



Cabinet
19 June 2017

**Report from the Strategic Director
of Resources**

For Action

Wards affected:
Kensal Green

**Knowles House – Update and request for additional
investment**

Appendix 3 of this report is not for publication as it contains the following category of exempt information as specified in the Local Government Act 1972, namely: paragraph 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information). As the item was not listed as ‘part exempt’ on the Council’s Forward Plan, both relevant Scrutiny Chairs have been informed and a notice has been published on the Council’s website.

1.0 Summary

- 1.1 In April 2016, Cabinet approved £24m capital investment on a notional scheme of 125 units for this site. The project team has developed the proposals and will soon be in a position to submit a full planning application. Subject to planning, the scheme is due to deliver 149 units, an increase of 24 homes. Total Scheme costs are £31.5m. An additional capital investment of £7.5m is required to deliver the enlarged scheme.

2.0 Recommendations

- 2.1 That Cabinet approve further investment of £7.5m (total investment £31.5m), to deliver the Scheme.
- 2.2 That Cabinet delegate authority to the Strategic Director of Resources, in consultation with the Portfolio Lead Member for Property to award the works contract to the successful tenderer following a procurement process, for the reasons detailed in paragraph 3.5.
- 2.3 That Cabinet approve procurement of the works contract through a framework as outlined in 3.5.

3.0 Detail

3.1 Background

Delivery of this Scheme will reduce the council's dependency on bed and breakfast and care homes. The Scheme will provide 149 new council owned homes and a replacement community centre.

Mix

Temporary Accommodation ("TA")		New Accommodation for Independent Living ("NAIL")		Community Centre	Total
2b3p	62	1b1p	57	1	
2b4p	7				
3b5p	23				
Total	92		57	1	150

- 3.2 The financial model assumes that NAIL is affordable housing (i.e. Local Housing Allowance levels), but that the TA is set no higher than 80% of market rent, (including service charge).

NPV	£3.9m
IRR (60 Yrs.)	6.43%
Discounted Payback Period (3.5%)	26 Years
Gross Yield	6.71%
Net Yield	5.43%

Construction Period 3 Years

- 3.3 The Scheme aligns with; the Strategic Property Plan 2015-2018, Brent's corporate plan 2015/16, Temporary Accommodation reform plan April 2016, New Accommodation for Independent Living as per the 2016 update.

- 3.4 Timescales

Milestone	Date
Planning submission	June 2017
Cabinet approval	June 2017
Contractor tendering	July 2017
Tenders received	November 2017
Build contract executed	February 2018
Start on Site	May 2018
Completion Phase One (TA and Community Centre)	January 2020
Decant Knowles House	February 2020
Completion phase two (NAIL)	July 2021

All dates are provisional.

3.5 Procurement

- 3.5.1 To identify and select the most suitable procurement route, consideration has been given to the following issues and criteria;

- The Council requires that a firm price and agreed programme are obtained from the contractor before commitment can be provided to commence works on site;
- Where possible and practical, risk should be transferred to the Contractor.

3.5.2 The recommendation is to procure the project through a single stage design & build approach. The key benefits of this approach for Knowles House are:

- This addresses Brent's concerns over two stage tendering as this approach may lead to loss of competition and increased tender costs;
- Reduces the time period for the procurement process;
- Passes risk to the contractor;
- The procurement process can begin quickly and utilise the available planning drawings.

3.5.3 The recommendation is to use a works contract framework in order to avoid the requirement to procure a contractor by publishing a contract notice/contract opportunity on the Official Journal of the European Union ('OJEU') and undertaking a full procurement process. It was also noted that the majority of works contractors/construction companies who are capable of undertaking a project of this size and nature were already on frameworks. In addition a lot of time will be consumed in preparing and publishing a contract notice on OJEU and undertaking a full procurement process than in calling off from an already established EU procurement compliant construction/works framework.

3.5.4 A number of EU procurement regulations compliant construction/works frameworks including, South East Construction, London Construction Framework, Hyde Construction Framework, Pagabo, Scape and A2 Dominion Housing Group were reviewed to determine whether they are suitable for this project. The contractors who are appointed to these frameworks have already been assessed for technical ability by the framework operator. Following assessment of the various frameworks by Officers, Officers are of the view that the Hyde framework has a good mix of works contractors (15 main stream contractors) that have the ability and skills to deliver a project of this nature and size. The Hyde Framework is managed by the Hyde Housing Group and based on Officer's assessment, it was noted that Lot 8 is the most suitable for this project - Knowles House.

3.5.5 The Hyde Housing Group has also confirmed that both single stage and two stage tendering routes are available through this framework.

3.5.6 In order to engage with the market, Officers are conducting soft market testing in respect of Lot 8 contractors. It will provide the Council with the opportunity to ascertain the appetite to single stage tendering. There is a concern that in the current market, contractors are being far more selective in respect of the nature of works contract they are prepared to undertake. Results to date suggest that 50% of contractors were unwilling to undertake a single stage tender. Detailed feedback will be reviewed and it may be necessary to revert to a two stage tender, and/or an alternative strategy, to secure the most advantageous position for Brent.

3.5.7 Although at this stage, single stage tendering is the preferred option depending on the outcome of the soft market testing, if it is necessary to revert to a two stage tender, as the Hyde framework caters for this option, it will not materially affect the overall recommendation to procure the project as a design & build contract. As a precaution, Cabinet approval is requested to use other EU procurement regulation compliant frameworks, subject to the recommendation of the Chief Legal Officer that it is legally permissible to call off from such frameworks, to allow alternate contractors to be approached, should the soft market testing from the Hyde framework not prove acceptable.

- 3.5.8 Cabinet is requested to delegate authority to the Strategic Director of Resources, in consultation with the Portfolio Lead Member for Property, to award the works contract to the successful tenderer following a procurement process. This will remove the need for a further Cabinet approval when tenders are received, thereby reducing the length of the development programme, with consequent savings to Brent.

3.6 Risks

Risk/issue description (incl. impact)	Planned mitigation or resolution	Owner
Contractor going into administration	This is a risk with any building contract. A performance bond (and Parent Company Guarantee if appropriate) can be taken out, and financial checks on the organisation will be undertaken by Finance prior to award of contract.	Property/Finance
Planning permission refused or approved for a lesser number of units.	Feedback from major cases forum and pre planning application meeting has been positive. Public consultation has generally been supportive.	Property
Build costs come in above consultant's estimate	Expressions of interest were sent out under the Hyde framework to test the market. Cabinet approval to use other frameworks and other procurement options will give officers flexibility to use the most appropriate procurement route.	Property
Agreement of effective housing management is key to the success of this project	Housing and Adult Social Care have been involved in the scheme from the outset.	Property/ASC

3.7 Assumptions (financial)

It is assumed for the purpose of the analysis that the service charge is an average of £1,667 pa, per unit, (£32/week). This is an estimate as actual costs cannot be calculated at this stage. This service charge is included in the rents charged, and is therefore a key financial sensitivity. A reduction in service charge would benefit the scheme financially.

A flat rate for voids and bad debt was assumed to be 4% on the properties. One month has been allowed to decant 51 Knowles House into the completed building.

Rent on community space £1pa. It is proposed that a peppercorn rent is charged on the community centre, so that a suitable organisation may be sought that complements the residents on site and also serves the wider community.

3.8 Variance with April 2016 Cabinet approval

Some of the additional capital cost arises as a result of delivering more units. Some arise out of changed assumptions set out below.

	April 2016	Present
Works cost/sq. metre	£1,800	£2,800
Rent on Community Centre	£51,000 PA	0
Void rate	3%	4%
Build period	26 months	36 Months
Fit out (communal areas)	0	£380,000

Cross laminated timber construction	Not considered	£442,405
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Delivering more units adds approximately £4m to construction costs, as the gross floor area increases. The remaining additional £3.5m cost is largely through a significant increase in works cost and contractors pricing a three year programme, with risk and uncertainty of labour and material costs. This is informed by current tender returns. We have accurate figures and costs for communal areas, and £380k has now been allowed for communal furniture and fit out of the NAIL accommodation. Cross laminated timber (CLT) construction has been allowed for in the construction of the TA building. This has an additional capital cost, but will save in contractors preliminaries, will shorten the construction period, thereby delivering revenue savings earlier and an overall benefit to the Brent.

4.0 Financial Implications

- 4.1 Delivery of this Scheme will reduce the council's dependency on bed and breakfast and care homes.
- 4.2 The savings for Adult Social Care (ASC) care home budgets from the NAIL development are considerable, and Knowles House is integral to the programme's projected savings. Each unit represents an average saving for ASC of £332 per person per week (£17k/unit/annum) compared to residential care. The additional 17 units for the NAIL scheme will save an extra £294k pa, and the scheme in total will save ASC £987k p.a., in addition to providing a much higher quality of accommodation with a range of improved outcomes for customers.
- 4.3 A more detailed financial appraisal has been included in confidential Appendix Three. This contains commercially sensitive data which might influence the tendering process. However, a 5% net yield and a discounted payback period of less than 30 years are strong indicators of a scheme that would meet the Council's standard investment criteria.

5.0 Legal Implications

- 5.1 Section 19 of the Housing Act 1985 provides powers for the Council to appropriate land held for housing purposes subject to the consent of the Secretary of State.

Section 122 of the Local Government Act 1972 provides powers for the Council to appropriate land that is no longer required for the purpose for which it is held provided that the land is surplus to requirements. S122 therefore allows the Land to be appropriated for planning purposes.

- 5.2 Where land has been successfully appropriated and has been granted planning permission then section 203 of the Housing and Planning Act 2016 allows any rights that may exist to be overridden and could potentially prohibit construction to be overridden

This will ensure that third party rights that might prohibit construction such as easements or right to light may be overridden although compensation will be payable to third party for the loss of such rights

- 5.3 Where land has been appropriated for planning purposes Section 235 of the Town and Country Planning Act 1990 provides the Local Authority with powers to develop land that has been acquired, or appropriated. The powers under this Act provides that the Local Authority is able to erect, construct, or carry out on any land any building or work.

- 5.4 The National Planning Policy Framework provides a definition for affordable housing. Affordable housing is essentially social housing let on an affordable rent subject to rent controls that require rent of no more than 80% of the local market rent (including service charge)
- 5.5 Where the Council lets property then Part IV of the Housing Act 1985 provides that the tenant will acquire a secure tenancy provided that the criteria is met: (Section 80 and 81 Housing Act 1985) a) the property is owned by a Local Authority..... and b) is occupied by an individual as his/her main home, accordingly part V of the Housing Act 1985 provides the secure tenant with a statutory right to buy the property.

However, where a tenant occupies the property under Schedule 1 of the Housing Act 1985 and a tenancy has been granted in pursuance of the Council's homelessness functions as specified in part VII of the Housing Act 1996 then the tenancy is not deemed to be a secure tenancy.

Furthermore, a right to buy does not arise where the premises are occupied in accordance with schedule 5 of the Housing Act 1985 such as occupation of certain dwelling houses for the disabled, or certain dwelling houses for persons of pensionable age.

- 5.6 Under the Public Contracts Regulations 2015 ('PCR 2015'), procurement of building contracts falls within the definition of public works contracts and where the value of the contract is above the EU procurement threshold, such contract will be subject to the full requirement of the EU procurement regulations, in that, contracting authorities are required to publish a contract notice of it in the Official Journal of the European Union ('OJEU') and should only award the contract after they have undertaken a full procurement process.
- 5.7 The value of the contract is above the EU procurement threshold and being in excess of £500,000 it is also deemed a High Value contract for the purpose of the Council's Contract Standing Orders ('CSO') and the Financial Regulations. It is therefore subject to the full requirements of the PCR 2015 and the CSO in respect of High Value contracts.
- 5.8 However, the Council intends to procure the contract through a framework and regulation 33 of the PCR 2015 prescribes the rules and controls for the use of frameworks. It provides that contracts may be called off under framework agreements without the need for a separate advertisement or undertaking a full procurement process where the framework agreement was advertised on OJEU but contracting authorities must in any case comply with the EU Treaty principle of equal treatment, non-discrimination, fairness and transparency in the procurement.
- 5.9 CSO 86(e) provides that the Chief Legal Officer's approval to use a framework, should be obtained, by way of recommendation that it is legally permissible to call off from the framework, before calling off from the framework. Officers are therefore required to obtain the Chief Legal Officer's approval in respect of the Hyde Framework or any other framework, before calling off from the framework.

6.0 Diversity Implications

- 6.1 The proposals have been discussed with local residents. A drop in event was organised on site on 18th April 2017, attended by the project team. A leaflet drop took place advising of the drop in session, with a questionnaire people could return if they were unable to attend the drop in session.

- 6.2 The drop in session was over an afternoon and an evening. Notes from the drop in session are in appendix two. Generally residents were supportive of the proposals and had constructive feedback on the proposals and the construction process.
- 6.3 Key issues raised by residents were;
- Concern over construction traffic, and in particular safety of schoolchildren who pass by the site
 - Disruption caused by construction, hours of operation, noise and effect on local residents.
 - Concerns over antisocial behaviour and security.
 - Boundary treatment needed careful consideration.
- 6.4 The scheme design has been refined to address residents' concerns, where possible. Procurement of the contractor will be on a quality/cost basis. The quality assessment will seek to address how best contractors are able to address concerns raised by residents over construction.
- 6.5 A consultation portal was set up online, and was open four weeks.
- 6.6 A councillors briefing session was held in January 2017, ahead of the public consultation.
- 6.7 Discussions on the community facility took place amongst Councillors and with residents and stakeholders. The planners are keen to see the D1 use on the site retained, but acknowledge if it can be demonstrated there is insufficient demand, there is no need to provide. The proposals show a community centre that is self-contained, but can easily be linked to the Temporary Accommodation, or alternatively can easily be converted into three additional residential units, should there prove to be a lack of demand.
- 6.8 A meeting was held with Crisis Skylight who run community cafes, and a drop in centre in Harlesden. They feel the location is too remote to be a successful community café.
- 6.9 The proposals in this report have been subject to screening to assess equalities issues and officers consider that there are no adverse equality implications. A full screening analysis is attached at appendix One.

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Appendix	One	Equality Analysis screening
Appendix	Two	Residents consultation
Appendix	Three	Financial appraisal (confidential)
Appendix	Four (A-E)	Scheme Drawings