

MUNICIPAL YEAR 2014/2015 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

PORTFOLIO DECISION OF:
Cabinet Member for Environment

REPORT OF:

Director - Environment

Contact officer and telephone number: Neil Isaac, 0208 3793760

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Agenda – Part: 1	KD Num: N/A
Subject: Minor Amendment to CONTRACT AWARD - Passenger Transport, Vehicles & Ancillary Transport Services	
Wards:	ALL

1. EXECUTIVE SUMMARY

- 1.1 This report identifies a naming error in a previous Portfolio report dated 22nd APRIL 2014 titled 'Education Transport, Vehicles & Ancillary Transport Services' (ENV 13.132 Part 1 & 2) that needs to be amended to enable the authority to contract with the correct legal entity.
- 1.2 The previous report recommended the appointment of a contractor who operates as two separate legal entities (using two different business names) and the wrong name was used in the previous report.
- 1.3 The procurement documentation contained the correct information and therefore this amendment is simply to rectify the administrative error in the Portfolio report.

2. RECOMMENDATIONS

- 2.1 That the administrative error in the previous report be noted, and;
- 2.2 The administrative error in relation to the name of the company is addressed by amending the decision such that the award is made in favour of the correct legal entity.

3. BACKGROUND

- 3.1 In April 2014, the authority considered a report on the procurement of 'Education Transport, Vehicles & Ancillary Transport Services' and resolved to contract with a number of companies to provide these services.
- 3.2 It has subsequently come to light that there was an error in Part 2 of the report, where one of the company's names was incorrectly reported.
- 3.3 The PQQ, ITT and all other documentation are in the name of the correct company and evaluation of the tender documents was also in the correct name. It was simply an administrative error in the Part 2 report. This simple mistake needs to be rectified via this report to ensure that the contract can be awarded to the correct company that bid for these services.

4. ALTERNATIVE OPTIONS CONSIDERED

None – as the correspondence has already been sent to the correct company awarding the contract on completion of the original report.

5. REASONS FOR RECOMMENDATIONS

The award of contracts for the provision of the service is essential to complete the procurement process. Contracts need to be in place to ensure the service can continue to operate efficiently.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS

6.1 Financial Implications

None.

6.2 Legal Implications

This was a simple administrative error and has no impact on the procurement process as the Council has evaluated the correct company. It is simply an error in the report which can be rectified by a Portfolio report which is for information only and not subject to call in.

6.3 Property Implications

None.

7. KEY RISKS

Failure to resolve the error in the previous report will mean that the previous decision is to appoint to the wrong company (which the Council cannot do in line with procurement requirements).

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

The proposal does not change the nature of any service to customers and is therefore neutral in this regard. However the proposal provides the opportunity to sustain services within the current budget.

8.2 Growth and Sustainability

The proposal does not change the nature of any service to customers and is therefore neutral in this regard. However the proposal provides the opportunity to sustain services within the current budget.

8.3 Strong Communities

The proposal does not change the nature of any service to customers and is therefore neutral in this regard. However the proposal provides the opportunity to sustain services within the current budget.

9. EQUALITY IMPACT IMPLICATIONS

The proposal does not change the nature of any service to customers and is therefore neutral in this regard. However the proposal provides the opportunity to sustain services within the current budget.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

10.1 Not Relevant

11. HEALTH AND SAFETY IMPLICATIONS

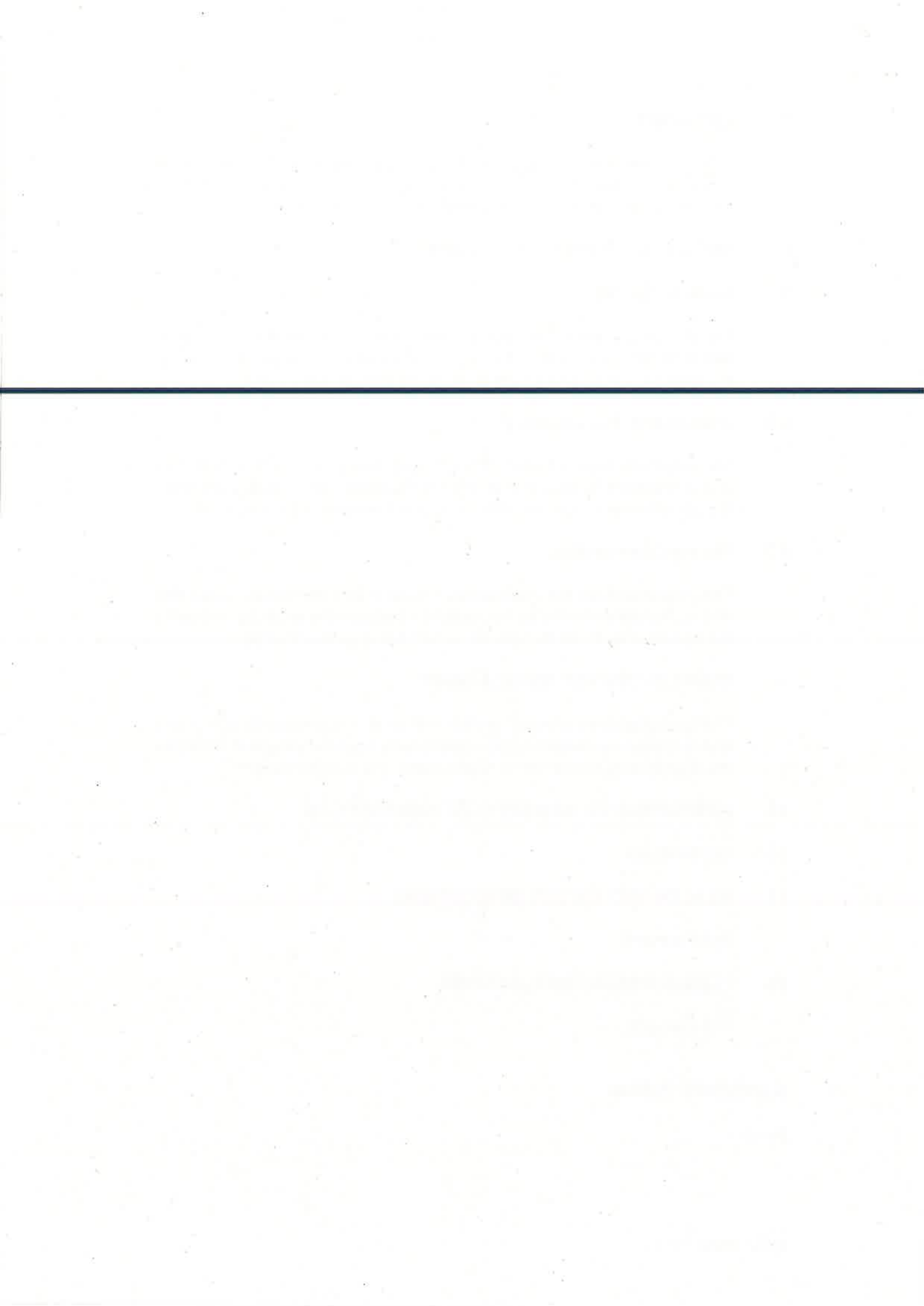
Not Relevant.

12. PUBLIC HEALTH IMPLICATIONS

Not relevant.

Background Papers

None.



MUNICIPAL YEAR 2014/2015 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

PORTFOLIO DECISION OF:
Cabinet Member for Environment & Community Safety

REPORT OF:
Director – Regeneration & Environment

Agenda – Part: 1	KD Num: N/A
Subject: Junction Protection Programme a) Mahon Close / Carterhatch Lane b) Tintern Gardens / The Vale	
Wards: a) Chase; b) Southgate	

Jonathan Goodson, Traffic & Transportation Services
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<p>1. EXECUTIVE SUMMARY</p> <p>1.1 This report considers proposals within the Council’s Junction Protection Programme covering two batches: Carterhatch Lane and Winchmore Hill Road. Within each batch “at any time” waiting restrictions (double yellow lines) have been proposed at various junctions to deter problematic parking. Most junctions have attracted no comment.</p> <p>1.2 Two have attracted objections: a) Mahon Close / Carterhatch Lane b) Tintern Gardens / The Vale</p> <p>1.3 The report recommends implementing a reduced layout of lines at the former, and implementing the latter without amendment.</p>

<p>2. RECOMMENDATIONS</p> <p>To proceed with the proposals shown, by:</p> <p>(i) making the necessary Traffic Management Order, (ii) notifying correspondents of this decision and (iii) implementing the necessary road markings.</p>

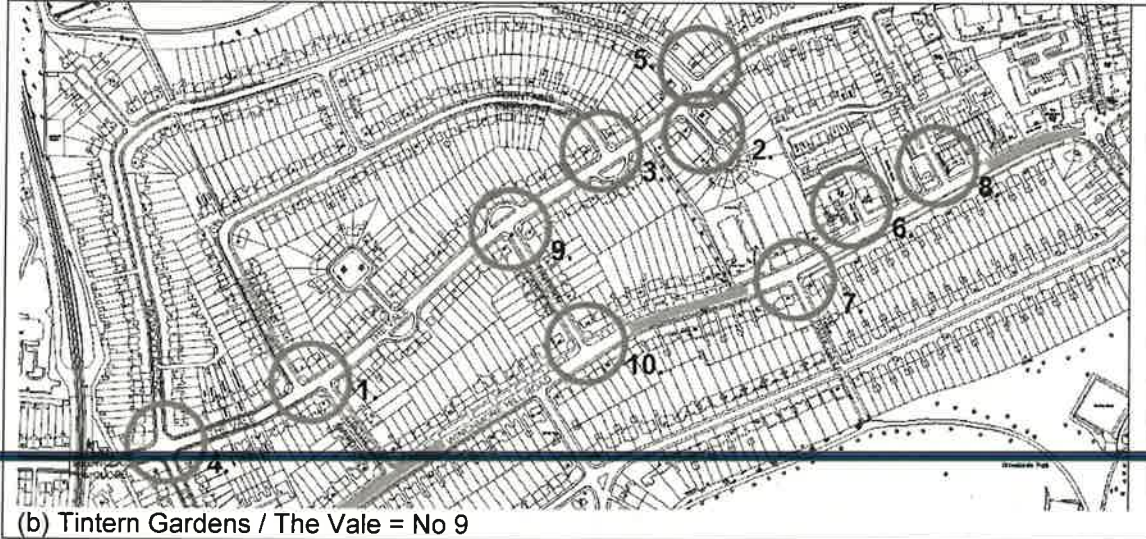
3. BACKGROUND

- 3.1 Enfield Council has a Junction Protection Programme that seeks to deter parking near junctions or bends by the introduction of double yellow lines. One aim is to keep the public highway clear for the legitimate passage and manoeuvring of large vehicles. Another aim is to improve/protect visibility at junctions, for the benefit of all road users including crossing pedestrians. This is in line with Rule 243 of the Highway Code which states that motorists should not park within 10m of a junction.
- 3.2 Double yellow lines prohibit parking at any time, with the exception of blue badge holders who may park for up to three hours. Unlike the single yellow line marking, where an accompanying plate specifies the hours of the restriction, double yellow lines require no post-mounted signs.
- 3.3 Traffic Management Orders to introduce the restrictions at all of the proposed junctions were advertised in the local press on 12th February 2014. Street notices were displayed and letters delivered to properties immediately adjacent to the sites to coincide with the advert appearing. (Those junctions that did not attract objections will be progressed in due course, and are not detailed here.)
- 3.4 Overview plans showing all of the junctions included within the two batches are shown below:

Fig 1: Plan of Carterhatch Lane Area Batch



Fig 2: Plan of Winchmore Hill Road Area Batch



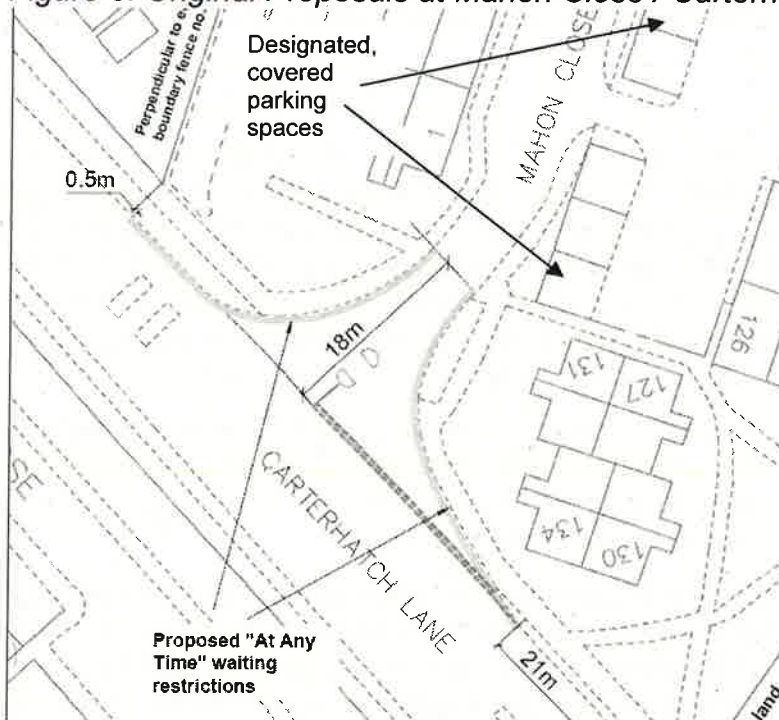
(b) Tintern Gardens / The Vale = No 9

4. REVIEW OF PROPOSALS AND COMMENTS RECEIVED

(a) Mahon Close / Carterhatch Lane

- 4.1 The original proposals for "At Any Time" waiting restrictions for Mahon Close are illustrated in the figure below:

Figure 3: Original Proposals at Mahon Close / Carterhatch Lane



- 4.2 Proposals almost identical to those shown above were advertised in 2010 under the same programme within a batch of junctions to the west along Myddleton Avenue. This batch generated an unusually high number of objections, including for Mahon Close, and the entire batch was dropped without being reported upon.

- 4.3 Although the 'bellmouth' of the junction is wide, the presence of the refuge island within the middle means that parking within the extent of the proposed lines could still prove a hindrance to larger vehicles. Similarly, the extension of the proposed lines north of the junction reflects the need to keep clear the area immediately adjacent to the traffic islands within the main road.
- 4.4 The half of the junction used by vehicles entering the close (the northern half) features a much tighter radius kerb line than exists on the opposite half for those leaving the close. It is likely that this design reflects the disparity in traffic speed and volume within the two roads. Drivers leaving the main road are encouraged by the tighter corner to moderate their speed as they enter the quieter side road. Vehicles waiting to join the main road have a less severe radius to negotiate, helping them accelerate and merge smoothly into the column of traffic.
- 4.5 An objection from a resident of the close was received, via Cllr Tom Waterhouse. This communication asserts that part of the junction was constructed as a layby to allow loading/unloading by residents and parking by delivery vehicles or tradesmen working at the properties. It refers to the 2010 proposals and to the 12-signature petition that residents submitted against them. The objector asserts that the proposals are a waste of money and will displace parking causing problems elsewhere in Mahon Close; also that the yellow lines would spoil the appearance of the entrance to the close and prevent the resident from cleaning out his car using a mains-powered vacuum cleaner.

Response:

It is unlikely that the wide exit point from the close was provided as a parking place for residents, but rather was intended to assist motorists joining the busy main road at a point where a central reservation begins. The layout and markings do not denote it as a parking area; and parking here would contravene the Highway Code which states that motorists should not park within 10 metres of a junction. The restrictions on parking would not prohibit loading and unloading by residents and delivery vehicles.

Regarding removal of parking, it is noted that those residents who live near the mouth of the close benefit from designated off-road parking spaces. Additional kerbside parking space remains immediately north of where the proposed lines are shown to terminate.

The Council's typical approach on such schemes is to treat several junctions within a local area in one batch, to save costs in terms of advertising and officer time. Therefore the inclusion of this junction will have a minimal impact on the overall cost of the proposals. It would be far more costly if it were omitted now but revisited in isolation in future years. The site is not within a conservation area and officers are not persuaded that the yellow lines will spoil the appearance of the close.

- 4.6 The Council received emails from three other residents of the close in support of the proposals. Typical amongst them was the view that vehicles left parked

on the northern corner were a hazard to drivers swinging into the close from the north; and that the same manoeuvre was made more dangerous by vehicles parked on the southern side, as these pushed outbound vehicles further into the middle of the road and thus nearer the path of incoming ones.

4.7 In addition, an email was later received from the then Ward Cllr. Councillor Tom Waterhouse, reporting that he had canvassed opinions on the proposals (by door-knocking and leafleting) from a total of 60 residents in Mahon Close. He reported receiving feedback from 43 residents of whom 32 were in favour, 9 were opposed and 2 had no view. The Councillor had thus concluded that 78% were in favour of the proposals and 22% opposed.

4.8 Further correspondence was then received from the original objector, this time submitting a new petition raised in mid April 2014 and representing 42 households who are opposed to the proposals. The organiser claims that this group represents roughly one third of the close, and that some respondents who had previously supported the proposals have changed their minds, on account of now having a better understanding of how other residents will be affected. The covering letter from the objector questions the legitimacy of Cllr Waterhouse's previous survey and its conclusions.

4.9 The petition is underpinned by 10 points listed by the originator. These are copied below. Officer comments are interspersed within this list.

1) The proposal is flawed in that it states these lines "would improve visibility at the junction" This is untrue, as visibility would remain exactly as it has been for 30 years even if yellow lines were installed. Only a complete redesign of the junction would improve visibility.

Officer Response: Keeping the junction clear of parked vehicles will improve visibility for all drivers negotiating the turn, and for pedestrians crossing the mouth of the side road.

2) The proposal is flawed in that it states it would "ensure clear access for refuse wagons and emergency vehicles". This is untrue as access is already ensured, because of the width of the junction, and there has never been a problem with this in 30 years.

Officer Response: Disputing whether access for large vehicles has been a problem in the past does not invalidate the aim of ensuring it does not pose a problem in future years, when parking patterns may change.

3) The proposal is flawed in that these lines are detailed to extend 18 metres into Mahon Close when The Highway Code states that vehicles should not park closer than 10 metres from the junction.

Officer Response: The layout of the lines has been designed by experienced traffic engineers, having undertaken swept path analysis of large vehicles to ascertain the lengths of lines likely to be needed to ensure clear access, taking into account the presence of the refuge island. The Highway Codes cautions against parking within 10m of a junction. To

interpret this figure as the maximum permitted length of yellow line that may be applied at a junction is clearly wrong.

- 4) The properties at the entrance to the Close require access for loading and unloading, which double yellow lines would prevent. This would also cause problems for tradesmen working at these properties.

Officer Response: In a telephone conversation of March 2014 the resident was made aware that double yellow lines do not pose any restriction on loading or unloading.

- 5) The design of the exit from the Close took into account the requirement for access for the properties situated there. The design does not act just as slip road to join traffic on Carterhatch Lane, as there are double white broken lines at the exit, which means "give way", as per road sign.

Officer Response: It is unlikely that the wide exit point from the close was provided as a parking place for residents, but rather was intended to assist motorists joining the busy main road at a point where a central reservation begins. The layout and markings do not denote it as a parking area; and parking here would contravene the Highway Code which states that motorists should not park within 10 metres of a junction.

- 6) The proposal would potentially have an adverse effect to the value of the 16 properties situated either side at the entrance to the Mahon Close. Nobody wants to live in, or buy a property, which has double yellow lines outside of it, and no access for loading and unloading.

Officer Response: In a telephone conversation of March 2014 the resident was made aware that double yellow lines do not pose any restriction on loading or unloading. The impact of yellow lines on property values are a matter of debate. The ownership of property conveys no right to park on the public highway adjacent. The Highway Authority may propose parking restrictions wherever it believes they are of benefit.

- 7) The proposal would restrict parking for friends and family visiting the properties affected, and cause vehicles to park further up the Close, as it would take away 2 car spaces causing problems for other residents.

Officer Response: Visitors to the close travelling by private motor vehicle must take responsibility for finding appropriate places to park.

- 8) The proposal would spoil the aesthetic appearance to the entrance to Mahon Close, and would create an eyesore.

Officer Response: The site is not within a conservation area and officers are not persuaded that the yellow lines will spoil the appearance of the close.

- 9) The proposal would cause difficulty for residents with disabilities parking close to their property.

Officer Response: The double yellow lines do not prohibit loading or unloading, and blue badge holders may park on double yellow lines for up

to three hours. Residential parking space (both on-road and off-road) is provided within the close.

- 10) The proposal is a total waste of Council Taxpayers money, and is completely unnecessary given that there is absolutely no evidence of there ever being a problem with access due to vehicles parking on the corners, or obstructing the central bollards in 30 years.

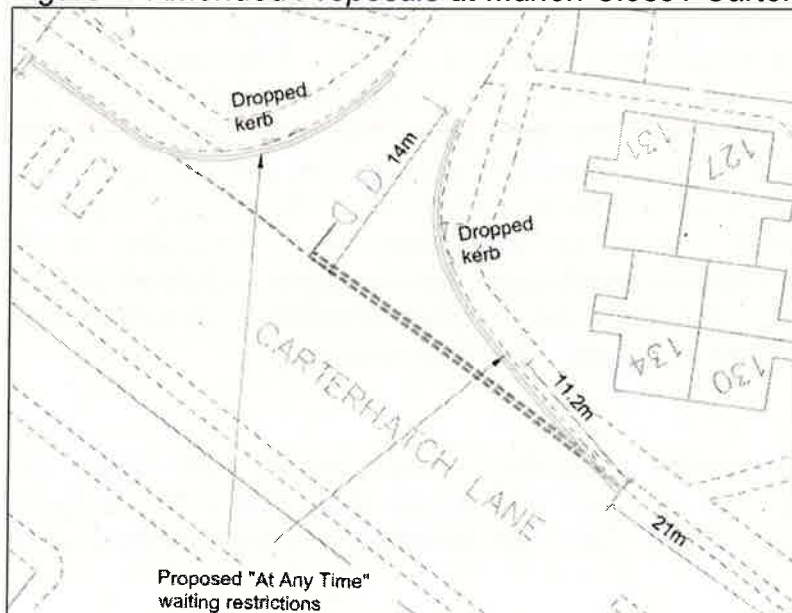
The Council's typical approach on such schemes is to treat several junctions within a local area in one batch, to save costs in terms of advertising and officer time. Therefore the inclusion of this junction will have a minimal impact on the overall cost of the proposals. It would be far more costly if it were omitted now but revisited in isolation in future years.

The Highway Authority may propose parking restrictions wherever it believes they are of benefit. Officers believe there is a good case to introduce them here for the reasons outlined in Section 5 below.

- 4.10 It is clear that some residents of the close oppose the proposals, while others are in support. It is difficult to judge, due to the conflicting evidence that has been submitted, which case attracts the most support overall. However, officers find the three messages of support, which argue for the road safety benefits of the proposals, to be more persuasive than the list of opposing views that underpins the petition of objection.

- 4.11 In light of the anxieties raised about the proposals, officers revisited the designs to see if the lengths of proposed line could be reduced. By assuming that access for the largest type of standard vehicle – a large removals van – need not be fully catered for, the reduced layout below was produced. The need for the driver of such a vehicle to undertake careful, low-speed manoeuvring when leaving the close is deemed an acceptable imposition, given that this scenario would occur infrequently and be most challenging only when that access coincided with adjacent on-street parking being at its heaviest.

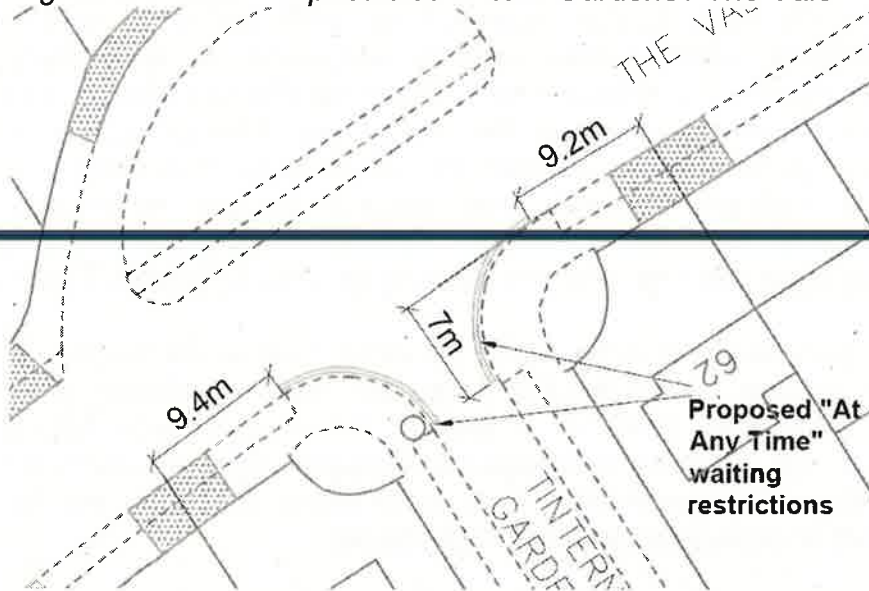
Figure 4: Amended Proposals at Mahon Close / Carterhatch Lane



(b) Tintern Gardens / The Vale

- 4.12 The proposals for "At Any Time" waiting restrictions for Tintern Gardens and The Vale are illustrated in the figure below:

Figure 5: Plan of Proposals at Tintern Gardens / The Vale



- 4.13 The Council does not hold records of any requests for junction protection at this location, nor does the most recent data reveal any personal injury accidents here. However, the side road is unusually narrow at around 5m and officers believe there is merit in treating the junction at this time in case the local parking trends change in future years. Should parking occur at the location it would contravene the Highway Code; restrict visibility for drivers emerging, or pedestrians crossing, the side road; and potentially obstruct larger vehicles turning in or out.
- 4.14 An objection from one of the households immediately adjacent to the junction has been received. The communication asserts that the proposals are not needed and would be a waste of money. The residents of the household report that they have never seen cars parked at the junction for more than a short period of time in the thirty years they have lived there. They requested that officers provide evidence of parking and reduced visibility at the junction to justify proceeding with the proposals. They suggest other issues in the neighbourhood should be addressed first. Following a later telephone conversation officers understand that the caller also fears that the presence of the new lines will make it more likely that vehicles parked between the junction and their property will over-hang their driveway.

Response:

The Environmental Protection Team report that there is an ongoing investigation into problem parking by fleet hire vans in the area including Tintern Gardens and The Vale following a complaint from a member of the

public. Although parking was being monitored in the area, this team could not provide evidence of vehicles parking directly at the junction.

Officers acknowledge the absence of evidence indicating a present problem with parking here but assert that the Council does not need such evidence in order to propose the introduction of yellow lines, it needs only reasonable grounds to believe such proposals have merit.

Officers believe it would be a sensible precaution to retain this junction within the proposals for the area as it would be far less economical to return to treat it in isolation in later years should the parking pattern change. The Highway Code states that drivers should not park within 10 metres of a junction and reinforcing this with the provision of yellow lines on corners is therefore an entirely legitimate action for the council to pursue.

The gap between the end of the restrictions and the driveway to the property in question is around 6m. A large car is around 5m in length, a small hatchback around 4.2m in length. Officers do not believe that introducing the lines will have a significant impact upon the household with regard to the feared blocking of their driveway.

5. ALTERNATIVE OPTIONS CONSIDERED

Do nothing

This would miss the opportunity to include the Mahon Close and Tintern Gardens junctions in the wider proposals, ensuring they are kept clear for the passage of larger vehicles and offer acceptable sightlines to turning traffic and crossing pedestrians. Returning to treat them later under a new Traffic Management Order - should parking patterns change or new requests be received - would be more difficult and less cost effective than including them now. Doing nothing would fail to address the concerns of residents who have reported the hazard caused by vehicles parked at the junction of Carterhatch Lane and Mahon Close.

6. REASONS FOR RECOMMENDATIONS

- 6.1 At Mahon Close/Carterhatch Lane there appears to be both significant support and significant opposition to the proposals from residents of the close. However, officers find the three messages of support - which argue for the road safety benefits of the proposals - to be more persuasive than the list of opposing views that underpins the petition of objection. The testimony received from the scheme's supporters highlights the potential road safety benefits in restricting parking around the mouth of this junction.
- 6.2 The proposals for Tintern Gardens/The Vale have attracted comment from only one household, whose members object to the scheme. However, officers believe it would be a sensible precaution to retain this junction within the proposals as the lines are unlikely to impact upon the household and it would be less economical to treat this site in isolation in later years should the parking pattern change.

- 6.3 In each case, it is in keeping with the Council's programme of Junction Protection and the Council's duty as Highways Authority to keep the highway clear for the passage of vehicles. The proposals reinforce the guidance given in the Highway Code for parking in the vicinity of a junction.
- 6.4 The proposals will keep dropped kerbs clear, making it easier and safer to walk thereby encouraging walking and contributing to the Council's sustainable travel targets.

7. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS

7.1 Financial Implications

- 7.1.1 The estimated cost for implementing the proposed Junction Protection Programme at Mahon Close / Carterhatch Lane and Tintern Gardens / The Vale is £5,000 and this will be met from the 2014/2015 Local Implementation Plan (LIP); TFL Allocations; set aside for transport improvements in Enfield.
- 7.1.2 Expenditure once approved by Transport For London; it will be fully funded by means of direct grant from TFL; governed through the TFL Borough Portal, hence no costs fall on the Council. The release of funds by TFL is based on a process that records the progress of works against approved spending profiles. TFL makes payments against certified claims as soon as expenditure is incurred; ensuring that the Council benefits from prompt reimbursement of any expenditure.
- 7.1.3 LIP financial assistance is provided by TFL under Section 159 of the GLA Act 1999. The funding is provided to support local transport improvements that accord with the Mayor's Transport Strategy Goals and Outcomes.
- 7.1.4 Use of the funding for purposes other than those for which it is provided may result in TFL requiring repayment of any funding already provided and/or withholding provision of further funding. TFL also retains the right to carry out random or specific audits in respect of the financial assistance provided.

7.2 Legal Implications

- 7.2.1 Under section 39 Road Traffic Act 1988 the Council has duties to promote road safety, to monitor road traffic accident locations and to take measures to prevent such accidents. This includes the improvement of roads, the movement of road traffic and traffic restrictions. The proposed waiting restrictions are in accordance with the discharge of those duties.
- 7.2.2 Regulations prescribe the procedure to be followed in making a Traffic Management Order and require consultation with specific persons, publication

of proposals in the local press and the giving of adequate publicity as appropriate by, for example, the display of notices or the delivery of letters to premises likely to be affected by any provision of the Order.

- 7.2.3 Before making an order the order making authority must conscientiously take in to account and consider all objections made in accordance with the regulations.
- 7.2.4 This report provides evidence and analysis of the Council's consideration of the objections received under the regulations.
- 7.2.5 The recommendations in this report are in accordance with the Council's powers.

7.3 Property Implications

None.

7. KEY RISKS

No significant risks have been identified.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

Section 4 addresses the balance of conflicting needs. Section 5 concludes that the duty to keep the highway clear is the most important.

8.4 Growth and Sustainability

The impact of the proposals with regard to growth and sustainability is judged to be minimal.

8.5 Strong Communities

The impact of the proposals with regard to strong communities is judged to be minimal.

9. EQUALITY IMPACT IMPLICATIONS

Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment/analysis is not relevant or proportionate for the approval of the proposed parking restrictions.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

No implications have been identified.

11. PUBLIC HEALTH IMPLICATIONS

Improving road safety and encouraging walking will have a positive impact on public health.

Background Papers

None.

MUNICIPAL YEAR 2014/2015

ACTION TAKEN UNDER DELEGATED AUTHORITY

PORTFOLIO DECISION OF
Cllr Simbodyal
Cabinet Member for
Culture, Sport, Youth and
Public Health

Part: PART 1

Subject: Operating Surplus Fusion Lifestyle
Partnership

Key Decision No: KD 3971
Wards: All

Cabinet Member consulted: Cabinet
Member for Culture, Sport, Youth and
Public Health

REPORT OF:

Director of Finance, Resources and Customer Services

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1. EXECUTIVE SUMMARY

At the Cabinet meeting in March 2010, Fusion Lifestyle were appointed as the leisure centre operator for 20 years. The contract between the Council and Fusion has a number of provisions in it and one of the provisions relates to profit share or as it is called in the contract "operating surplus". Officers have met with colleagues from Fusion Lifestyle and discussed how to ensure residents and customers can benefit from the operating surplus. There are 2 proposals moving forward; one is how to use the Operating Surplus from 2013-14; the second is how to readjust the guaranteed payment to the Council but surrendering some of the Council's operating surplus percentage.

2. RECOMMENDATIONS

- 2.1 It is recommended that an arrangement is reached with Fusion that their share of the operating surplus, the Council's share and some future commitments Fusion have made are brought forward to deliver the proposals laid out in paragraph 3.8 below.
- 2.2 That the contractual arrangements between Fusion and the Council are varied to reflect more guaranteed income to the Council and less of a share of the operating surplus. This is outlined in Part 2 of the paper.
- 2.3 That approval of the final facility development plans, variation to the contract and final costs within the budget stated in Part 2 is delegated to the Director of Finance, Resources and Customer Services.

3. BACKGROUND

- 3.1 In February 2009, Cabinet approved the procurement of an operator for the leisure facilities in Enfield during 2009 and the early part of 2010 utilising the Competitive Dialogue approach.
- 3.2 The Competitive Dialogue process provided the opportunity for both the Council and bidding contractors to work together to develop the most appropriate solution taking into account the needs and expertise of both parties.
- 3.3 The aim of the procurement was to achieve:
- Lower but sustainable management fee for the leisure centres
 - Good quality leisure centres
 - More people participating in sports and leisure activities
 - Transfer of risk over to the contractor, including full repairs and maintenance responsibilities and the 'back log maintenance' works
- 3.4 During the dialogue process, discussions were had regarding the length of the contract with bidders being asked to identify a 10 year solution and a variant 20 year solution. This was done to identify the best value for money solution.
- 3.5 The contract between the Council and Fusion has a number of provisions in it and one of the provisions relates to profit share or as it is called in the contract "operating surplus".

Proposals

- 3.6 Officers have met with colleagues from Fusion Lifestyle and discussed how to ensure residents and customers can benefit from the operating surplus. There are 2 proposals moving forward; one is how to use the Operating Surplus from 2013-14; the second is how to readjust the guaranteed payment to the Council but surrendering some of the Council's Operating Surplus percentage.

Proposal 1

- 3.7 In looking to use the Operating Surplus, officers and Fusion had some key objectives:
- improve facility and activity offer
 - meeting increasing expectations of customers
 - responding to increasing competition
 - protecting existing business levels
- 3.8 Fusion have proposed that capital developments / facility improvements are made at Southbury Leisure Centre, Southgate Leisure Centre and at Edmonton Leisure Centre. The improvements proposed are:

Edmonton

- removal of existing "Shokk" gym to create additional and improved gym space
- creation of new functional space
- creation of designated spinning studio on mezzanine floor
- creation of new stretch zone / fast class area
- branded marketing on external gym windows

Southgate

- reconfiguration of existing studio spaces to create additional capacity and improved space
- creation of new free weights gym in vacant basement area
- reconfiguration and expansion of existing functional space

Southbury

- removal of gym office walls to create additional gym space
- creation of new functional space, incorporating SAQ wall and nine-metre running track
- renewal of gym equipment
- re-carpeting of soft play area

3.9 Fusion are proposing that this is funded by :-

- Council Operating Surplus funds
- Fusion additional investment (i.e. contribution from Fusion's share of the Operating Surplus)
- Fusion contractual investment (application of lifecycle maintenance, equipment and other budgets incorporated into Fusion's original bid documentation, consolidated and brought forward)

3.10 Whilst the scheme for each of the Leisure Centres are at an outline stage, with further work being done on the designs once agreement from the Council is received. It is proposed that, subject to Cabinet Member approval, approval of the final plans and final costs within the budget stated in Part 2 is delegated to the Director of Finance, Resources and Customer Services.

3.11 Should approval be received it is proposed that an exchange of letters and variations to the contract (Where required) is undertaken between Fusion and the Council, and that Fusion use the operating surplus to deliver the proposed improvements; ie no money changes hands. Fusion should be asked to project manage the improvements and ensure that any negative impact on customers is minimised. Fusion should share regular updates on budget and programming with the Council, and the Director of Finance Resources and Customer Services has the final approval on the developments. It is anticipated that having received sign off from the Director of Finance, Resources and Customer Services for the new designs, Fusion can proceed with the alterations, anticipated build times being over the summer and autumn of 2014.

Proposal 2

3.12 As part of the ongoing discussions with Fusion and on the basis that the Council is further investing in the Council's Leisure Centres, officers and Fusion have taken the opportunity to review the way the Council receives money from Fusion. Fusion currently pays the Council a fee based on their original business plan embedded in the contract between the two parties. This fee can be altered if the Council requests a change in the services. This is built in as part of the "Authority Change" process. Fusion also pay the Council should there be any Operating Surplus on the basis outlined in the contract.

3.13 The Council are keen to ensure that Fusion are continuing to focus not only on the profit making areas of the business, but also on the areas where they are providing a social benefit. The proposals above look to strike this balance. If this proposal is approved by the Cabinet Member, officers would work with the Legal team in the Council and Fusion to vary the contract to reflect the new arrangements. With Fusion's agreement we would look to have this in place in time for the first full year after the year in which the facility upgrades take place, anticipated to be April 2015 onwards.

4. ALTERNATIVE OPTIONS CONSIDERED

Proposal 1 will continue to develop the facilities that are run by Fusion on behalf of the Council and deliver better services for residents and customers, also maintaining a council asset. Proposal 2 will see an increase in guaranteed income to the Council. Negotiations have been undertaken with Fusion and a compromise on a 40 – 60 split has been agreed.

5. REASONS FOR RECOMMENDATIONS

These recommendations will see better facilities and increased income for the Council whilst still preserving an element of sharing the operating surplus.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

Proposal 1 – Any works recommended and approved will be partly funded in 2014/15 by the 2013/14 Operating Surplus from Fusion Lifestyle to the amount agreed by Fusion and the Council. Any other costs will be funded by Fusion directly.

Proposal 2 – Any change to the Fee and Operating Surplus paid by Fusion to the Council can be made as part of the “Authority Change” process in the operating contract. This should be to the benefit of the Council and Enfield’s residents.

Also see Part 2 of this Report.

6.2 Legal Implications

6.2.1 Section 19 of the Local Government (Miscellaneous Provisions) Act 1976 contains wide powers enabling local authorities to provide within or outside their locality, such recreational facilities as they think fit for payment or otherwise. Furthermore, Section 1 of the Localism Act 2011 permits the Council to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles.

6.2.2 The procurement of Fusion and award of contract was in full compliance with the Public Contracts Regulations 2006 (“PCR 2006”) (using the Competitive Dialogue process) to ensure a transparent, robust and equal process to all bidders. This complies with the Councils Constitution, in particular Contract Procedure Rules (“CPR’s”), to ensure value for money in accordance with the Best Value principles under the Local Government Act 1999.

6.2.3 The legal agreements, including the Leisure Management Contract, which was executed on 21st May 2010 (“LMC”) are in a form approved by the Assistant Director of Legal Services and the report details the applicable contract terms that the Council and Fusion will abide by.

6.2.4 Any exchange of letter or variations to the contract will be in a form approved by the Assistant Director of Legal Services.

6.3 Property Implications

6.3.1 The Leisure Centres and other sports facilities operated by Fusion are each held on a 20 year lease from 1 July 2010.

6.3.2 The rent payable in each case is a peppercorn (if demanded).

6.3.3 The financial arrangements for Fusion to operate these facilities are contained within the contract so that there is no immediate financial impact on the leases.

6.3.4 As regards the proposed works and alterations, consideration should be given as to whether Landlord’s consent should be formalised.

6.3.5 Any proposed works will need to comply with all Statutory Regulations.

7. KEY RISKS

There are risks associated with the build process that could impact income, this risk is Fusion's and they will manage it. There is also a risk that Fusion will not make an operating surplus, however the Council will still receive extra guaranteed income. This risk is also Fusion's. The final risk is that this new arrangement means that Fusion will increasingly try to push income and cut expenditure and not cover some of their social benefit responsibilities.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

The Leisure Centre capital developments have helped Fusion provide a better service to customers. Through the link with the management fee, it helps provide value for money and ensures that the Council's leisure services are affordable to all.

8.2 Growth and Sustainability

The Capital Development at our Leisure Centres ensure that the leisure services in the Borough are sustainable in terms of the revenue, but it also ensures that the facility buildings are sustainable and fit for purpose for a long time to come.

8.3 Strong Communities

It is widely accepted that access to sporting and cultural activities helps deliver stronger communities. This project aims to see investment in the long term future of Enfield's Leisure Centres.

9. EQUALITIES IMPACT IMPLICATIONS

The refurbishment of the Council's Leisure Centres will ensure they continue to meet the needs of all residents and the relevant DDA requirements.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

The implications of the investments in Enfield's Leisure Centres should continue to have a positive impact on the user numbers at the centres. In turn this should have a positive effect on National Indicator 8 which is the number of people regularly taking part in Sport and Physical

Activity. It will also ensure that the saving generated as part of the procurement of a new operator of the Council leisure facilities is sustained and enhanced..

11. HEALTH AND SAFETY IMPLICATIONS

There are no Health and Safety Implications as a direct result of this report. However there will be some implications regarding the build process, but these will be monitored by Fusion, their Project Managers and the Council's Building Control team.

12. PUBLIC HEALTH IMPLICATIONS

The implications of the investments in Enfield's Leisure Centres should continue to have a positive impact on the user numbers at the centres. More users mean more people taking part in sport and physical activity which in turn will benefit public health.

Background Papers

