



Cabinet
20th June 2022

**Report from the Strategic Director
of Community Wellbeing**

Authority to Award Contract for Watling Gardens Design and Build Contract

Wards Affected:	Kilburn and Mapesbury
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	<p>Part Exempt</p> <p>Appendices 1 and 3 are exempt as they contain the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)</p> <p>Appendix 2 is exempt as it the following category of exempt information as specified in Paragraph 5, Schedule 12A of the Local Government Act 1972, namely: "Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings information)"</p>
No. of Appendices:	<p>Four:</p> <p>Appendix 1 (exempt) Additional financial implications</p> <p>Appendix 2 (exempt) Additional legal implications</p> <p>Appendix 3 (exempt) Names of Tenderers</p> <p>Appendix 4 Tender Evaluation Grid</p>
Background Papers¹²:	None
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1.0 Purpose of the Report

- 1.1 This report provides an update on the 125 homes development scheme at Watling Gardens. This development forms part of the New Council Homes Programme, which aims to deliver 1700 Council homes by 2028. The update relates specifically to an increase in construction costs, which have affected the viability of the scheme. In order to bring the scheme back to viability, this report proposes the conversion of 19 x 1 bedroom homes and 5 x 2 bedroom homes from London Affordable Rent to Shared Ownership. This conversion enables 101 additional Council homes to be delivered.
- 1.2 The construction costs increase has arisen because, in the current housing development market, construction and tendering costs continue to show a sustained increase, largely due to materials cost inflation, rapidly rising energy costs, wage increases and the uncertainty of future cost movements and materials availability. Officers believe materials supply shortages are likely to continue, with the Ukraine conflict increasingly affecting European supply and procurement periods. We therefore continue to expect contractors to be very selective as to schemes they will tender on a single stage competitive basis and the challenge for clients will be to secure tendering interest in schemes.
- 1.3 This report also provides an update on the process undertaken in tendering the development contract for this scheme and, following the completion of the evaluation of the tenders, seeks authority to award contracts as required by Contract Standing Order 88.
- 1.4 Due to urgency, a waiver of call-in has been obtained in relation to the decision to be taken by Cabinet.

2.0 Recommendation(s)

That Cabinet:

- 2.1 Approve the tenure changes of 24 homes (19 x 1 bedroom homes and 5 x 2 bedroom) from London Affordable Rent to Shared Ownership.
- 2.2 Approve the award of the design and build contract for Watling Gardens to Hill Partnerships Ltd in the sum of £38,535,634 subject to such additional sums to reflect the tenure changes referred to in paragraph 2.1 above to a limit of £480,000.00 allowed for in the total scheme costs in Appendix 1. (please note this appendix has been classified as containing exempt information).

3.0 Detail

3.1 Watling Gardens was identified as a site for 125 new Council homes including 45 single person supported living homes and was presented to and approved by Cabinet in July 2021, as part of Brent's New Council Homes Program. Further detail are available in the report listed under the related documents for reference.

3.2 In addition to the new homes, the planning application also allowed for significant upgrading of the estate landscaping and public realm with a new Multi-Use Games Area and playground. Significant community engagement has been undertaken and commitments made to residents.

3.3 The planning consent gained for this site is for a 100% affordable housing scheme.

3.4 The original proposed scheme mix was for 45 single person supported living homes and 80 London Affordable Rent (LAR) homes.

3.5 Options Appraisal

Following a tendering process outlined in detail within section 4 (Tender Process) below, the best price received was higher than the budget previously approved by Cabinet, therefore the following options have been explored to return the scheme to viability:-

- **Open Market rental (OMR)** to make the development work at OMR required that 32 of the 125 homes needed to be converted from LAR. The conversion to OMR would also have meant the loss of £3.2m in GLA grant, £100k per home as OMR is not an affordable housing product. Additionally, as it is not an affordable product there would be a requirement to seek a variation to the planning permission causing major delays.
- **Market sale** although this tenure would have required less homes be converted from LAR it carries a certain level of market risk for Brent, who are not set up to undertake market sales and have no remit to do so. As this is clearly not an affordable product there would be a loss of grant and a requirement to seek a variation to the planning permission causing major delays.
- **Shared Ownership (SO)** a change in tenure to shared ownership only required a conversion of 25 LAR homes of the total 125 homes, SO is an affordable Housing product and as such will receive grant of £28k per home from the GLA and nor will require no change to the current planning consent.

3.6 Therefore, officers recommend the change of 25 of the 125 homes to be converted to shared ownership as in recommendation 2.1. There will be no change to the planning approval required as this is an affordable housing

product, on which the council receive 25% capital receipt at the point of sale and staircasing receipts usually from year 5 onwards. The properties would be fulfilling a need within Brent for people unable to register for affordable rented housing but not able to access the open market due to salary levels.

- 3.7 The proposed new scheme mix will be 45 supported single person supported living units, 56 LAR units and 24 Share Ownership units.
- 3.8 Unit affordability has been calculated at joint incomes of £60,000 and £70,000 pa. This is under the GLA cap figure of £90,000, the rental on the retained equity is set at 2.75%, in line with Brent's Shared Ownership policy.
- 3.9 These proposed tenure changes ensures the scheme's financial viability which had shifted to becoming not financially viable following the increase in expected build costs.
- 3.10 The planning application was submitted in June 21 and the scheme received a full planning consent in April 2022. Following a series of clarifications and changes to design following comments from the planning department a tender process was able to be undertaken by John Rowen and Partners, Employers Agents in October 21.
- 3.11 A Start on Site (SOS) date of September 22 was previously agreed with the GLA. Failure to enter into this contract at this time will cause the Council to miss the SOS date. Failure to meet the SOS date, would mean the likely loss of allocated GLA grant for the scheme, which is £11,897,000.
- 3.12 The GLA have confirmed that they would not be able to reallocate the grant upon a new application for the current 2016-21 AHP (currently extended to 2023 due to the global pandemic) nor would they move the allocation to the next 2021-26 AHP

4.0 The Tender Process

- 4.1 A tender process was commenced in 2021 by Network Homes on behalf of the Council under a collaboration agreement with Network Homes. A Network Homes Contractors Framework was used for the procurement and Network Homes was assisted by John Rowen and Partners. The contract tendering process commenced in October 2021 and tender returns were received in February 22.
- 4.2 Tender return evaluations were carried out by John Rowen and Partners scheme cost consultants, Network Home Brent's delivery partner, and Brent Procurement team.
- 4.3 The best price received was from Hill Partnerships. However, this was higher than the budget previously approved by Cabinet, as detailed in Appendix 1 (classified as exempt).

- 4.4 The tender price is being held by Hill Partnerships until the 2nd July after which Brent will need to go back out to the market and re-tender, which is likely to result in an increased build cost. Predicted build cost increases are shown below.
- 4.5 BCIS (Building Cost Information Service (BCIS) is currently reporting TPI (Tender Price Index) increase of 6.5% in the year from Q1 2021 and 1.5% Q4 2021 to Q1 2022
- 4.6 Build price inflation has been attributed to a number of factors including:-
- a. The global increase in fuel costs and the impact of the war in Ukraine.
 - b. Global increase in raw material and shipping costs due to fallout from the global pandemic.
 - c. Increases in labour costs due to Brexit.
- 4.7 The new contract will be let using JCT Design & Build 2016 with LBB Standard amendments, subject to agreement with the Contractor or a total of 116 weeks subject to extension for delayed Contract Award.
- 4.8 Advertisements were placed on Network Homes Delta Portal on 8th July 2021 to seek expressions of interest, which elicited 5 initial enquires. Contractors were provided with the contract documents and details of the tender approach and were invited to complete a selection questionnaire using Network Homes Delta Portal Electronic Tendering Facility. All Framework Contractors were invited to tender with 5 contractors subsequently completing the questionnaire.
- 4.9 Each of the Contractors invited to expression an interest in the project tender were drawn from the Network Homes Contractors Framework. To achieve Framework status each of the Contractors had been subject to a robust assessment process covering financial viability and technical ability. On 8th October 2022 4 Contractors were invited to tender.
- 4.10 The tendering instructions stated that the contract would be awarded on the basis of the lowest price/most economically advantageous offer to the Council and that in evaluating tenders, the Council would have regard to the following:
- Quality assessment
 - Value for money and price
- 4.11 Tenderers were required to submit additional information providing details of their proposed arrangements for performing the contract including (but not limited to) the following:
- Quality and Price evaluated independently
 - Quality evaluated by LBB, JRP and NH including the CDM PD.
 - Price evaluation by JRP

- Questions for evaluation
 - Programme, Delivery and Risk
 - Quality, Health and Safety and Regulatory changes
 - Site Logistics, Safety, Risk and Compliance
 - Social Value
- Evaluation criteria for scoring 0-5:

Score	Description
5	Proposal demonstrates the ability to meet the requirements in all material respects and exceeds some or all of the requirements.
4	Proposal demonstrates the ability to meet the requirements in all material respects.
3	Proposal demonstrates the ability to meet the requirements in the majority of material respects but is lacking in others.
2	Proposal falls short of demonstrating the ability to meet the requirements in the majority of material respects.
1	Proposal significantly fails to demonstrate the ability to meet the requirements, contains significant shortcomings or is substantially lacking when compared against the specific requirements.
0	Proposal completely fails to demonstrate the ability to meet the requirements or does not provide a proposal that is capable of being evaluated.

4.12 The following additional information was submitted:

- Full written responses to questions
- Site Logistics plans
- Method statement
- Programme
- CV of key personnel
- Organisational structure
- Quality Management Plan
- Stakeholder Engagement plan
- Risk Register
- Social Value plan
- Case studies and references
- Contract Sum Analysis (CSA) with breakdowns as requested

4.13 Clarification was provided as required for contractors via the Delta Portal and Clarifications meetings held 17/03/2022 and 18/03/2022 with contractors. Queries around fixed price returns clarified by contractors by 01/04/2022

5.0 Evaluation process

5.1 The tender evaluation was carried out by a panel of officers from Network Homes and Brent Council.

5.2 All tenders had to be submitted electronically each member of the evaluation panel read the tenders and carried out an initial evaluation of how well they considered each of the award criteria was addressed in the tender.

5.3 Each submission was marked by the whole panel against the award criteria. The 3 contractors who tendered are detailed in Appendix 3 (classified as containing exempt information) and the score for each contractor is detailed in Appendix 4. It will be noted that Contractor A, namely Hill Partnerships

Limited, was the highest scoring contractor and is therefore recommended for award.

- 5.5 It is proposed that the contract will commence 10 days following approval.

6.0 Financial Implications

- 6.1 Details of the tender price received from Hill Partnership and the impact on the viability of the scheme can be found in Appendix 1 (classified as exempt information).
- 6.2 Due to the cost variation between the anticipated cost and the tender price, the Council will vary the tenure of 19 1-bed units and 5 2-bed units from London Affordable Rent to Shared Ownership to ensure the scheme's viability.
- 6.3 The change in tenure has resulted in £1.7m reduction in anticipated grant receipt (reduction of £72k per unit on the 24 units reclassified) however the Council has negotiated a more favourable cash flow receipt from the GLA which will provide 85% of the grant at start on site and remaining 15% at practical completion.

7.0 Legal Implications

- 7.1 The value of this contract over its lifetime is in excess of the threshold for Works under the Public Contracts Regulations 2015 (PCR 2015) and the procurement and award of the contract is therefore governed by the PCR 2015.
- 7.2 Officers recommended the use of a framework to procure the Contract. The PCR 2015 allow the use of framework agreements and prescribe rules and controls for their procurement. Contracts may then be called off under such framework agreements without the need for them to be separately advertised and procured through a full procurement process. Call offs under the framework need to be carried out in accordance with the framework rules, to include using evaluation criteria specified in the framework and utilising the terms and conditions set out in the framework. As detailed in Section 4 above, Network Homes on behalf of the Council used a framework for this procurement.
- 7.3 The award is subject to the Council's own Standing Orders and Financial Regulations in respect of High Value Contracts given the procurement is valued at more than £10 million for works. Part 3 of the Council's Constitution state that contracts for works exceeding £10 million shall be referred to the Cabinet for approval of the award of the contract.
- 7.4 The contract is being let under a framework agreement and the Council is not legally obliged to observe a mandatory minimum 10 calendar day standstill period before the contract can be awarded. However the council may observe a voluntary standstill period and if Officers chose to do so then once the

Cabinet has determined which tenderer should be awarded the contract, all tenderers will be issued with written notification of the contract award decision. A minimum 10 calendar day standstill period will then be observed before the contract is concluded – this period will begin the day after all Tenderers are sent notification of the award decision – and additional debrief information will be provided to unsuccessful tenderers in accordance with the PCR 2015. As soon as possible after the standstill period ends, the successful tenderer will be issued with a letter of acceptance and the contract can commence.

- 7.5 Additional Legal Implications are contained in Appendix 2 (please note this appendix has been classified as containing exempt information).

8 Equality Implications

- 8.1 The Council must, in the exercise of its functions, have due regard to the need to:

- a) eliminate discrimination, harassment and victimisation
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

- 8.2 Pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.

- 8.3 Under the Public Sector Equality Duty, having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

- 8.4 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 8.5 The proposals in this report have been subject to screening and Officers believe that there are no adverse equality implications.

9 Consultation with Ward Members and Stakeholders

- 9.1 Ward Members have been updated and they communicate regularly with officers to address any issues as/when necessary. There will be further engagement sessions arranged once the Council has appointed its contractor to lead the project.

10 Human Resources/Property Implications (if appropriate)

10.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from retendering the contract.

11 Public Services (Social Value) Act 2012

11.1 The Council is under duty pursuant to the Public Services (Social Value) Act 2012 (“the Social Value Act”) to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. [This duty does not strictly apply to the proposed contract as it is not a services contract. Nevertheless,] Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.

Related Documents (for reference):

- Cabinet Report – 19 July 2021 – Watling Gardens & Windmill Estate Infill Redevelopment Programme
- Cabinet Report – 7 February 2022 - Six Month Update on Supply of New Affordable Homes

Report sign off:

Phil Porter

Strategic Director of Community
and Wellbeing.