part, with 62.5% voting in favour of a comprehensive regeneration of the estate as proposed by MHT.

11.17 Regular newsletters are sent out to local people and a series of fact sheets have been produced which have been made available to all residents

11.18 The Resident Regeneration Group is a representative group of residents who meet monthly. The group has two sub-groups: the planning and design sub-group and the housing management sub-group. Residents have been given the opportunity to visit similar schemes and there have been several exhibitions on the proposed development.

11.19 The Council must obtain consent from the Secretary of State to serve notices of seeking possession under Ground 10A of the Housing Act 1985 to enable the Council to acquire vacant possession of homes required for decanting and demolition. Before consent can be obtained the Council must carry out statutory consultation with tenants.

The Pledge

11.20 MWH in partnership with the Council has made a pledge to the residents of West Hendon estate which outlines what residents can expect from the development.

11.21 The pledge states that all residents will have a new home in west Hendon. Tenants will be provided with a home which has the same number of bedrooms as their current home or more bedrooms if their household is currently overcrowded. Rents and service charges will be affordable, current rights will be protected and tenants will be able to choose to remain a council tenant or to become an MHT tenant.

11.22 Leaseholders and freeholders on the estate who purchased their home before September 2003 will have the opportunity to purchase a new home on the development using the equity on their existing home. If a leaseholder or freeholder is unable to buy a home outright they will have the option of purchasing a shared equity home. Rent will be not be charged for the proportion of equity owned by MHT.

Quality

11.23 The Council in promoting this scheme is seeking to achieve the highest design quality possible both in the buildings and the public realm in order to create a safe and attractive environment for people who live and work and visit the area.

11.24 MWH recognise that the new West Hendon Regeneration scheme will need to be built to the highest possible standards to ensure the aims of the scheme are

met. MWH have worked with the Commission for Architecture and the Built Environment in developing the masterplan and will continue to work closely with the Planning Officers in developing the detailed design of the scheme.

- 11.25 In designing the homes the partners will work with the police to ensure that crime is designed out of the scheme. Homes built will comply with Secured by Design guidelines which is a scheme run by the police to improve community security and safety in new built developments.
- 11.26 MWH have also committed to building homes which will meet an EcoHomes rating of very good. EcoHomes is a scheme run by the Building Research Establishment which measure the environmental performance of homes balanced with the need to provide a high quality of life and a healthy and safe environment.
- 11.27 The PDA requires MWH to produce design guidelines based upon agreed design principles and to consult with both the Council and residents before the commencement of each phase and throughout the life of the project. As a condition of the planning permission MWH will need to submit a design framework for the whole project and a Design Code for each phase to the Council for approval.

Social and Economic Regeneration

- 11.28 There are a number of outputs which the regeneration scheme will achieve over and above the improvements to the housing stock.
- Improvement to the town centre shopping area including increasing the size of the local catchment population making the centre more sustainable
 - Re-providing York Park and improving its amenity value
 - Re-providing the Youth Sailing Base
 - Contributing to the replacement of the Lakeview Children's Centre
 - Providing a new community centre
 - Improving employment and training opportunities. It is estimated that the construction work will provide approximately 425 full time jobs over a 10 year period. Training opportunities will also be created and there will be an additional 100 jobs created in local shops, cafes, the Primary Care Trust and other facilities created by the regeneration project.

12. LIST OF BACKGROUND PAPERS

- 12.1 None

Appendix 1

REPORT TO
THE CABINET OF THE LONDON BOROUGH OF BARNET
ON THE
WEST HENDON PRINCIPAL DEVELOPMENT AGREEMENT (PDA)

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1. **BACKGROUND**

- 1.1 The Council has requested a plain language guide to the proposed West Hendon Principal Development Agreement. The principal purpose of this guide is to assist members of the Cabinet to assess the proposed agreement with Metropolitan West Hendon (“MWH”) to regenerate the West Hendon district of the Borough.

2. **PARTIES TO THE AGREEMENT**

- 2.1 In addition to the Council, the following will be parties to the Agreement:

2.1.1 Metropolitan West Hendon (MWH);

2.1.2 Metropolitan Living Limited (MLL)

2.1.3 Metropolitan Housing Trust (MHT);

2.1.4 Barratt Homes Limited (BHL);

2.1.5 Barratt Development plc (BDPLC).

- 2.2 The Council’s main partner under the PDA is Metropolitan West Hendon, a Limited Liability Partnership between Metropolitan Living Limited and Barratt Homes Limited. Other parties such as MHT, MLL, BHL or BDPLC provide or receive specific obligations to/from the Council. These will be indicated as appropriate in the report.

3. **CONDITIONS (PRECEDENT)**

- 3.1 Following the execution (signature) of the PDA a number of actions are required before the regeneration of West Hendon can commence. These include:

3.1.1 Confirmation of a Compulsory Purchaser Order (if the Council pursues this route);

3.1.2 The Secretary of State’s consent being obtained in connection with the transfer of land and open spaces (and subject to the outcome of consultation on the disposal of public open space);

3.1.3 Road Stopping-up Orders being made in connection with West Hendon;

3.1.4 Completion of a section 106 planning agreement.

3.1.5 A successful consultation with tenants under Part IV of Schedule 2 of the Housing Act 1985.

3.2 In essence MWH will not be required to undertake the regeneration until it is legally in a position to do so. Elements of the PDA will operate on execution (signature) these primarily revolve around the parties co-operating, preparing for obtaining various consents and the operation of the dispute procedure.

3.3 If the Conditions Precedent are not met (by an agreed long-stop date) the PDA terminates.

4. DEMOLITION AND PREPARATION

4.1 The Office of the Deputy Prime Minister (ODPM) has guidelines which limit the ability of local authorities to dispose of intact dwellings without undertaking a form of large scale voluntary transfer (LSVT). The West Hendon regeneration is not by its nature an LSVT. The Council therefore must ensure that empty/redundant dwellings are demolished before any land is transferred to MWH. Once a block of flats have been decanted then MWH will be responsible for securing that block/building and ensuring demolition takes place.

4.2 The Council will pay a nominal sum (£1) for each phase of demolition works.

5. DEVELOPMENT OBJECTIVES

5.1 This provision requires MWH (subject to the other provisions of the PDA) to provide between 1,500 and 2,300 new homes at West Hendon. Of these, MWH is required to construct 548 affordable rented homes and 132 affordable “intermediate”/“shared equity” homes. These are to replace existing Council owned homes as well as those purchased under the Right to Buy legislation.

5.2 The Council and MWH also commit themselves to providing a sustainable balanced community which has improved social and economic viability.

6. TRANSFER OF DEVELOPMENT PHASES

6.1 The Council in its original vision for the scheme decided to limit disruption to existing residents by limiting household moves to a single transfer from an existing home to a new home. This means that the regeneration must be undertaken in phases. In essence MWH (or BHL or MHT) constructs a phase, the Council and MWH transfer existing residents into new homes and the vacated dwellings are demolished and construction commences.

- 6.2 For a phase to be transferred, MWH has to serve notice on the Council stating that a number of conditions have been satisfied, these include matters such as detailed planning permission having been granted, sufficient funding being in place to continue the development and that MWH is not in serious default of the PDA.
- 6.3 The Council is not obliged to transfer the relevant land in a phase until MWH has completed demolition of any existing buildings on the land.
- 6.4 For the purposes of the PDA the commencement of demolition is also the commencement of works on a new phase.
- 6.5 This is important to the Council as Barratt Developments plc guarantee to complete the construction of a phase once MWH commences that phase. This guarantee would operate even if MWH became insolvent.

7. TRANSFER OF VACANT LAND

MWH has identified discrete parcels of land within West Hendon which it may be in a position to undertake regeneration work on outside of the phased programme. MWH may elect to have this land transferred to it (or BHL or MHT) from the date that the conditions precedent (previously mentioned) have been fulfilled. The Council will place a charge on any vacant land which is transferred to MWH (MHT or BHL). The charge will be released once the phase it is situated in is transferred to MWH (MHT or BHL) or development commences on the vacant land. In the event of MWH becoming insolvent or the PDA being terminated then such vacant land which has not been developed will be transferred back to the Council.

8. COUNCIL'S OBLIGATIONS (GENERAL)

- 8.1 The Council is required to use its reasonable endeavours to do amongst other things:
- 8.1.1 Diligently pursue a Compulsory Purchase Order/Stopping Order (in the event the Council resolves to do this) and comply with any obligations which may be set out in a separate CPO Indemnity Agreement;
- 8.1.2 Comply with its obligations in the decanting plan (this sets out the relevant responsibilities of MWH and the Council in connection with decanting existing residents);
- 8.1.3 Obtain the relevant Secretary of State's consents in connection with approval of the transfer of land, consultation undertaken with existing residents and for other matters such as the transfer of "open/common" land;

8.1.4 Generally to co-operate with its regeneration partners.

9. **MWH'S OBLIGATIONS (GENERAL)**

9.1 MWH is responsible for the costs of the development including £500,000 Council costs prior to the PDA being signed, annual costs of £100,000 during the development periods to enable the Council to manage and monitor the project, and any costs which are the contractors' responsibility under the CPO indemnity agreement. The Council will be paid the £500,000 for pre PDA costs once the project becomes cash flow positive.

9.2 The Council will be responsible for its own costs if such costs exceed £200,000 in any two agreement years.

9.3 MWH is required to comply with its obligations under the decanting plan which require it to be responsible for and to manage a combine team of MHT and Barnet Homes personnel.

9.4 MWH is required to use its reasonable endeavours to complete the relevant building works for a phase within the pre-agreed timetable. Subject to that timetable being extended in the event that (pre agreed) delay events occur.

9.5 In the event that during the course of the regeneration programme it is not financially viable to proceed then MWH and the Council will undertake a joint review of potential changes to the PDA and examine alternative funding streams (e.g. additional funding from MHT, Central Government Grant or Council funding). In those circumstances MWH will also undertake an economic review of whether it is economically viable to proceed with the next phase irrespective of whether or not the whole of the regeneration scheme is at that stage economically not viable.

10. **DESIGN AND CERTIFICATION**

10.1 MWH is required to produce Design Guidelines based upon agreed design principles. MWH is obliged to consult in detail with both the Council and residents to develop the design guidelines both at the commencement of the regeneration project and during its lifetime.

10.2 At the commencement of a phase MWH's "professional team" will be required to issue a design certificate which states that the proposed phase is in compliance with design guidelines and in the event there is areas of non compliance these will be set out in the relevant certification. The professional team will provide warranties to the Council in respect of their professional responsibilities in design works relating to affordable housing, infrastructure and community facilities and in the event of

negligence/fraudulent misstatement on the Design Certificates the Council may have a legal course of action against those professionals.

11. CERTIFICATION OF COMPLETION

11.1 The Council is rightly concerned to ensure that the affordable accommodation and relevant infrastructure works are constructed to the specifications it set MWH (and other bidders) at the commencement of the exercise of procuring a regeneration partner.

11.2 MWH's employers agent will be required to certify that the affordable rented accommodation has been constructed to the agreed specification.

11.3 As with the certification of design, this member of MWH's professional team will provide the Council with a warranty under which the Council may take legal action in the event that the certification is undertaken negligently/fraudulently.

12. FINANCIAL PROVISIONS

The details of the financial provisions are set out elsewhere in the report provided by Abros, the Council's financial advisers.

13. AUDIT AND OPEN BOOK

13.1 The Council as a public body is required to operate under strict financial probity. MWH is required to keep proper management accounts for the development. Further it must retain books, accounts vouchers, receipts, invoices and other documentation (including contract documentation) which relate to its expenditure.

13.2 The Council has a right of access to this documentation to ensure that the information being produced by MWH in connection with financial matters is true and accurate and further it complies with its general obligation to undertake the regeneration in accordance with "Value for Money" criteria.

13.3 The Council is currently in negotiation with MWH about an auditor to auditor protocol which would allow more openness in connection with the financial aspects of the regeneration scheme. This would be based on CIPFA Guidelines.

14. TENANTS' AND RESIDENTS' RIGHTS

14.1 Existing tenants will if they opt to become MHT tenants be offered a form of tenancy agreement with pre-approved elements. The pre-approved elements effectively mirror rights which council tenants have but are not enjoyed automatically by tenants of registered social landlords.

- 14.2 Existing tenants also have the right to elect to remain council tenants even though they occupy a new home.
- 14.3 Existing tenants will retain a contractual Right to Buy – it should be noted if the law on RTB changes then MHT has the option of whether this local right to buy scheme will incorporate any changes.
- 14.4 A “dowry” of up to £6,000,000 is to be provided to assist offset the cost of service charges to residents of the affordable rented homes. The Council in order to achieve a balanced and sustainable community has encouraged its regeneration partners to integrate market homes, affordable rented homes and intermediate homes throughout the scheme. In addition the Council has encouraged its partners to ensure that the tenure of homes within buildings/blocks cannot be readily ascertained from their external appearance. Landlord and Tenant legislation restricts (if not prohibits) the ability of a landlord to permit a cross subsidy of one occupier’s service charges by another. The dowry is therefore aimed at providing a fund to assist with the Council’s aim of a balanced community.
- 14.5 The PDA also requires MWH and MHT to create a Neighbourhood Management Partnership (NMP). The NMP will involve tenants and residents together with MHT, the Council and MWH promoting the community regeneration of the West Hendon area.
- 14.6 Depending on the success of the development, MHT/MWH will invest between £750,000 to £2,000,000 in employment, training and other community initiatives.

15. **VARIATION – CHANGING THE PDA**

- 15.1 This is yet to be finalised. In effect there are two significant forms of variations to the agreements and the schedules. The first are termed “major changes” where both the council and MWH must agree to those changes.
- 15.2 The second form of variations is known as intermediate changes. The council may only veto a request from MWH for an intermediate change where it has reasonable grounds to object to the proposal.

16. **DEFAULT AND TERMINATION**

- 16.1 The development is a long term project which requires significant investment. This investment will come through private organisations whether directly from the Barratt Group or loans from banks. Funders of such schemes will not provide funding if a development can easily be

terminated. The default and termination provisions of this agreement therefore reflect those commercial realities.

- 16.2 In essence there are two forms of breach which MWH could commit one known as a Minor Default and the other termed, a Serious Default. Minor Defaults cover such matters as failing to deliver the works in accordance with the terms of the agreement (e.g. failure to disclose information reasonably requested by the council). In these circumstances MWH is required to provide the council with a recovery plan which either sets out how it will rectify its breach of the agreement and/or ensure it does not commit similar breaches in the future. Serious Defaults cover more serious matters (such as insolvency, failing to implement a recovery plan, failing to complete works by required dates) or other significant breaches of the agreement.
- 16.3 If MWH fails to implement a recovery plan to correct serious default then the agreement may be terminated subject to the dispute resolution procedure.
- 16.4 The council envisages giving rights to funders of the scheme (e.g. Barratt Group or commercial banks) the option of stepping in to rescue the scheme in the event that MWH is at risk of being terminated. These “step in” provisions reflect the commercial expectations of external funders.

17. **DISPUTE RESOLUTION**

The Dispute Resolution provision tends to encourage discussion and mediation as a first step. In a number of technical areas the agreement envisages that relevant technical experts will sit in judgement on disputes between the parties. It should be noted that either the council or MWH can seek a decision from a court (except for technical disputes) on any dispute which arises between them.

18. **SITE SAFETY AND SECURITY**

MWH is responsible for site safety and security during both demolition and construction works. In essence MWH and its sub-contractors will be required to operate a “Considerate Builders Scheme” which will limit noise and disruption to hours which are less likely to cause a nuisance to existing tenants and residents.

19. **MWH – CHANGE OF OWNERSHIP**

- 19.1 BHL has the ability to assign its “ownership” in MWH to another party (MHT having the first option on purchasing that interest). BHL’s right is restricted to it assigning its interest to an organisation which is able to provide a

similar covenant (e.g. economic strength) similar to its own. In addition, the Council will be able to “veto” organisations which it has good cause to object to.

- 19.2 MLL (a wholly owned subsidiary of MHT) will also have the option of assigning its interest in MWH although its ability is more restricted than that of BHL. MHT, the residents and the Council will participate in identifying/confirming who the replacement for MLL would be.

20. **EMPLOYEE TRANSFER**

It has been agreed between the Council and MWH that a number of posts which currently exist within Barnet Homes are likely to transfer to MHT during and on completion of the regeneration programme. I understand, that informal discussions have taken place between the Council, Unions and Barnet Homes. Formal consultation will be required on this matter.

21. **BARRATT DEVELOPMENT PLC – GUARANTEE**

- 21.1 As, mentioned in paragraph 6.5 Barratt Development plc will under the PDA guarantee to the Council that once a phase is commenced it will be completed.

- 21.2 This provision is to assist the Council risk manage a situation where MWH defaults or is otherwise is unable to complete a phase.

- 21.3 The Council should be aware that a guarantee is only as good as the organisation which provides that guarantee. In the event Barratts Development plc was itself insolvent at the time the Council called upon it to fulfil its obligations then the Council would have no further recourse.

22. **STAMP DUTY LAND TAX**

- 22.1 Stamp Duty Land Tax (SDLT) does not necessarily distinguish between general commercial developments and those such as West Hendon which have a wider community goal. MWH has held discussions with the SDLT Stamp Office in connection with a number of potentially “taxable” elements in the regeneration scheme including Council nomination rights. It is envisaged that the Stamp Office will provide a formal response to the SDLT position around late August/early September 2005.

- 22.2 MWH will underwrite any SDLT levy which may be made on the Council in respect of its nomination rights. It is unknown at this stage whether SDLT arises in connection with nomination rights.

22.3 In the event that the Stamp Office's view is that the scheme as currently structured would generate a large SDLT liability, making the scheme unviable then, prior to executing the PDA the Council will be required to discuss the non-configuration of the scheme to make it viable with its regeneration partners.

23. **CONTRACTUAL REMEDIES**

23.1 The private investment required to regenerate the West Hendon area is likely to be in excess of £300 million pounds.

23.2 The Council's obligations under the proposed PDA are not, in my experience, particularly onerous for this type of agreement. In essence the Council is required to be co-operative and ensure that adequate resources are maintained so that the Council promptly fulfils its limited commitments.

23.3 Members should be aware that a serious breach or repudiation of the PDA by the Council could lead to claims for contractual damages which are likely to be proportionate to the private investment being made. The Council can best manage this situation by;

23.3.1 ensuring that the Council actively manages itself during the PDA/regeneration process;

23.3.2 maintaining sufficient resources to enable the Council to fulfil its obligations under the PDA.

24. **LIMITED LIABILITY PARTNERSHIPS**

24.1 MWH, the joint venture vehicle between MLL (a subsidiary of MHT) and BHL is a limited liability partnership (LLP).

24.2 Traditionally under English law each member/partner of a partnership was joint and severally liable for the liabilities of that partnership. In essence partners could not limit any liabilities that the partnership owed to third parties.

24.3 Parliament introduced the Limited Liability Partnership Act 2000. This enabled partnerships to be corporate bodies with limited liability, this being similar to the status of limited companies.

24.4 MWH has primarily proposed a LLP due to MHT's charitable status. Limited companies are taxed on their profits prior to those profits being distributed to shareholders. If a shareholder is an organisation such as a charity or a local authority which may not in all circumstances have to pay

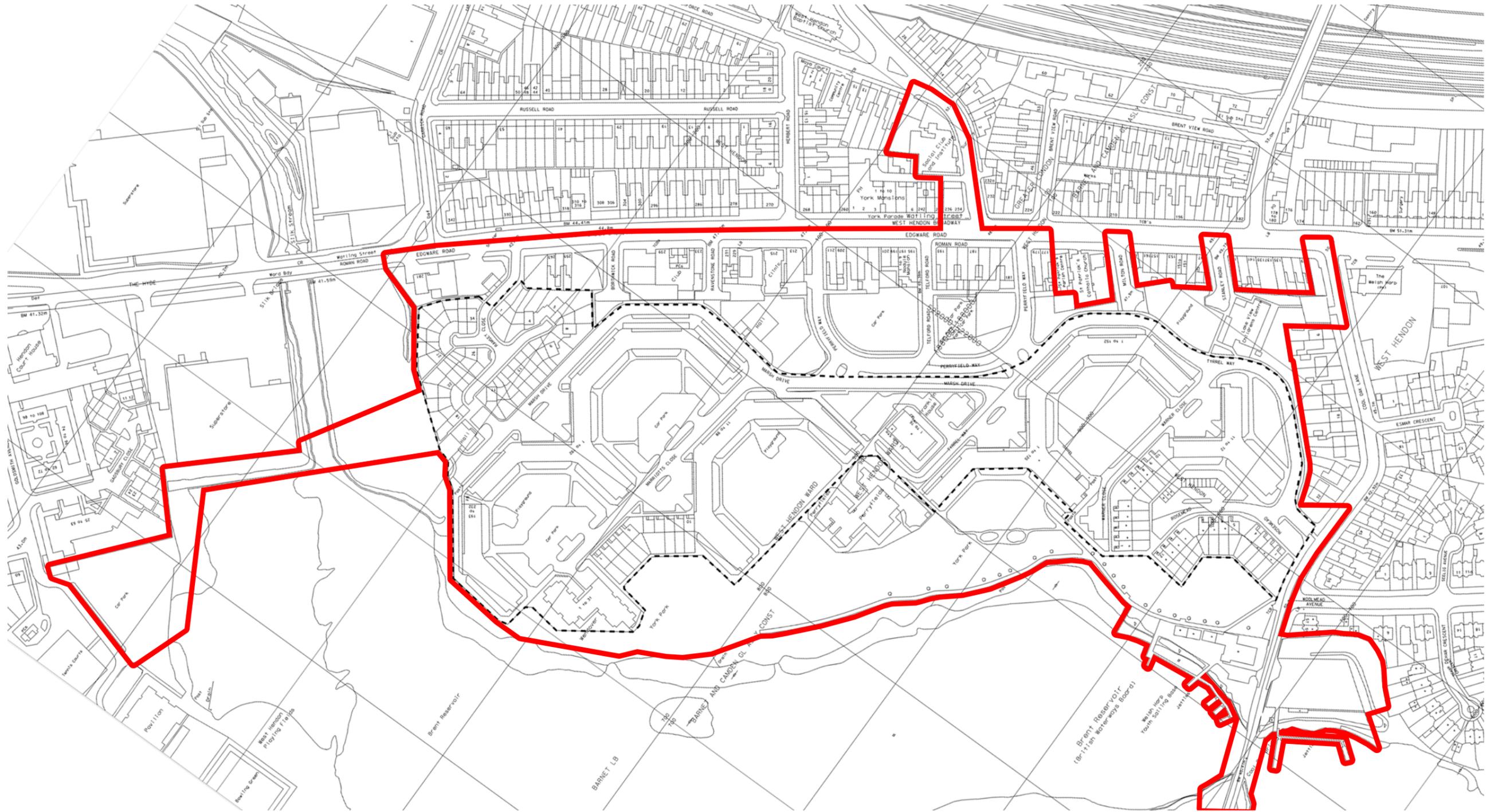
corporation tax the “profit” they may have been entitled to is still taxed prior to them receiving it.

- 24.5 LLPs are treated differently for tax purposes. Each partner of the LLP is taxed separately rather than the profits being taxed prior to distribution to its members. This means that bodies such as local authorities and/or charities may be entitled to receive any profit/distribution gross of corporation tax. MLL/MHT propose to provide this element of its share of MWH’s profits as a contingency reserve to support the completion of the project if this is required.

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11 August 2005





LET ESTATE PROPERTIES

ADDRESS	TENANT/LICENCEE	USE
Site of 127 West Hendon Broadway	Mills and Allen Limited	Advertising hoarding
189 West Hendon Broadway		Young people's Centre
203 West Hendon Broadway		Currently vacant
203a West Hendon Broadway (above 203)	Metropolitan Housing Trust	Residential
213 West Hendon Broadway	R Khimji	Car repairers
Site of 221/223 West Hendon Broadway	Mills and Allen Limited	Advertising Hoarding
233 West Hendon Broadway	West Hendon Ex-Servicemen's Club	Ex-Servicemen's Club
239/241 West Hendon Broadway	West Hendon Ex-Servicemen's Club	Ex-Servicemen's Club
Marquin Centre, Marsh Drive	Scout Association Trust	Scout hall

SCHEDULE B – VACANT LANDS

ADDRESS	COMMENT
Site of 127 West Hendon Broadway	Advertising hoarding site producing an income to the Council
Site of 221/223 West Hendon Broadway	Advertising hoarding site producing an income to the Council
Two car parks rear of West Hendon Broadway	Both Council operated as pay and display car parks producing a revenue income.
Land rear of 173/175 West Hendon Broadway	Former play-ground – now vacant.
Site fronting 235/237 West Hendon Broadway	Site of former public conveniences – vacant.